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Senate

The Senate met at 9 a.m. and was called to order by the Presiding Officer, the Honorable E. BENJAMIN NELSON, a Senator from the State of Nebraska.

PRAYER

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

Gracious God, the width and depth and height of Your love is beyond our understanding but never beyond our acceptance. Out of love for us You offer Your faithfulness, guidance, and strength. Then You give us work to do to accomplish Your plans through us.

So bless the Senators and all of us privileged to work for and with them with an acute awareness of our responsibility to You for what we do with the opportunities that You give us.

In response, we consecrate our lives and our work to You; endue them with Your enabling power. We will cooperate with You, seeking Your guidance and obeying You. And we will anticipate Your interventions to help us when we need You to inspire our thinking, strengthen our resolve, and assure success in our efforts for Your glory.

Today we ask Your special blessing for Jeri Thomson as she is sworn in as the Secretary of the Senate. Be with her, guide her, and direct her.

Now Lord, bring on the day; we are ready. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable E. BENJAMIN NELSON led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 12, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable E. BENJAMIN NELSON, a Senator from the State of Nebraska, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. NELSON of Nebraska thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2001—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a 3-hour period for debate prior to the cloture vote on the motion to proceed to the consideration of H.R. 333, with 2 hours to be under the control of the Senator from Minnesota, Mr. WELLSTONE, and 1 hour to be equally divided under the control of the chairman and ranking member of the Judiciary Committee or their designees.

The clerk will report the motion.

The legislative clerk read as follows:

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

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

SCHEDULE

Mr. REID. Mr. President, as the Chair has announced, we are now going to resume consideration of the motion to proceed to the House Bankruptcy Reform Act. There are 3 hours of debate, divided as the chair has announced, prior to a cloture vote on the motion to proceed. Following consideration of this bankruptcy debate, under the previous consent order, the Senate will resume consideration of the Interior Appropriations Act with a vote in relation to the Nelson of Florida amendment. So at 12 o'clock there will be one vote, and at approximately 12:20 there will be another.

The majority leader, Senator DASCHLE, has asked me to announce that he has every hope that we can complete this bill—and the two managers last night indicated they believed they were very close to being able to complete the bill—at a reasonable time early this afternoon or this evening. If we cannot, we will work into the evening. And if we cannot finish it then, we will have to come back tomorrow. There is a lot to do. We hope we can finish this tomorrow. There are many things that both the majority and minority would like to do tomorrow if we have the Interior bill out of the way.

Mr. President, at 11:30, as has been announced, the Senate will swear in the new Secretary of the Senate, Jeri Thomson, who has really dedicated her whole life to the U.S. Senate. I know for me it is a special occasion, as I am sure it is for anyone who knows Jeri. So I look forward to that and to a fruitful debate today.

I ask if there is anything from the minority, they be allowed to speak now.

The Senator from Minnesota is here. I did not see him in the Chamber earlier. He has his 2 hours.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair.

Mr. President, if I could get the attention of the Senator from Alabama.

Does the Senator from Alabama—does the minority need the floor right now to do some things? If so, I will be pleased to wait; otherwise, I am ready to go.

Mr. SESSIONS. No. I think we are here on bankruptcy and are glad to go forward.

Mr. WELLSTONE. Mr. President, normally I do not do it this way. I try not to rely too much on notes. But I want to try to be as detailed and as thorough as I can because what I am asking the Senate to do today is to step back from the brink and decline to go to conference with the House on the so-called bankruptcy reform.

I am going to be in this Chamber a number of times over the next week, maybe over the next several weeks. There is a lot that I want to say. There is a lot I think I should say as a Senator from Minnesota because I think Congress is about to make—or is headed toward—a very grave mistake.

So I will not attempt to say it all today. What I will do, however, is to speak, at least in a broad way, about why I feel so strongly in the negative about this bill.

I ask unanimous consent that several pages I have of titles of editorials about the bankruptcy bill be printed in the RECORD.

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

EDITORIALS AGAINST THE BANKRUPTCY BILL

''Bad Timing on the Bankruptcy Bill,'' Robert Samuelson, the Washington Post, March 14, 2001.

''A Bad Bankruptcy Bill,'' San Francisco Chronicle, March 15, 2001.

''Reform Choice for Mr. Bush,'' the Washington Post, February 19, 2001.

''A Debt Bill Bankrupt of Decency,'' the Chicago Sun Times, March 15, 2001.

''Quid Pro Quo,'' the Arizona Daily Star, March 3, 2001.

''Deeper Hole for Debtors,'' Los Angeles Times, March 2, 2001.

''Business Dictated Bankruptcy Law,'' the New York Times, March 16, 2001.

''Congress, President Side With Banks, Not Consumers,'' the Atlanta Journal Constitution, March 16, 2001.

''Compounding Debt,'' the Boston Globe, March, 2001.

''Contributors to Irresponsible Acts; Credit-Card Firms Not Blameless in Bankruptcy Rise,'' James Sollisch, the Chicago Tribune, March 20, 2001.

''A Bankrupt Law?,'' Businessweek, April 23, 2001.

''Quid Pro Quo? Congress Examines Pardons But Overlooks Bankruptcy Bill,'' Arianna Huffington, the Dallas Morning News, March 6, 2001.

''Bankruptcy Overhaul Hits Needy as Well as Greedy,'' the Miami Herald, March 19, 2001.

''Congress Pushing Usury,'' Bismark Tribune, March 8, 2001.

''Hammering Bankrupt Consumers,'' Chattanooga Times Free Press, March 17, 2001.

''Protect Consumers as Well as Lenders,'' Chicago Daily Herald.

''Down on Your Luck? Tough,'' the Chicago Sun Times, March 25, 2001.

''Bankruptcy Change Would Hurt Business,'' Crain's Detroit Business, March 19, 2001.

''Bankruptcy Bill is anti-Family Measure,'' Intelligencer Journal (Lancaster, PA), April 3, 2001.

''Bankruptcy Bill Too Forgiving of Lenders,'' Dayton Daily News, March 18, 2001.

''Bankruptcy for Growth? No More,'' Nicholas Georgakopoulos, the Hartford Courant, March 21, 2001.

''Not Every Person Who Files for Bankruptcy is a 'DeadBeat','' Melinda Stubbee, the Herald Sun, March 20, 2001.

''A Flawed Bankruptcy Bill,'' the Milwaukee Journal, March 23, 2001.

''Add Balance to Proposed Law on Bankruptcy,'' the Morning Call (Allentown, PA), March 19, 2001.

'New Bankruptcy Bill is Still the Wrong Answer,'' the News & Record, March 5, 2001.

''Banking on Politics,'' the News Observer, March 7, 2001.

''In Bankruptcy Bill, Money, Talks,'' the Oregonian, March 18, 2001.

''Bankruptcy Bill Will Be Even More of a Headache,'' Jane Bryant Quinn, the Orlando Sentinel, April 18, 2001.

''No Interest in Consumers,'' the Palm Beach Post, March 7, 2001.

''Why Campaign Finance Reform? Look At Bankruptcy Bill,'' the Palm Beach Post, March 20, 2001.

''Bankruptcy Bill Exploits Students,'' Kate Giammarise, the Pitt News, March 26, 2001.

''Bankrupt Bill; This Reform Will Hurt Americans Who Are Struggling,'' Pittsburgh Post-Gazette, March 17, 2001.

''Cruel Bankruptcy 'Reform','' the Providence Journal-Bulletin, March 15, 2001.

''Bankruptcy Bill: So-Called Reforms Make Reckless Lending More Profitable,'' the Sacramento Bee, March 16, 2001.

''Bankruptcy Overhaul Lacks the Right Balance; While People Should Be Held Responsible for Their Debts, Creditors Also Should Be Regulated,'' San Antonio Express News.

''Bankruptcy 'Reform' Bill Helps Guess Who,'' the San Jose Mercury News, March 12, 2001.

''A Bad Piece of Legislation,'' the Buffalo News, March 3, 2001.

''Wiping the Slate Clean,'' Albany New York Times Union, March 1, 2001.

''Taking Care of Business,'' Robert Reich, the American Prospect, April 9, 2001.

''Bankruptcy Reform Law Supports Banks Interests,'' the Daily University Star (Texas), March 23, 2001.

Mr. WELLSTONE. ''Bad Timing on the Bankruptcy Bill,'' Robert Samuelson, The Washington Post, March 14, 2001; ''A Bad Bankruptcy Bill,'' San Francisco Chronicle, March 15; ''A Debt Bill Bankruptcy of Decency,'' The Chicago Sun Times; ''Deeper Hole for Debtors,'' Los Angeles Times; ''Business Dictated Bankruptcy Law,'' New York Times; ''Congress, President Side with Banks, Not Consumers,'' The Atlanta Journal Constitution; ''Compounding Debt,'' The Boston Globe; ''A Bankrupt Law?'' Businessweek; ''Bankruptcy Overall Hits Needy as Well as Greedy,'' The Miami Herald; ''Congress Pushing Usury,'' Bismarck Tribune; ''Hammering Bankrupt Consumers,'' Chattanooga Times Free Press; ''Down on Your Luck? Tough,'' The Chicago Sun Times.

These are just kind of random samples:

''Bankruptcy Bill is Anti-Family Measure,'' Intelligencer Journal; ''A Flawed Bankruptcy Bill,'' the Milwaukee Journal; ''Banking on Politics,'' the News Observer; ''In Bankruptcy Bill, Money Talks,'' the Oregonian; ''Why Campaign Finance Reform? Look at Bankruptcy Bill,'' the Palm Beach Post; ''Bankrupt Bill; This Reform Will Hurt Americans Who Are Struggling,'' Pittsburgh Post-Gazette; ''Bankruptcy Bill, So-Called Reforms Make Reckless Lending More Profitable,'' Sacramento Bee; ''Bankruptcy Bill Helps Guess Who?'' San Jose Mercury News; ''Bad Piece of Legislation,'' Buffalo News; ''Taking Care of Business,'' Bob Reich in the American Prospect. The list goes on and on.

I have for over 2 years been fighting this bill, with some of my colleagues: Senators KENNEDY, BOXER, DURBIN, SCHUMER, LEAHY, and FEINGOLD. I will give myself a little bit of credit as to why we are still debating this bill and it has not passed. In truth, a great deal of the credit goes to the proponents of the bill because it has been their consistent refusal to compromise on the legislation that has made the job easier. I will go into some of the greedier aspects of this legislation in a moment.

Some have argued that the tactics have been extreme, that I have been at this over and over and over again in trying to block it. I would rather be spending my time not stopping the worst but doing the better. I much prefer to do that. But this is a disastrous piece of legislation. What has been done with this very harsh legislation is basically shredding one of the important safety nets, not just for low-income people but for middle-income people as well. Shredding that safety net so that people can no longer rebuild their financial lives is truly egregious.

To argue that the reason we need to do this is because a lot of people have been filing chapter 7 in order to get out of repaying their debt and that they are untrustworthy, they don't feel any stigma, et cetera, simply doesn't hold up under any kind of scrutiny.

We know in the vast majority of cases, 50 percent of the people who file bankruptcy in this country file bankruptcy because of medical bills. Is somebody going to say they are lazy or they are slackers or cheats? We know beyond that one of the major causes of bankruptcy is loss of a job. More and more people are losing their jobs now; 1,300 taconite workers at LTV Company on the Iron Range of Minnesota just lost their jobs.

Is it divorce? Not surprisingly, many of our citizens who find themselves in the most difficulty are women after a divorce. They are the ones who are taking care of the children in most cases.

It hardly holds up that these are a bunch of slackers and a bunch of cheats we are going after. As a matter of fact, the evidence is clear—I will refer to studies later on—that at best there is maybe 3 percent abuse. What about the other 97 percent of the people?

Major medical illness is a double whammy because not only do you have to pay the doctor and the hospital charges, but in addition quite often you can't work. If it is your child, even

if it is not you, it is the same issue: it is the medical bills. But then you are home taking care of the child. Now you have no other choice. You are trying to rebuild your life and file for chapter 7, and you can't do it any longer.

As I said, you can't argue that people overwhelmed with medical debt or sidelined because of an illness are deadbeats. This legislation assumes they are. It would force them into credit counseling before they could file, as if a serious illness or disability is something that could be counseled away. I had an amendment to this bill that would have created an exclusion for people who were filing for bankruptcy because of medical bills. It did not pass.

Women single filers are now the largest group in bankruptcy. They are one-third of all the filers. They are the fastest growing. Since 1981, the number of women filing increased by 700 percent. A woman single parent has a 500 percent greater likelihood of filing for bankruptcy than the population generally.

Divorce is a major factor in causing bankruptcy in America. Are single women with children deadbeats? This bill assumes they are.

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

In other words, a single mother who is being deprived of needed support from a well-off spouse is further harmed by this piece of legislation which will deem the full income of that spouse available to pay debts for determination of whether the safe harbor and means test applies. It makes no sense whatsoever, and it is incredibly harsh.

Over the past 2 years, any pretense that this piece of legislation is urgently needed has evaporated. Now proponents and opponents agree that nearly all the debtors resort to bankruptcy not to game the system but, rather, as a desperate measure of economic survival and that only a tiny minority of chapter 7 filers, as few as 3 percent, can afford any debt repayment, according to the American Bankruptcy Institute.

Yet low- and moderate-income families, especially single-parent families, are those who need most the fresh start provided by bankruptcy protection. The bill will make it harder for them to get out from under the burden of crushing debt, and that is why I oppose it.

The second reason why I oppose this legislation is that the timing of this bill could not be worse. Basically people are not going to be able to file for chapter 7. Chapter 13 is going to be made more unworkable for many debtors. We had a situation where 4 years ago, when we first started this debate, the big banks and credit card companies were pushing so-called bankruptcy reform in good economic times. The stock market was soaring. The unemployment rate was coming down. But given the economy we find ourselves with right now, given the fact that we no longer have the same boom economy, that people are now out of work or underemployed, that these are harder times, rushing this bill through seems completely divorced from reality.

What is the most cited reason for filing for bankruptcy? Job loss, and the unemployment rate is rising. What is the second most cited reason? Excessive medical bills, and the cost of health care is rising, as are the number of uninsured. At the same time, we are going to make it impossible for people to file for chapter 7 and rebuild their lives.

While the bill will be terrible for consumers and for regular working families even in the best of times, its effects will be all the more devastating now because we have a weakening economy. It boggles the mind that at a time when Americans are most economically vulnerable, when they are most in need of protection from financial disaster, we would eviscerate the major safety net in our society for the middle class, and that is precisely what this legislation does. It is the height of insanity that we would be contemplating doing what we are doing given this economy.

It may be the case that the Congress and the President will ignore the plight of these families. Each one of them by themselves is not that powerful. Most folks assume this is never going to happen to us. Most people and most families never expect they are going to have to file for bankruptcy, but at least my colleagues should care about the effect on the economy.

This bill could be a disaster, but I do not want you to take my word for it. I want to quote some excerpts from a column by Robert Samuelson in the March 14 Washington Post. To put it delicately, Mr. Samuelson and I rarely agree on anything. In fact, he likes—I want to be intellectually honest about it—he likes the substance of the bankruptcy bill. All the more reason, I say to my colleagues, to pay attention to him. The title of the editorial is ''Bad Timing on the Bankruptcy Bill.'' He writes:

> The bankruptcy bill about to pass Congress arrives at an awkward moment: the tail end of a prolonged boom in consumer borrowing. From 1995 to 2000, Americans increased their personal debts by about 50 percent to roughly $7.5 trillion—a figure including everything from home mortgages to student loans.
>
> Now comes the bankruptcy bill, which would make it slightly harder for consumers to erase debts through bankruptcy. Although the bill is not especially harsh, it could perversely worsen the economic downturn.

I do not agree with part of his characterization. I am now focusing on his argument about the effect of the economy.

He concludes:

> The real pressures of high debt are now being compounded by scare psychology. ''Drowning in Debt,'' says the cover story of the latest U.S. News & World Report. ''Why you're in so deep—and how to get out before it's too late.'' The bankruptcy bill sends a similar message: Be prudent, don't overborrow. The message is now about four years too late. Now it may simply amplify the growing gloom. This is not a bad bill, but it certainly is badly timed.

There you have it, I say to my colleagues. Not an opponent but a supporter suggesting that now is not the time, that we could end up prolonging or actually worsening the downturn in the economy.

He is not the only one. A May 21 issue of Business Week had an article titled ''Reform that Could Backfire.'' The article begins:

> Just as bankruptcy reform seemed headed for certain passage, the economic omens point to a sharp rise in personal bankruptcies over the next few years. The likely results, says economist Mark Zandi of Economy.com, Inc., will be ''much pain for hard pressed households, little if any gain for lenders, and, in the event of even a mild recession, major problems for the overall economy.''

Again, this is not some leftwing rag; this is the magazine of note for corporate America—Business Week. If Business Week and PAUL WELLSTONE are in agreement on an issue, then I ask you: How can we be wrong?

The article concludes:

> The drop in bankruptcies in recent years partly reflected the booming economy. Now, with sharply rising unemployment and slowing income gains, Zandi expects high household debt to take its toll. Especially at risk, he believes, are lower income families, for whom debt repayment dictated by the pending bankruptcy reform would entail tremendous hardship. ''If the economy becomes mired in recession or sluggish growth,'' he warns, ''the loss of the spending power could significantly retard the recovery.''

I ask my colleagues, I ask the majority leader—I am not in agreement with him—what is the rush? Why do you want to do this to the economy? Why do you want to do this to families? Why are you prepared to go to such ridiculous lengths to move this legislation?

Mr. President, I have received a note, I say to Senator SESSIONS, that he wants a few minutes before 9:30 a.m. I did not see it until just now. I will be pleased to yield to my colleague.

Mr. SESSIONS. I will be returning later.

Mr. WELLSTONE. Whatever is best for the Senator from Alabama.

Mr. SESSIONS. Somebody else is going to be replacing me. The Senator can go right ahead. I thank the Senator for his courtesy, as always.

Mr. WELLSTONE. Mr. President, I do not really get this. One of the arguments being made is that what we are

going to see is an increase in bankruptcies because of a slowing economy and high consumer debts that are overwhelming families and, therefore, we need to pass legislation to curb access to bankruptcy relief. Try that on for size.

For 2 years, while the good times were rolling, the proponents of this bill were citing the number of bankruptcy filings as a reason to pass the bill, although there actually was a dramatic drop in filings taking place. I never understood that argument.

Now they are turning around and saying we need to rush to do this because the economy is slowing down and many hard-working people, through no fault of their own, are going to find themselves in dire circumstances; therefore, we had better pass legislation that will curb their access to bankruptcy relief.

It is amazing: Increasing hard times, a lot of people finding themselves in these impossible financial circumstances, and now they want to make it harder for them to get a fresh start. The logic of this argument completely escapes me.

The point Mark Zandi makes in the Business Week article, as other economists have done, is that restricting access to bankruptcy protection will actually increase the number of filings and defaults because banks will be more willing to lend to marginal candidates. Indeed, it is no coincidence that the single largest surge in bankruptcy filings began immediately after the last major procreditor reforms were passed by Congress in 1984.

This is not a debate about winners and losers because we all lose if we erode the middle class in this country. We lose if we take away one of the critical underpinnings for middle-class people. Sure, in the short run big banks and credit card companies may pad their profits, but in the long run our families will be less secure and our entrepreneurs will become more risk adverse and less entrepreneurial.

The whole point of bankruptcy is to allow people to get a fresh start. Bankruptcy disproportionately affects the financially vulnerable, but it also disproportionately affects the risk takers, small businesspeople or entrepreneurs. Our bankruptcy system ensures that utter insolvency does not need to be a life sentence, but it can be an opportunity to start over, and that is what this bill erodes.

This is not a debate about reducing the high number of bankruptcies. No one can will a piece of legislation that can do that. Indeed, by rewarding—I make this argument—the reckless lending that got us here in the first place, we are going to see more consumers burdened with that.

It is amazing; there is hardly a word in this whole piece of legislation that calls for these credit card companies or lenders to be accountable as they continue to pump this stuff out to our children and grandchildren every day of every week. But this is perfect for them because they don't have to worry any longer. They get a blank check from the Government. No, this is a debate about punishing failure—whether self-inflicted—and sometimes it is—or uncontrolled or unexpected. This is a debate about punishing failure.

If there is one thing this country has learned, it is that punishing failure doesn't work. You need to correct mistakes. You need to prevent abuse. But you also need to lift people up when they have stumbled, not beat them down. This piece of legislation beats them down.

Both the House and Senate bills basically give a free ride to the banks and credit card companies, that deserve much of the credit—you would not know it from this legislation—for the high number of bankruptcy filings because of their loose credit standards. Even the Senate bill does very little to address this issue.

There are some minor disclosure provisions in the Senate bill. But even these don't go nearly as far as they should. Lenders should not be rewarded for reckless lending. Where is the balance in this legislation? If we are holding debtors accountable, why don't we hold lenders accountable as well? I know the answer. These financial interests have hijacked this legislative process. As high-cost debt and credit cards and retail charge cards and financing plans for consumer goods have skyrocketed in recent years, so have the bankruptcies. As the credit card industry has begun to aggressively court the poor and vulnerable, is anybody surprised that bankruptcies have risen?

Credit card companies brazenly dangle literally billions of dollars of credit card offers to high-debt families every year, and they are not asked to be accountable. They encourage credit card holders to make low payments toward their card balances, guaranteeing that a few hundred dollars in clothing or food will take years to pay off. The length to which the companies go to keep customers in debt is absolutely ridiculous, and they get away with murder in this legislation. After all, debt involves a borrower and a lender. Poor choices or irresponsible behavior by either party can make the transition go sour.

So how responsible has the industry been? It depends on how you look at it. On the one hand, consumer lending is unbelievably profitable, with high-cost credit card lending the most profitable of all, except for perhaps the even higher costs on payday loans. We don't go after any of these unsavory characters. So I guess by the standard of the bottom line, they are doing a great job. This industry is thriving. These credit card companies are making huge profits.

On the other hand, if your definition of responsibility is promoting fiscal health among families, educating them on the judicious use of credit, ensuring that borrowers do not go beyond their means, then it is hard to imagine how the financial services industry could not be a bigger deadbeat. The financial services industry is the big deadbeat. The problem is that it is the heavy hitter, the big giver, and it has so much money that it dominates the politics in the House of Representatives and the Senate. That is part of what this is about.

Theresa Sullivan, Elizabeth Warren, and Jay Westerbrook wrote a book called ''Fragile Middle Class.'' I recommend it to everybody. They write:

> Many attribute the sharp rise in consumer debt—and the corresponding rise in consumer bankruptcy—to lowered credit standards, with credit cards issuers aggressively pursuing families already carrying extraordinary debt burdens on incomes too low to make more than minimum repayments. The extraordinary profitability of consumer debt repaid over time has attracted lenders to the increasingly high risk-high profit business of consumer lending in a saturated market, making the link between the rise in credit card debt and the rise in consumer bankruptcy unmistakable.

Credit card companies perpetuate high interest indebtedness by requiring—and there is not a Senator who can argue against this practice—low minimum payments and, in some cases, canceling the cards of customers who pay off their balance every month. Using a typical monthly payment rate on a credit card, it would take 34 years to pay off a $2,500 loan. Total payments would exceed 300 percent of their original principal. That is really what this is all about. A recent move by the credit card industry to make the minimum monthly payment only 2 percent of the balance rather than 4 percent further exacerbates the problem of some uneducated debtors.

These lenders routinely offer ''teaser'' interest rates which expire in as little as 2 months, and they engage in ''risk-based'' pricing which allows them to raise credit card interest rates based on credit changes unrelated to the borrower's account. It is just unbelievable what they get away with.

Even more ironic, at the same time that the consumer credit industry is pushing a bankruptcy bill that requires credit counseling for debtors, the Consumer Federation of America found that many prominent creditors have slashed the portion of debt repayments they shared with credit counseling agencies—in some cases by more than half. This may force some of these agencies to cut programs and serve even fewer debtors.

Well, Mr. President, I am sorry. I am glad there aren't a lot of Senators on the floor because it is hard to say this because you feel as if you are engaging in personal attacking. I don't mean it to be that way. I can't say enough about the hypocrisy of this legislation—not of individual Senators but the content of this legislation. It is incredible to me the way in which these banks and credit card companies have rigged this system, and we have this harsh piece of legislation in increasingly difficult economic times that is

going to make it impossible for many families to rebuild their lives. The vast majority find themselves in these horrible circumstances because of medical bills, having lost their jobs, or divorce.

Do you know what. This legislation doesn't do anything about the egregious greed, the exploitive practice of this industry. All of us who have children know what they send out in the mail every day.

So the question is: PAUL, if the bill is as bad as you say, how come it has so much support? This is a lonely fight. Just a few Senators are in strong opposition. I don't mean it in a self-righteous way, and it doesn't make us closer to God or the angels. I don't understand why the bill is going through. The bill has a lot of support in the Congress, and some of those who are supporting it, such as Senator SESSIONS and others, are worthy Senators. We have an honest disagreement. The President says he supports it. But the fact of the matter is—and I am not talking about a specific Senator; I don't do that because that is not what it is really about. At the institutional level, I believe the reason this legislation has so much support—I will repeat that—at the institutional level, I believe the reason this legislation has so much support is that it is a tribute to the power and the clout of the financial services industry in Washington.

Let's call it what it is. Might makes right. It is the financial might of the credit card companies and the big banks that are big spenders, heavy hitters, and investors in both political parties. It doesn't mean individual Senators support this legislation for that reason. I can't make that argument. People can have different viewpoints. But if I look at it institutionally, I can look at the amount of money those folks deliver, their lobbying coalition, and the ways in which they march on Washington every day, and I can't help but say that is part of what this is about.

Why has the Congress chosen to come down so hard on ordinary working people down on their luck? How is it that this bill is so skewed against their interests and in favor of big banks and credit card companies? These editorials in a lot of newspapers that say the Congress—the House and Senate—comes down on the side of binge banks, not consumers, are right. Well, maybe it is because these families don't have million-dollar lobbyists representing them before the Congress. They don't give hundreds of thousands of dollars in soft money to the Democratic and Republican Parties. They don't spend their days hanging outside the Chamber to bend a Member's ear.

Unfortunately, it looks as if the industry got to us first. The truth is that, outside of this building, the support for this bill is a pittance. I mean the truth of the matter is that if you go outside this building, support for this bill is very narrow. The support has deep pockets. Apparently the Congress responds to deep pockets—not apparently; it does. Everybody knows that. People know it in Nebraska; they know it in Alabama; they know it in Minnesota.

We can agree or disagree about this legislation, but that is the view people have. They say when it comes to our concerns about ourselves and our families, our concerns are of little concern in Washington. Part of that is the mix of money in politics. That is why the vote in the House is important and why everybody should know that McCain-Feingold and Meehan-Shays is just a step. Lord, we will have to do much more.

I am trying to win on a cloture vote on which I will get beat badly. Outside of this building, and I will stake my reputation on this—I hope I have a reputation—outside this building there is no support for this, or very little. People are not running up to us in coffee shops in Nebraska and saying, please pass that bankruptcy bill because, by God, that is the most important thing you can do that will help us.

People are talking about health care costs, childcare costs, good education for their children, a fair price for family farmers, how we can keep our small businesses going, the cost of higher education, the cost of prescription drugs, concern people will not have a pension, what happens when you are 75 or 80, in poor health, and you have to go to the poorhouse before you get help in a nursing home or home-based care and receive medical assistance. That is what people talk about. They don't say, please pass a bankruptcy bill so when we get into trouble, no fault of our own, because of medical bills or we lost our jobs, we will not be able to rebuild our lives. There isn't any support for this legislation outside this building. The deep pocket folks got to the Congress first, as they usually do.

There is opposition. You can know something about a bill by who the enemies are. Labor unions oppose the bill. Consumer groups oppose the bill. Women and children's groups all oppose the bill. Civil rights organizations all oppose the bill. Many members of the religious community oppose the bill. Indeed, it is a fairly broad coalition that opposes this. Behind them are millions of working families who have nothing to gain and everything to lose from this legislation. That is why I have been blocking this bill for over 2 years.

I come from the State of Minnesota. We had a great Senator and Vice President, Hubert Humphrey. He once said that the test of a society or the test of a government is how we treat people in the dawn of life, the children, in the twilight of their lives, the elderly, in the shadow of their lives, people who are poor, people who are struggling with an illness, people struggling with a disability.

By this standard, this bill is a miserable failure. There is no doubt in my mind this is a bad bill. It punishes the vulnerable and rewards the big banks and credit card companies for their own poor practices. For all I know this legislation will only get worse in conference. I hope that is not the case but it is my fear.

Earlier I used the word ''injustice'' to describe this bill. That is exactly right. It would be a bitter irony if creditors used a crisis, largely of their own making, to talk Congress into this legislation.

Colleagues, it is not too late to reverse the course of the bill. It is never too late to pull back from the brink until we have leaped. We have not leaped yet. Let's step back. Let's do reform the right way. Let's wait until we are not adding to the economic pain that too many American families are already feeling. Let's not prolong the pain.

I urge the Senate to change the course. If I lose on this vote, then we will have to have another cloture vote, which will be next week, and there will be more discussion. From there, we will see.

I ask unanimous consent a number of editorials from newspapers all across our country be printed in the RECORD.

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

[From the Los Angeles Times, Mar. 2, 2001]

DEEPER HOLE FOR DEBTORS

The bankruptcy reform legislation President Clinton vetoed last year because it was unfair to consumers is being rushed through Congress again. This time, if passed, President Bush is sure to sign it into law. That would be a great victory for banks, paid for by consumers in financial trouble.

Banks and credit card companies pushing for the reform claim that current law is too lenient on those who file for bankruptcy only to avoid paying bills. There are admittedly abuses—3% of bankruptcies are filed by those with enough money to pay at least some of their creditors—but this legislation is too harsh on the genuinely distressed 97%. The House approved its version of the measure Thursday, but there is a chance it will be amended or defeated in the evenly divided Senate next week.

Credit card companies could hardly ask for a better law. They would have to take no responsibility for ever-more-aggressive lending, even to those with poor credit records. The companies know that some of that debt will go sour and they account for it in the high interest rates they charge cardholders. The bankruptcy bill deals them a few more aces, making it harder for debtors to get out from under.

Lenders, who spent millions of dollars lobbying for the legislation, argue that the current law allows too many consumer to walk away from debt. But a recent study by the independent American Bankruptcy Institute shows that in 97 out of 100 bankruptcies, the debtors, facing either catastrophic medical bills or loss of income, have hit bottom and cannot repay. Nearly 90% have no assets and owe, on average, $36,000. They are either renters or live in homes worth less than $100,000. The cars they drive are, on average, eight years old, and seven out of 10 don't earn enough money to cover their living expenses.

The new law would close the door to many consumers filing under Chapter 7, which does not require repayment, and force them into

Chapter 13, where they can lose homes and cars. Even in Chapter 7, creditors can force borrowers to repay some of their debt.

Sen. Paul Wellstone (D-Minn.) is leading the battle against the unfair legislation, and he has the support of both California senators. He will need the backing of all Senate Democrats and a Republican or two next week when he takes his fight to the Senate floor.

[From the San Francisco Chronicle, Mar. 15, 2001]

A BAD BANKRUPTCY BILL

One of the low points in life is about to drop even lower. After soaking up record amounts of special-interest money, Washington is preparing a one-sided overhaul of bankruptcy law, a change that will help the credit industry and further punish debtors.

Last year, then-President Clinton wisely vetoed a near-identical plan. The bill, The Bankruptcy Reform Act of 2001, rewrites historic bankruptcy rules that aim to erase uncollectible debts and let consumers and businesses start over.

But with the new administration, the revived measure has easily passed the House and is due for a Senate vote this week. President Bush has indicated he will sign the legislation.

It's hard to know what's worse about this plan: the ingredients making it harder to wipe out debts or the lavish campaign contributions that shadow the bill.

Bankruptcy filings have grown during the last decade, although the numbers declined last year to 1.3 million cases. Most applicants seek the protection of Chapter 7, a category that allows unsecured debts—generally credit cards—to be canceled, while car and house payments remain.

The bill would push many more people to file for bankruptcy under Chapter 13, which would impose a 3- to 5-year repayment period for credit-card debt and allow creditors to go after cars and homes in some cases. The concept of bankruptcy as a fresh start will be ended.

The bill's supporters talk of personal responsibility, abuse of bankruptcy laws by deadbeats and millionaires who pour assets into mansions to shield money from bill collectors. But the real causes of bankruptcy are divorce, illness and layoffs. These are ruinous turning points that bankruptcy was designed to soften.

The money behind the bill is as overboard as the measure's provisions. Finance and credit-card firms gave $9.2 million to both major parties last year, up from $4.3 million in 1996. Bush's largest contributor was MBNA, the world's biggest credit-card issuer.

As the national economy cools, it's worth thinking about the need for effective bankruptcy rules. The law shouldn't be a haven for well-off debt-dodgers or spendthrifts who won't curb bad habits.

But these aren't the targets of this bill. Instead, the legislation hobbles a larger group of lower-income Americans, who will be held back by continuing debt for a longer time.

Debt may be choking the livelihood of more than 1 million Americans. But this problem should not be an opportunity for the credit industry to make even more money. The bankruptcy bill should be rejected by the Senate.

[From the Washington Post, Feb. 19, 2001]

REFORM CHOICE FOR MR. BUSH

Last December President Clinton refused to sign a bankruptcy bill, for the good reason that it was too tough on ordinary debtors who seek the protection of the courts and too generous to high-rollers with fancy tax accountants. Now Congress is returning to the subject: A bill recently moved through a House committee, and the Senate is preparing to mark up its version. Lawrence Lindsey, the White House economics adviser, has suggested that President Bush isn't sure whether to support a bill. The administration should make it clear that bankruptcy reform will only be signed if it is fairly balanced.

The case for reform is that the number of people declaring bankruptcy has nearly doubled over the past decade, and that this represents a damaging cultural shift toward irresponsibility. If the old stigma associated with bankruptcy evaporates, people may get the idea that they can borrow freely and then get off without repaying; this imposes costs on lenders, which in turn may be passed on to honest borrowers in the form of higher interest rates. Up to a point, this case is right—though it is also true that most people who file for bankruptcy do so because of a calamity such as illness, job loss or divorce.

The challenge for reformers is to limit irresponsible abuse of bankruptcy without being too harsh toward those who deserve second chances.

The bill Congress produced last year fell short in several ways. It failed to close the egregious homestead loophole, which allows expensively advised debtors to establish residency in Florida or Texas and buy million-dollar homes that they can keep while thumbing their noses at creditors. It did too little to discourage hard-sell tactics by credit card companies, whose relentless come-ons have done much to seduce consumers into debt and to dissuade them from early repayment. And it fails to restrict creditors' abusive practice of pressuring unsophisticated debtors into reaffirming their intention to repay even when they aren't legally obliged to.

This time around, senators from both parties are preparing amendments that might fix some of these abuses. The credit card industry, on the other hand, will be issuing reminders of the size of its campaign contributions. Experience shows that it will take presidential leadership to tip the scales against the lobbyists. Let's hope Mr. Bush delivers it.

[From the New York Times, Mar. 16, 2001]

A BUSINESS-DICTATED BANKRUPTCY LAW

Business interests generously supported Republican candidates in the last election and are now reaping the rewards. President Bush and Republican Congressional leaders have moved to rescind new Labor Department ergonomics rules aimed at fostering a safer workplace, largely because business considered them too costly. Congress is also revising bankruptcy law in a way long sought by major financial institutions that gave Republicans $26 million in the last election cycle. President Clinton wisely vetoed the proposal last year, but a nearly identical bill has passed the House and another version was approved by the Senate yesterday. President Bush fully supports the overhaul.

The legislation makes it harder for debtors to have their credit card and other unsecured debt erased under Chapter 7 of the bankruptcy code. Instead, a rigid formula would require more debtors to file under Chapter 13 and partially repay all their debts.

The nation's bankruptcy laws have long reflected a delicate weighing of society's interest in giving people in distress a fresh start against the rights of creditors. Proponents of this overhaul claim it is needed to curb abuses by high-income debtors who run up big debts and then use the bankruptcy code to avoid repaying them. But the House bill allows wealthy debtors to keep their pricey homes, if owned more than two years, out of creditors' reach, so it hardly furthers that avowed goal. The Senate, to its credit, voted to set a uniform $125,000 limit on the value of a house that can be shielded. We hope this approach prevails.

On the broader issue, there is scant evidence that bankruptcy abuse is rampant. Studies consistently show that those obtaining Chapter 7 protection are truly in dire straits. That is partly because the credit card industry frequently bombards even low-income Americans who have a checkered credit history with offers for high-interest loans. Now credit card issuers want the government to reduce all risk from their profitable business.

The legislation will weaken an important protection available to people who fall on hard times as the economy slows. Its timing is as poor as are its merits.

[From the Atlanta Journal-Constitution, Mar. 16, 2001]

CONGRESS, PRESIDENT SIDE WITH BANKS, NOT CONSUMERS

Consumer confidence is slipping lower as 401(k) balances shrink amid a Wall Street collapse. Economists fear that fretful Americans will curtail spending enough to turn the hint of a recession into the real thing.

What better time to send consumers the clear signal that if hard times befall them, the government will be on the creditor's side, not theirs? With breakneck speed, Congress and President Bush are moving to do just that, so anxious are they to repay the banks and credit companies that showered them with unprecedented torrents of campaign money last year.

Certainly, the bankruptcy bill rapidly making its way toward the president's desk, written as it was by the creditors' own lobbyists, could be worse. But it could be a whole lot better, and the timing couldn't be farther off-base.

The bill is being sold as necessary to prevent irresponsible high-rollers from escaping debts they could repay. To the extent the bill accomplishes that, it's a good thing. But it also makes it much more difficult for many of us who are middle class by the skin of our teeth to get a fresh start after an unexpected setback, such as a layoff, medical problem or divorce.

For more than a century, bankruptcy law in this country has allowed insolvent debtors to eliminate or reduce credit card and other debt that is not secured by collateral such as a house. Under Chapter 7 bankruptcy, people can erase most unsecured debt. Chapter 13 bankruptcy allows debtors to retain key assets, such as a house, in exchange for repayment of share of debt under a court-ordered plan. Three of four debtors choose Chapter 7.

The current bill would bar most people with income above the median ($39,000 nationally) from filing under Chapter 7 and eliminating credit card debt. Instead, they would be forced to file under Chapter 13.

What does this mean for you, if you're a middle-class worker forced into bankruptcy after a temporary layoff or other exigency? Even after you emerged from bankruptcy, the credit card companies would have as strong a claim to a share of your wages as would child support, alimony or other court-ordered obligation. In other words, your kids could get less of the pie so the banks could get theirs.

Although the scamming high-roller has received all the rhetorical attention, the truth is that most filers are anything but that. The median income is $22,000 a year, and about two-thirds file after an extended period of unemployment.

The bill is good business for the credit companies, though. They'll see even higher profits, about 5 percent higher next year. For companies like MBNA, which would see about $75 million extra, that's a whopping return on last year's investment in electoral campaigns of $3.5 million.

Meanwhile, the blizzard of credit card solicitations continue to blow. There probably is no law Congress could, or should, pass to stop credit companies from bombarding even the most bankruptcy-vulnerable consumers with solicitations for easy, high-interest debt. Democrats couldn't even pass an amendment to place limits on credit cards granted to minors without parental approval. The best check on those lenders' practices is the potential for losses when they give credit cards to consumers with bad credit history.

And we're sure to see a slew of people do just that in the coming year, with or without this bill, as the economic shakeout continues. For most Americans who are only dimly aware of this legislation, the awakening will be rude indeed.

[From the Boston Globe]

COMPOUNDING DEBT

If the credit-card companies really wanted to do something about bankruptcies, they would stop filling the mailboxes of America with ever-more enticing pitches for new credit cards. Instead, they have teamed up with the banks to push a new bill that harshly penalizes families that end up in bankruptcy. Most do so because they lose their jobs, get socked by medical bills, or go through a divorce.

Senator Edward Kennedy calls the bill the ''turkey of all turkeys.'' Laid-off workers will have even worse names for it if it is enacted and the economic slowdown puts more employees on the street.

Kennedy and other Senators get their chance this week to amend legislation that swept through the House on a 306–108 vote and has already been approved by the Senate Judiciary Committee. President Clinton vetoed a similar bill last year, but President George W. Bush has said he would sign it.

The bill's major shortcoming is that it makes it too difficult for families drowning in debt to qualify for Chapter 7 bankruptcy, which lets them wipe out credit-card debt and other unsecured loans. Instead, they would be forced into Chapter 13, which requires sometimes onerous repayments. An especially objectionable provision would force parents and children to fight credit-card companies to get their hands on alimony or child support from debtors going through bankruptcy.

Supporters of the bill, many of them recipients of campaign contributions from credit card companies and banks, in the past election, say it is aimed at the profligate rich who try to walk away from their obligations. In fact, a 1999 study by federal judges found that the median income of debtors seeking bankruptcy protection was $21,500. Another study, done at Harvard, showed that in 1999 no fewer than 40 percent of all bankruptcies were due to unpaid medical bills.

Also, the legislation specifically ducks a chance to go after affluent debtors by keeping a loophole in current law that lets rich deadbeats in states like Texas and Florida shield their mansions in bankruptcy court. The credit industry had to swallow that provision to get the support of powerful politicians from those states.

Another less than creditable argument of the credit industry is that the rate of bankruptcy filings is out of control. Although the total did rise from 718,000 at the beginning of the 1990s to peak of 1.4 million in 1998, it has declined in each of the past two years. What has increased in recent years is the deluge of easy credit solicitations with which the industry swamps the country. According to the Consumer Federation of America, the industry sent out a projected 3.3 billion credit-card pitches last year, an increase of 14 percent over 1999. The Senate should tell the industry to cut back on them before it seeks a more punitive bankruptcy law.

[From the Chicago Tribune, Mar. 20, 2001]

CONTRIBUTORS TO IRRESPONSIBLE ACTS; CREDIT-CARD FIRMS NOT BLAMELESS IN BANKRUPTCY RISE

(By James Sollisch)

Last week the Senate voted 85–13 in favor of tightening the bankruptcy laws and I received nine solicitations in the mail offering me credit lines totaling more than I make in a year. Several were preapproved. The bill is being pushed hard by banks and credit-card companies, including MBNA, the largest donor to the Republican Party this past election year.

Credit-card companies believe people should take more personal responsibility for their debts. A noble aim. And a perfect time to pose the question, ''Why not make banks and credit card companies take more responsibility for their lending practices?'' Let's make the bill a responsibility in lending and borrowing bill—because there's certainly enough irresponsibility to go around. In 1999, more than 1.3 million Americans filed for bankruptcy. That's up from 650,000 in 1990. Last year, lending institutions mailed out more than 33 billion solicitations. Coincidence? Only in the same way tobacco companies tried to tell us that smoking and cancer were coincidences.

We've spent the past eight years making the tobacco companies take responsibility for their misleading practices. Why are we so eager to give credit-card companies a free ride? These are the friendly folks who interrupt your dinner five nights a week to offer you a zero interest credit card for six months if you transfer all 14 of your other balances. And did we mention you're preapproved? These are the good people who send you that fake check three times a week for $58,017—the amount of equity they figure you have in your home.

These are the decent corporate citizens who target college students, suggesting that a credit card is a smart way to pay for college expenses. Yeah, smart for the company that you repay at 18 percent when you could be repaying a college loan at 8 percent. These are the nice guys who still charge up to 24 percent in the states that will let them.

And these aren't just the small companies on the fringes of the industry—these are respected bricks and mortar institutions. I've gotten three equity lines of credit in the past 15 years on three homes. Each time the bank appraiser found that the value of my home was exactly the inflated number I estimated it to be on my application. How responsible is that?

Of course, lending institutions want us to be more responsible for our debt. But without more regulation of lending practices, lenient bankruptcy law is a much needed check and balance. If these companies want fewer people to go belly up on them, maybe they should tighten their lending requirements. If I invest in a risky stock—and who hasn't lately?—I'm not entitled to get my money back.

And that's what consumers are to credit card companies—investments. They're banking on our ability to repay them. So if they want safeguards, they should be wiling to give up something in return. How about a solicitation tax? For every solicitation by phone or mail, the institution must pay a tax. The money could be used to educate consumers about the dangers of overextending their credit.

I'm sure the two chambers, which are about to reconcile their versions of the bill, can come up with additional ideas, some hopefully even more distasteful to the credit card lobby than a solicitation tax.

Mr. WELLSTONE. While I have the floor, I ask unanimous consent that my following remarks be included as part of morning business.

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

(The text of the remarks of Mr. WELLSTONE can be found in today's RECORD under ''Morning Business.'')

Mr. REID. Madam President, I suggest the absence of a quorum and ask unanimous consent the time be charged equally against the proponent and opponents of the cloture motion now pending.

The PRESIDING OFFICER (Mrs. CLINTON). Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SESSIONS. 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. SESSIONS. Madam President, I appreciate the opportunity to make some remarks about our bankruptcy bill that is now back before the Senate again. It is a bill that has been fought over, debated, improved, refined, changed and, I think, gained greater and greater support as we have proceeded.

I know there are some people who remain very emotionally in objection to it, but when analyzed carefully and the provisions in it examined, there is no doubt whatsoever in my mind that this bill is a major step forward for bankruptcy procedure in America.

Let me say what bankruptcy is and what it is not and what the bill is about. Bankruptcy occurs when an individual in America may be being sued and they can't pay their debt. The bill collectors are calling and their income just won't pay their debts. So they can go and file in a Federal bankruptcy court for relief under the bankruptcy laws. They can file under chapter 13, which says to the court, basically, I believe I can pay my debt back, but I can't live and be sued, have creditors calling me at home and that sort of thing. I will take a portion of my money. I will send it off to the bankruptcy court. You pay all my creditors in an orderly fashion, make sure they get paid, but keep them from suing me, harassing me, and bothering me, and then I will be able to recover and get back on my feet.

That occurs a lot. In some States it is very small. In some States only 5 percent of the individuals file under chapter 13. Other States, it is much higher. In my State of Alabama, where chapter 13 originated, the number is almost 50 percent of the filers—I believe

it is 50 percent—in some parts of the districts that file under chapter 13. They find it has great advantages. They are able to keep their automobile, for example. They are able to keep their home, keep more of their goods and services. It allows them to stretch out payments, to reduce the interest rates. Normally, the interest rates drop down to zero or whatever, and then they pay it off on a regular basis. It stops the harassment that comes when people legitimately are trying to collect the money the individual owes to them.

That is a good system. Too few people utilize chapter 13. It has some good advantages for themselves, not just for the people they are paying off. It has real advantages for them.

The other process which is more widely used is to file under chapter 7. You are in debt. You go down to the bankruptcy court and it wipes out all your debts. The debts are wiped out. Then the person is able to start afresh and not owe anybody. That is the common thing. It is the traditional great American value. It is referred to in the Constitution that the United States shall establish uniform laws for bankruptcy.

It has always been thought of as something we would do in the Federal Government. Bankruptcy laws are handled in Federal courts, and, therefore, to improve them, unlike most collection cases, unlike most criminal cases that are in State courts, these are in a separate Federal court.

It is important, since the last 1978 bill that passed, that Congress study what has been happening with bankruptcy and see what we can do to improve it. That is what has occurred here. It is not unexpected that people who are dealing in bankruptcy every day and see how the system works would be people who would have some concerns about it and be able to make suggestions about how to improve it.

First and foremost, it ought to be a high value of America that those who incur debt should pay it back if they can. We do not need to get to a point in this society when people can borrow money from someone, promising to pay them back, and just not do so for light or insignificant reasons.

Let me mention the bankruptcy filing issue. We have had a tremendous number of filings. In 1980, 2 years after the new bankruptcy act passed, there were just 287,000 bankruptcy filings. By 1999, 19 years later, the bankruptcy filings had jumped to 1.3 million a year, a 347-percent increase. How did that happen? There are a lot of reasons for it. I suggest that a major factor for it is when you turn on your television at night on a cable station, or pick up your shoppers guide, there are advertisements and there are even billboards with lawyers saying: If you have got debt problems, call me and we will wipe them out. People call them. The lawyers don't get paid unless they take you to court and file for bankruptcy. So there is an incentive there to do that.

I want to mention something. In this 1998–99 period, we were in a very strong economy. Yet we reached the highest point of filings in history. This chart is a little bit out of date. It shows a drop in 1999. Around 2000, it has gone back up. But the numbers are much higher—maybe 3, 4 times what they were 20 years ago. We know we have a problem. Everybody knows that. I believe we can do something good for America.

Let me say this: After all the debate, we had a number of votes on this matter and had strong support each time. It is bizarre to me—and I came here in 1997—how hard it is to get a piece of legislation passed. The procedural posture of this bill is interesting. In 1998, the House passed a bankruptcy bill, and all of these are fundamentally similar to what we have today. It passed in the House 306–118. It passed the Senate 97–1. In 1999, it came back, and I think we recessed or something and we never got it to the President to have him sign it into law.

In 1999, it passed 313–108. In 2000, it passed the Senate 83–14. In the House, in 2000, it passed by a voice vote. It passed in the Senate 70–28 in 2000. In the year 2001, we came back again and the House passed it 306–108, and the Senate passed it 83–15. It still hasn't become law. How did this happen? At any rate, we are now moving to a point where we are going to make this happen. We have discussed and debated these issues, and we are excited now that we can perhaps see an end to this and have some real reform.

Let me mention one thing the bill does, which I think is significant. The bill provides that before you can go into bankruptcy court, you must at least inquire with a credit counseling agency, if there is one available in the community. The bankruptcy judge can certify if there is not one and would excuse this requirement. But most communities—virtually all of them—have a credit counseling agency. That agency is a voluntary group you can go to and discuss with them your debt situation and whether or not you have a chance to work your way out of it. They are very good with families. They bring in the mother, father, and sometimes the children, and they sit around the table and they discuss what is going on in the family's budget.

They call up this washing machine company that you have a debt with, or the bank, or the credit card company, and they say: We are a credit counseling company and we are licensed. This family is in trouble financially. If you will reduce the required payments, reduce your interest, we will commit to you to work with them and see that you get paid so much a month, and in a year, 2 years, 3 years, we will have you paid off. They may even ask them to reduce the amount owed. They may owe you $5,000 and there is no way they can pay that. They might say: They are thinking about bankruptcy. If you will agree to reduce your debt to $3,000, I believe they will pay you all of that.

Sometimes these people do that. Sometimes they work out a budget and they teach the family how to get out of debt and get on their feet and start their lives again. That is a very good thing. My friends in the bankruptcy bar don't do that. When people go to them in response to their ads on television, they go in and talk to them and they say: You have enough debt; we ought to file chapter 7 and wipe this debt out.

So the debt is wiped out, but nothing has been done to deal with the problem in that family that may have caused the debt to begin with. Sometimes there is a gambling addiction, a drug or alcohol problem, and sometimes there are illnesses and problems that maybe this credit counseling agency can help them get help for. Our bill says before you can file for bankruptcy, you have to at least talk to a credit counseling agency and see if they might have a plan for the debtor that might be better than simply filing bankruptcy.

I think a lot of people would choose that option. I don't know how many. It may be 2 percent or it may be 10 percent. But if they know about that option, they will find it will be something good for them to do. We should consider that.

Now, my friend from Minnesota is very aggressive about this bill. He is emotional about this bill. He says two different things. He says, well, only 3 percent of the people will qualify for this thing, so the bill should not pass. Then he says that everybody is going to have their bankruptcy protections eliminated and it is a harsh bill.

Let's talk about the core matter within the bill. The core part of the bill says if you make above median income in America—which is around $45,000 for a family of four—and you are able to pay back a certain percentage of the debt that you owe, you ought not to go into chapter 7 and wipe out all those debts. You ought to be required to go into chapter 13 and pay back the portion of those debts that you can—but under the court's protection, so nobody can sue you for debts and you can't receive phone calls and you are protected from harassment, but you pay the debt back. It is our view that if you can pay some of your debt, you should do that. I think that is just and fair. I don't think the Federal bankruptcy law was ever conceived to create a situation in which a person can simply, routinely go in and file and wipe out all their debts, even though they can pay them back.

We have story after story of doctors and lawyers making $100,000-plus per year going in and wiping out all their debts and keeping right on with the salary they were making. I don't believe that is justice. I don't believe that is right. I believe we have a right and a responsibility to say if you can pay back some of that debt, you should do that.

How many people will be covered by that? I don't know. Maybe 10 percent, or less probably. But 90 percent of the people, because they will be making below median income, will be able to file in bankruptcy just like they do today with very little change.

So this catches only what I would say are the abuses. Senator WELLSTONE said it is 3 percent. Maybe it is only 3 percent who make above median income. If so, only they will be affected. Even then, if your debts are large enough, you will be able to stay in chapter 7 and wipe them out if the court finds you can't pay them. But if you are making $150,000 and you owe your neighbors and the bank and the hospital a total of $150,000, most people would try to work and pay those debts down in some fashion. But why should a person making that kind of income just wipe them all out? This would say you would go to the court and you have to submit a plan. The court will put you into chapter 13, and the court may say you ought to be able to pay half of those bills, and you will pay them out on a monthly basis over 3, 4, 5 years, and nobody can sue you, nobody can call you at night and harass you. They will take care of the payment of the debt. You simply have to set aside a certain amount of your money. You can't throw it all away and wipe out debts that you owe.

It is true that a lot of people go into bankruptcy because of medical debt, hospital debt, and things of that nature. They didn't have insurance and they owe a lot of money for debts. Well, hospitals are not evil people. They are good institutions. Presumably, they supplied a need that they gave somebody health care and treatment and an operation and surgery, and whatever they needed, or fixed their legs that were broken, or whatever. So are we to say just because it is a hospital debt and you have the money to pay them and you make above median income, that we should never pay a hospital debt?

What kind of thinking is that? We have this growing mentality in America today. It is—I do not know how to describe it, but it reflects a rejection of enforcement of contracts and laws and plain meaning of words.

We have this deal where one has an obligation to pay if one can—I think people should pay—but if you are not able to and you make below median income, you will be able to wipe out all the debts just as in current law today.

A lot of complaints have been made that families will be impacted and that this will be damaging to them. It has been said that the bill is incredibly harsh; that debtors file for bankruptcy for survival, and many do, and that this bill will stop all of that. I do not think that is correct. It was said this bill will eviscerate a major safety net in this economy for middle America.

Let me tell you who benefits from this. Women and children benefit from this. Under the bankruptcy bill, deadbeat dads with above-median income and a moderate ability to repay debts will be required to enter chapter 13, just as I noted, supervised by a bankruptcy judge for 5 years. The deadbeat dads must pay all past due alimony and child support before the bankruptcy judge will confirm the 5-year plan. This Federal judge will make sure that alimony and child support are paid and paid first, ahead of the debts.

Under current Federal law in bankruptcy—and if we reject this bill, we will stay under current law—under current Federal law, child support and alimony payments rank seventh in the list of priority debts to be paid off in a bankruptcy proceeding. Incidentally, attorney's fees are now No. 1. This bankruptcy reform bill, on the other hand, reorganizes the priorities in a way that makes sense. Women and children come out to be No. 1 every time. This new priority list elevates child support and alimony payments to the top priority ensuring that those payments are made before any others, even above attorney's fees.

That is a historic step forward for women and children in America. Why anyone who claims to want to benefit children to further child support payments would want to kill this bill is beyond me.

It provides an automatic stay which is a trick some debtors have been using to get out of paying child support payments after they file for bankruptcy. In bankruptcy, they are given an automatic stay. That means the child support collection agencies that were trying to sue them for child support have to stop their lawsuit when a bankruptcy is filed. That is one of the principles of bankruptcy.

Once a bankrupt files, every litigation against that bankrupt is stayed and is brought into the bankruptcy court, not the State courts unconsolidated, so the bankrupt can get his life together and not be sued in every county and State where he owes money. It is a good thing, but that stay can be abused when it comes to child support.

This legislation ends that practice by exempting child support and alimony support obligations from the automatic stay. They have to continue to pay and the lawyer or the State child support agency that is seeking to collect child support on behalf of a mother and children will be able to continue their efforts to collect the money, even though the deadbeat dad has filed for bankruptcy.

What about past due alimony and child support? The bill requires that a parent filing for bankruptcy must fulfill both their current and past due child support and alimony obligations before a judge can confirm a bankruptcy plan. They will ensure that the custodial parent gets effective and timely assistance from child support collection agencies by requesting the bankruptcy trustee and administrator to notify the parent and the State child support collection agency whenever a debtor owing child support or alimony files for bankruptcy. This notice will provide vital timely information to the custodial parent so that he or she can request help from the State child support enforcement agency if they desire.

What does all this mean? Jonathon Burris, of the California Family Support Council, put it in an open letter to Congress: The provisions included in this bill are ''a veritable wish list of provisions which substantially enhances our efforts to enforce support debts when a debtor has other creditors who are also seeking participation in the distribution of the assets of a debtor's bankrupt estate.''

In addition, Philip Strauss of the district attorney's Family Support Bureau—and most district attorneys around the country have as one of their obligations collecting child support on behalf of indigent spouses and children—wrote to the Judiciary Committee to express his unqualified support for the bill.

He notes that he has been in the business of collecting child support for 27 years. He knows what he is talking about. Mr. Strauss notes that the National Child Support Enforcement Association, the National District Attorneys Association, and the Western Interstate Child Support Enforcement Council support his views and support this bill.

I think that should put to rest any allegation that somehow we are abusing children in this legislation, that somehow it is harsh and not actually beneficial to them.

When a parent who is not paying child support and makes above-median income is forced into chapter 13 for 5 years, they are under a Federal judge's watch and order that entire time. During that 5 years, they have to send their money for child support or they can be held in contempt of court by the bankruptcy judge or have their bankruptcy benefits all thrown out. That to me is a benefit for families and children that is little understood.

There has been a lot of talk about credit cards. Remember, our bill focuses on how to process bankruptcy cases in bankruptcy courts. What kinds of notices that go on credit cards, how they declare their interest, what kinds of rules should cover them is a banking matter that is covered by an entirely different committee of this Congress, the Banking Committee.

The chairman of the Banking Committee has agreed to allow some provisions to be put in this bill, but he asserts his prerogative and the Banking Committee's prerogative, and has done so, to handle any major reform of credit card laws.

That is not what we are about in this legislation. This is bankruptcy court reform. It is not to reform all problems of credit in America, although we have some, and I am sure we will make progress on them.

I inquire, Madam President, about the time.

The PRESIDING OFFICER. The Senator has 34 minutes remaining.

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

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. GRASSLEY. 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. GRASSLEY. Madam President, we are about to vote on the cloture motion to proceed to the bankruptcy bill. I strongly urge my colleagues to vote for cloture.

I would like to say at the outset that I am pleased Senator DASCHLE has decided to move forward with the bankruptcy bill. It's only fair that we go through the regular order on bankruptcy, which is to take up the House-passed version, substitute that with the Senate-passed bill, and then proceed to conference to resolve differences between the two bills. The Senate bill, S. 420, went through proper procedure—in the 107th Congress, the Judiciary Committee held a hearing and markup of the bill, and then there was extended debate and amendments on the floor. In March, S. 420 passed out of the Senate by a vote of 83 to 15.

But, to tell you the truth, a bankruptcy bill should have been signed into law last year. We've been working on bankruptcy legislation for three Congresses now. The bill has passed both houses several times. Last year, the bill was unfortunately pocket-vetoed by President Clinton at the very last minute. The main reason we don't have a bill enacted into law is because of the determined efforts of certain Senators to delay and obstruct the process, even though a large bipartisan majority of the Congress supports bankruptcy reform. Certain Senators have made a point of impeding progress on this important reform measure every step of the way. They've done this because left-wing interest groups think that bankruptcy should be easy. But the majority of us here in Congress don't think that should be the case.

The bill reforms the bankruptcy system to require repayment of debts by individuals who have the ability to pay their bills, by reinstituting personal responsibility in a bankruptcy system that is now all too often being used as a financial tool for deadbeats. It is clear that the bill reinjects an individual's personal responsibility in regard to his or her financial situation, while at the same time protecting the right of debtors to a financial fresh start when they are in a situation where they cannot repay their debts or have fallen on hard times through no fault of their own. I repeat, the bill does not eliminate bankruptcy as a recourse for people who come on hard times. In fact, the bill clearly indicates that it there is a change in the circumstances of a debtor, that will be taken into account. And that includes the loss of a job or unexpected medical expenses.

Furthermore, the bill strengthens protections for child support and alimony payments by making family support obligations a first priority in bankruptcy, up from number seven. What could help women and children more than moving family support obligations to the first priority in bankruptcy? We can't move them higher than number one, we've put women and children at the top. The bill makes staying current on child support a condition of discharge—debt discharge in bankruptcy is made conditional upon full payment of past due child support and alimony. So the bill makes payment of child support arrears a condition of plan confirmation. In addition, the bill gives parents and state child support enforcement collection agencies notice when a debtor who owes child support or alimony files for bankruptcy.

The bill requires bankruptcy trustees to notify child support creditors of their right to use state child support enforcement agencies to collect outstanding amounts due. I think that these provisions will help ensure that women and children are up front when there is a bankruptcy.

The bill does a lot more to help reform the bankruptcy system. For example, the bill makes permanent chapter 12 bankruptcy for family farmers and lessens the capital gains tax burden on financially strapped farmers who declare bankruptcy. As you know, we just extended chapter 12 for a few more months. It's high time that Congress get down to business and make chapter 12 permanent. I know that this is an important provision for many Senators out in farm country.

In addition, the bill creates new protections for patients when hospitals and nursing homes declare bankruptcy. This was the subject of a hearing that I held in the Aging Committee when I chaired that committee, and so the bankruptcy bill will provide a ''patient's bill of rights'' to the elderly residents of bankrupt nursing homes.

Finally, the bill requires that credit card companies provide key information about how much people owe and how long it will take to pay off their credit card debt by only making a minimum payment. To help do that, the bankruptcy bill provides a toll-free number to call where individuals can get information on the length of time it will take to pay off their own credit card balances if they make minimum payments.

The bill prohibits deceptive advertising of low introductory rates, and provides for penalties on creditors who refuse to renegotiate reasonable payment schedules outside of bankruptcy. The bill strengthens enforcement and penalties against abusive creditors for predatory debt collection practices. And the bill includes credit counseling programs to help avoid and break the cycle of indebtedness. So, the bankruptcy bill that the Senate passed actually contains some of the most pro-consumer provisions we've seen directed toward the credit industry in years.

The reality is that a large majority of the Senate voted for this bill. It's clear to me that the majority of Senators want a bankruptcy bill to pass. We've worked on bankruptcy legislation for three Congresses now, and it is time for us to get down to the business of getting this bill over the goal line once and for all.

We already had an overwhelming vote on the Senate bill—83 to 15 votes. So I'm urging my colleagues to vote for cloture.

Madam President, since I do not see other people ready to speak, I suggest the absence of a quorum. I ask unanimous consent the time for the quorum call be evenly divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Utah.

Mr. HATCH. Madam President, I am pleased to be here today to support the motion to proceed to H.R. 333, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2001. As my colleagues may remember, the Senate counterpart to this legislation, S. 420, passed this Chamber in a bipartisan vote of 83–15 on March 15. Additionally, the conference report to last year's bill, H.R. 833, passed the Senate by a similarly wide margin just last December, but was pocket-vetoed by President Clinton at the very end of the legislative session.

Today, we are beginning what I hope will be the final leg of a legislative marathon, a leg I hope we can complete soon. This bill has passed both bodies in the 105th, 106th, and now the 107th Congress. It is time to wrap up this debate, reach consensus and present a good bill to the President for his signature so American consumers can reap the benefits.

I would like to briefly recount the legislative history of S. 420 during this Congress. S. 220, the Bankruptcy Reform Act of 2001 was introduced by Senator GRASSLEY in January and contained the same language as last year's conference report. That bill was given a hearing and amended in mark-up by the Judiciary Committee. After that the committee's bill was reintroduced as S. 420 by Senator GRASSLEY and others, and, after extensive floor debate and the adoption of several important amendments, it passed the Senate in an overwhelming vote. As you can tell, many compromises and agreements have already been reached on this bill. I look forward to working with members of the conference to reconcile the

few remaining differences between the two bills.

Let me just take a minute at this point to talk about the highlights of this legislation.

First, it includes new consumer protections under the Truth in Lending Act, such as new required disclosures regarding minimum monthly payments and introductory rates for credit cards. It also protects consumers from unscrupulous creditors with new penalties for creditors who refuse to negotiate reasonable payment schedules outside of bankruptcy.

This bankruptcy reform act also requires credit counseling to help people avoid the cycle of the indebtedness. It provides for protection of educational savings accounts, and gives equal protection to retirement savings in bankruptcy.

The legislation would also put a stop to letting deadbeat parents use bankruptcy to avoid paying child support. It will also put an end to paying the lawyers ahead of children who rely on child support. It gives child support and other domestic support obligations first priority status. I am proud to have worked with Senators TORRICELLI and DODD on these important reforms. I am also proud to have cosponsored Senator CLINTON's amendment that further improved these provisions.

Current bankruptcy law simply is not adequate, and frankly I was outraged to learn of the many ways deadbeat parents are manipulating and abusing the current bankruptcy system in order to get out of paying their domestic support obligations. The bill is a tremendous improvement for children and families over current law. That is why there is such overwhelming support for this legislation from the child support professionals across the country—the very people who go after deadbeats to get children the support they need. In fact, this bill includes a key provision that makes the full payment of past due child support and alimony a condition of getting a discharge in bankruptcy.

I also am pleased to have worked with the chairman of the Judiciary Committee, Senator LEAHY, to include for the first time, privacy protections in bankruptcy. That language protects personally identifiable information given by a consumer to a business debtor by adding new privacy protections to the bankruptcy code and by creating a consumer privacy ombudsman to appear before the bankruptcy court.

Now, I am the first to acknowledge that there are things I would like to see changed in the bill, but I recognize that we all have cooperated and compromised in order to enact this legislation that provides new consumer protections, helps children in need of child support, and makes other necessary reforms to a system that is open to abuse.

I want to emphasize emphatically that his legislation does not make it more difficult for people to file for bankruptcy, but it does eliminate some of the opportunities for abuse that exist under the current system. Our current system allows certain people with the ability to pay to continue to abuse the system at the expense of everyone else. People with high incomes can run up massive debts, and then use bankruptcy to get out of honoring them. In the end, all of us pay for the unscrupulous who abuse the system. In fact, it has been estimated that every American family pays as much as $550 a year in a hidden tax for these abusers. The bankruptcy reform legislation will help eliminate this hidden tax, by implementing a means test to make wealthy people who can repay their debts honor them. I support we could call this a tax cut for the responsible person.

There are numerous examples of people who take advantage of loopholes today at the expense of everyone else. A few months ago, I heard from the president of a credit union in Wisconsin, who told me about a young couple who wanted a ''clean financial slate'' before they got married. What did they do? They ran up their credit card purchases. One of them prepaid on a car loan with the credit union to have the other cosigner released. Then, although they were both employed full time, they filed for bankruptcy to wipe out all their debt. The credit union—and its members—had to eat the $3,000 in credit card debt and another couple of hundred dollars on the car.

Bankruptcy relief was never meant to allow this kind of abuse. Hardworking Americans, including the members of credit unions nationwide, have been victimized by abusers of the current bankruptcy system long enough.

Bankruptcy abuse also hurts our nation's small businesses. Without reforms from this bill, losses from bankruptcy abuse will continue to break the backs of the Nation's small businesses and retailers, which work with slim profit margins and have even smaller margins for error.

Make no mistake: Misrepresentations about this legislation are still running rampant by those who oppose any meaningful bankruptcy reform. Yet despite the allegations of opponents of reform,the poor are not affected by the means test. The legislation provides a ''safe harbor'' for those who fall below the median income, so they are not subjected to the means test at all.

Another misrepresentation I have heard again and again is that this legislation won't let people file for bankruptcy relief when they need it. The fact is, this legislation does not deny anyone access to bankruptcy relief, it just requires those who have the means to repay their debts based on their income to do so. It is that simple.

Opponents of this legislation have also waged the claim that it somehow hurts women and children. This falsehood is a particularly disturbing for me to hear, because I have had a long history of advocating for children and families on Congress, and I have worked tirelessly, provision by provision, to make this legislation dramatically improve the position of children and ex-spouses who are entitled to domestic support.

It can be difficult to get the word out, when misrepresentations abound, about what bankruptcy reform legislation really does.

I am optimistic that this much needed bankruptcy reform legislation will be signed into law this year. We have a no-nonsense President in the White House, who understands the importance of personal responsibility. Let's get through these necessary housekeeping votes and move to enact meaningful bankruptcy reform.

I said many times during the debates on bankruptcy that the American people have waited long enough to have these improvements in the bankruptcy code that are fair to everybody and that basically require people to be responsible instead of irresponsible.

I yield the floor.

The PRESIDING OFFICER (Mrs. CARNAHAN). The Senator from Minnesota.

Mr. WELLSTONE. Madam President, I heard the Senator from Alabama, and I believe I heard the Senator from Utah as well, say that the core of the bill is the means test, and all the means test does is force people to go into chapter 13. Therefore, the benefit doesn't affect low-income people, contrary to what I have said in this debate.

The means test is only 9 pages out of a 200-page bill. If the means test was all this bill consisted of, then this bill would have passed 2 years ago or 2½ years ago.

The bankruptcy bill purports to target abuses of the bankruptcy code by wealthy scofflaws and deadbeats who make up, by the way, 3 percent of all the filers, according to the American Bankruptcy Institute. Yet hundreds of thousands of Americans file for bankruptcy every year, not gaming the system—I need to say it more times—but because they are overwhelmed with medical bills.

Unfortunately, there are at least 15 provisions in S. 420 that make it harder to get a fresh start, regardless of whether the debtor is a scofflaw or a person who must file because they are made insolvent because of their medical debt or because they have lost their jobs or because of a divorce in the family and they are now a single parent with children. These measures not only include but also are in addition to the means test. If the means test was the whole piece of legislation, it would be quite a different story.

Neither the means test nor the safe harbor in the bill apply to the vast majority of new burdens that are placed on debtors.

Under S. 420, debtors will face these hurdles to filing regardless of their circumstances.

An analysis in the Wall Street Journal last week put it this way. These are not my words:

The bill is full of hassle-creating provisions, some reasonable, and some prone to abuse by aggressive creditors trying to get paid at the expense of others. In a thicket of compromises, Congress is losing sight of the goal of making sure that most debtors pay their bills while offering a fresh start to those who honestly can't.

That is the Wall Street Journal analysis.

This amendment will preserve the fresh start for those debtors who honestly can't make it because they are drowning in medical debt.

My colleague from Alabama said this is a bankruptcy bill. It only deals with the bankruptcy code and bankruptcy court reform, including banking measures targeted at credit card companies that Senator WELLSTONE suggested is inappropriate.

Why is it inappropriate? If the point of this legislation is to reduce bankruptcy, then it would seem to me that we might want to take a look at the big banks and credit cards that have been pushing for their legislation. They are the only ones pushing for this legislation. You are hard pressed to find a bankruptcy judge that supports this legislation. You are hard pressed to find a bankruptcy law professor, a bankruptcy expert of any kind, anywhere, any place in the U.S.A. that backs this bill. This bill was written for the lender. It is that simple.

That is why this piece of legislation doesn't hold them accountable. It has basically been written for them.

It is ridiculous on its face that this legislation divorces irresponsible behavior of the credit card companies from the high number of bankruptcies. All of the evidence points to the fact that lenders and their poor practices are a big part of the problem. It is outrageous that we don't confront them. There isn't a parent in this country that is not well aware of the ways in which these credit card companies are constantly pushing these loans onto our children or onto our grandchildren. Everybody knows we are bombarded with it all the time.

Both the House and Senate bills basically give a free ride to banks and credit card companies that deserve much of the blame for the high number of bankruptcies because of their loose credit standards. But even the Senate bill does very little to address this issue. There is a minor disclosure provision, and that is it. It is pathetic. Lenders should not be rewarded for reckless lending.

Where is the blame? If we are holding the debtors accountable, why aren't we holding the lenders accountable?

Again, I want to make the argument one more time. I think we know the answer. This legislation has the support of a lot of people, and the President says he supports it. As a matter of fact, there are going to be precious few votes against cloture.

I am going to come back out here next week again and try to delay this bill. I am not arguing one-to-one correlation of any one Senator's vote on this legislation, but at an institutional level in terms of, if you will, where the mobilization of bias is. It seems to me it is crystal clear that this legislation is a tribute to the power and clout of the financial service industry in Washington. Let's call it what it is. This legislation is a tribute to the power and the financial might of the industry that has plowed millions and millions of dollars into this Congress.

Why has Congress come down so hard on ordinary folks who are down on their luck? Why is it that this legislation is so skewed towards the interest of big banks and big credit card companies?

I think the people who are going to be affected in a very harsh way are the 50 percent who file for bankruptcy because of medical bills. It is a double whammy—a medical bill you can't afford to pay, and maybe you can't work because of your illness or sickness or maybe it is your child's sickness or illness. A large part of the rest are people who are either out of work or because of the dramatic rise in single adult households by women because of divorce with children.

Do you want to say these people are deadbeats? I think these families just do not have these million-dollar lobbyists representing them. They do not get hundreds of thousands of dollars in soft money such as either the Democratic Party or the Republican Party. They do not spend their days hanging outside the Senate Chamber to bend a Member's ear. I think what happened is the industry just got to us first.

The truth is—and I will conclude on this note—outside this building there is hardly any support for this legislation. It is a bad bill. It punishes the vulnerable and rewards the big banks and credit card companies for their poor practices.

I will tell you something. I am just trying to delay this, and then we will do it again next week. There are going to be very few votes, but I will say, even to my colleague from Iowa, who I insist is probably one of the best Senators in the Senate—I believe that; otherwise, I would not say it—this bill makes no sense to me. First of all, it made no sense to me when we started on this issue a number of years ago because the arguments were sort of outpaced by the data because all the bankruptcies supposedly were taking place. We were chasing a problem that did not exist, according to all the studies.

Now we are heading into difficult times. We are heading into hard economic times. More people are losing their jobs and medical costs are going up. We are going to make it hard for people to rebuild their lives. We are going to make it hard for people to rebuild their financial lives.

This piece of legislation is too one-sided, and it is too harsh. I will tell you, it is just testimony to the power of this industry. I do not do any damage to the truth when I say that when I am in a coffee shop in Minnesota, I do not—I repeat this again—have people running up to me saying: Please, Senator WELLSTONE, pass that bankruptcy ''reform'' bill because we think you ought to go after all the deadbeats and all the people cheating, although you have no evidence to support that you have a lot of cheaters—not when 50 percent of the people who file it do so because of medical bills, with more and more people losing their jobs, and, as I say, the most dramatic rise is among single adult women who head households.

People do not come up to me and say: Please, do that. They want to talk about the health care costs going up. They want to talk about a fair price, if they are farming. They want to talk about their children and education. They want to talk about the struggle to find a good job that pays a good wage so they can support their families. They want to talk about the costs of higher education. They want to talk about their concern that they will not have a pension. That is what they want to talk about.

What in the world is the Senate doing making this a priority? The folks with the clout, with the power, and with the money got here first. I think that is what this is all about. I am going to continue to oppose this legislation.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ELECTING JERI THOMSON AS SECRETARY OF THE SENATE

Mr. DASCHLE. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 129) electing Jeri Thomson as Secretary of the Senate.

The PRESIDENT pro tempore. Is there objection to the immediate consideration of the resolution?

Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDENT pro tempore. Without objection, the resolution is agreed to.

The resolution (S. Res. 129) reads as follows:

S. RES. 129

Resolved, That Jeri Thomson be, and she is hereby, elected Secretary of the Senate, effective July 12, 2001.

ADMINISTRATION OF OATH TO THE SECRETARY OF THE SENATE

The PRESIDENT pro tempore. The Secretary-elect will present herself to the podium for the taking of the oath.

The Honorable Jeri Thomson, escorted by the Honorable TOM DASCHLE and the Honorable TRENT LOTT, advanced to the desk of the President pro tempore; the oath prescribed by law was administered to her by the President pro tempore.

[Applause, Senators rising.]

NOTIFYING THE HOUSE OF REPRESENTATIVES OF THE ELECTION OF JERI THOMSON AS SECRETARY OF THE SENATE

Mr. DASCHLE. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 130) notifying the House of Representatives of the election of a Secretary of the Senate.

The PRESIDENT pro tempore. Is there objection to the immediate consideration of the resolution?

Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDENT pro tempore. Without objection, the resolution is agreed to.

The resolution (S. Res. 130) reads as follows:

S. RES. 130

Resolved, That the House of Representatives be notified of the election of the Honorable Jeri Thomson as Secretary of the Senate.

NOTIFICATION TO THE PRESIDENT

Mr. DASCHLE. Mr. President, I send a third resolution to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 131) notifying the President of the United States of the election of a Secretary of the Senate.

The PRESIDENT pro tempore. Is there objection to the immediate consideration of the resolution?

Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDENT pro tempore. Without objection, the resolution is agreed to.

The resolution (S. Res. 131) reads as follows:

S. RES. 131

Resolved, That the President of the United States be notified of the election of the Honorable Jeri Thomson as Secretary of the Senate.

Mr. DASCHLE. Mr. President, I might take a moment to speak on behalf of what I know is the entire Senate body but in particular the Democratic caucus in congratulating Jeri Thomson. She has been a professional's professional for the last 30 years.

She has served, as most of our colleagues know, as the Executive Assistant/Democratic Representative in the Office of the U.S. Senate Sergeant at Arms. Her responsibilities included managing all institutional issues for the Senate leader and all Democratic Senators. She had the responsibilities for all the plans and the implementation of the issues conferences and other events for the Democratic caucus and managed all aspects of participation by Democratic Senators in the national party conventions.

But that is just the latest in a series of responsibilities that she has had that go back now almost three decades.

She was the Assistant Secretary of the U.S. Senate from 1989 to 1995. She served as the Chief Operating Officer of the Secretary of the Senate, managing 12 departments with approximately 250 staff members. Her responsibilities at that time included budgeting, policy and program development, and implementation of human resources management. The administrative reform and modernization programs were under her responsibility as well.

Prior to serving in that capacity, she was a senior staff member to Senator John Tunney; special assistant to the Sergeant at Arms; and the Deputy Director of the Democratic Congressional Campaign Committee.

Jeri received her bachelor of arts from the University of Washington. She was Kodak fellow at Harvard University's program for senior managers in government. She was selected as one of the 100 top data processors in government, industry, and academia for her work in automating the legislative processes and procedures in the Senate in 1993.

That is her resume. What you don't know in reading the resume is what kind of person she is. I know of no more dedicated person in the Halls of Congress than Jeri Thomson. I know of no one I have had a greater joy working with than Jeri Thomson. I know of no one who loves this institution more than Jeri Thomson. I know of no one who has greater respect among our colleagues in the Senate than Jeri Thomson.

It should come as no surprise that Jeri Thomson is now our Secretary of the Senate. I commend her for all she has done. I thank her for what she has now agreed to do. I wish her well as she begins this very important new responsibility.

I might add that her family, David James and two daughters, Kaitlin and Kristin, and mother Louise are all here to help celebrate this momentous occasion. We welcome Jeri's family. We thank them for being a part of this celebration and we wish them and Jeri well as they begin.

I yield the floor.

The PRESIDENT pro tempore. The Republican leader.

Mr. LOTT. Mr. President, I certainly join the distinguished Democratic leader in congratulating Jeri Thomson on her selection and election to be the Secretary of the Senate. I know that Senator DASCHLE, as majority leader, will have a very effective Secretary of the Senate in this fine person and that she will do her typical nonpartisan, fair and efficient job in this role.

We know Jeri. She has been here a long time. She is one of the institutions, if I might say—except for age, of course—of the Senate. She has always been very fair and very reasonable in her dealings with the Republicans in the Senate. We appreciate that. We know that is the way that she will proceed in the future. This is a very important role. If you go back and look at the history of the Senate, Senator BYRD certainly can tell us that this is a position we have had for years. The first Secretary was chosen on April 8, 1789, two days after the Senate achieved its first quorum for business. It is a very important role in the functioning of the Senate—the paperwork, administratively, the computers, the people serving here in the Chamber. There are so many important roles that that position requires careful consideration of, and work and development. I know she will do that.

I urge Jeri Thomson to do as I urged her predecessor, Gary Sisco, in that position, to make sure you do such a job that when you leave the position, the office and the position will be even better than it was when you took it over. I know you will do that. We extend to you our best wishes and our cooperation.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I offer my personal congratulations and all good wishes to Jeri. I think she is going to be a superb Secretary of the Senate. What most people don't know about Jeri Thomson is that not only is she a talented professional, but she is a very nice person. She and I had knee surgery at approximately the same time, and I really never had a better friend during that period. She sent me books to read, made phone calls, even sent me a special pillow that could be used to help the pain from one knee to another. It was a wonderful gesture.

In the course of discussions about our relative injuries, over the past almost year now, I have come to know her very well. This is truly a distinguished woman because it is very hard to be an excellent professional and also to take the time that is necessary to reach out a hand to make someone feel a little bit better.

Jeri, you are all of the above. Congratulations and godspeed.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

(Mrs. CARNAHAN assumed the chair.)

Mr. LEAHY. 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. LEAHY. Madam President, I was very pleased to see Jeri Thomson become the new Secretary of the Senate. Knowing my own days as a brandnew Senator, the role of Secretary of the Senate was very important, and it is even more important now. I am delighted she is here.

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2001—MOTION TO PROCEED—Continued

Mr. LEAHY. I understand that the time of the swearing in and the comments may have affected the time as to our 12 o'clock vote. Can the Chair advise me how much time is remaining under controlled time prior to the vote?

The PRESIDING OFFICER. The Senator from Minnesota has 21½ minutes.

Mr. WELLSTONE. I say to my colleague, I think colleagues are expecting a vote at 12. I yield the next 15 minutes to the Senator from Vermont if he wants it.

Mr. LEAHY. I probably won't even use all of that. I thank the Senator from Minnesota for his customary courtesy.

I suggest that we make a few comments, and I will certainly support whatever moves to yield back whatever time we may have so that we can vote at 12. The Senator from Minnesota is absolutely right, Senators are expecting this noon vote.

After today's vote on the motion to proceed, I am going to send an amendment to the desk for myself, the distinguished Senator from Utah, Mr. HATCH, and the Senator from Iowa, Mr. GRASSLEY, and ask for its immediate consideration. So that Senators will know, this amendment will be the text of S. 420, the Bankruptcy Reform Act of 2001, as it passed the Senate on March 15 by a vote of 83–15. I was one of the 83, as were Senators HATCH and GRASSLEY. I voted for the Senate form because it marked a bipartisan effort on the Senate Judiciary Committee and Members on the floor. We worked in the committee and then in the Chamber to produce a more fair and balanced bill because of our bipartisan amendment process.

During our consideration of the Bankruptcy Reform Act, Democratic and Republican Senators authored and passed 38 amendments between the Judiciary Committee and the Senate floor. That improved the bill. I will certainly be able to vote for it on the floor. I will be able to vote for that in conference.

We adopted the Leahy-Hatch amendment to protect the personal privacy of consumers whose information is held by firms in bankruptcy. Our amendment permits bankruptcy courts to honor the privacy policies of business debtors and creates a consumer privacy ombudsman to protect personal privacy in bankruptcy proceedings—the first ever in Federal law.

Unfortunately, we had to do this. The reason the Leahy-Hatch amendment is needed is that the customer lists and databases of failed firms can now be put up for sale in bankruptcy without any privacy considerations. Just so people who don't spend much time on the Internet will understand what I am talking about, many times you go into a Web site and they will have a very clear privacy policy where they say: We will never share your name, disclose your address or your information. They may well mean it. For example, you may have a case where you want your children to be able to go on, but under the clear privacy—they may be children's books or anything else. They are willing to have your children go there, and you rely on the privacy line that says, ''Under no circumstances will we reveal these names.''

But then if the Web site goes into bankruptcy, the bankruptcy court is faced with this kind of a situation. They look at the failed company, and they say they have a few outdated computers, they have a couple scuffed-up desks, a building. They do have one thing that may be worth something, one asset, and that is the list of all the people who have gone there—the names of your children and everybody else who may be on there. The bankruptcy court is put in this kind of a Hobson's choice. They are sworn to have to seek the best return on whatever assets remain for the creditors. Yet the people who created the assets, those who visit the Web site, are promised nobody is ever going to disclose their names. So this will at least ameliorate, or go a long way toward solving, the problems there.

We adopted the Schumer amendment to prevent the discharge of debts from violence against reproductive health service clinics.

During our hearing on bankruptcy reform legislation, Maria Vullo, a top-rated attorney, testified about the need to amend the bankruptcy code to stop wasteful litigation and end abusive bankruptcy filings used to avoid the legal consequences of violence, vandalism, and harassment to deny access to legal health services.

If somebody is going to break the law and use violence against health clinics, and somebody then brings a suit against them to recover for damages because of their violence, they should not be able to say: I am going to get away with this and go into bankruptcy court. They should not be shielded by bankruptcy.

We adopted the amendment of the distinguished Senator from Wisconsin, Mr. KOHL, to cap homestead exemptions at $125,000, to limit wealthy debtors from abusing State laws to hide million-dollar mansions from their creditors. If somebody knows they are going to declare bankruptcy, they can take whatever cash on hand and in certain States buy a multimillion-dollar mansion knowing they might be protected. Senator KOHL has been a champion of closing this loophole for the rich.

At our hearing in the committee, Brady Williamson, the former chair of the National Bankruptcy Reform Commission, testified that ending homestead abuse was a key and consensus recommendation from the Bankruptcy Reform Commission. They all joined on that.

Last month, the Florida Supreme Court issued a ruling that underscores the need for a national homestead cap to prevent bankruptcy abuses. The highest court in Florida ruled a debtor can still keep the full value of his home even if the homestead is acquired with the specific intent to hinder, delay, or defraud creditors. That should not be the rule.

We adopted several amendments by Senator FEINGOLD to strengthen chapter 12 to help family farmers with the difficulties they face. I hope we can finally make chapter 12 a permanent part of the bankruptcy code. Family farmers and ranchers deserve these protections to help prevent foreclosures and forced auctions.

I know Senator GRASSLEY and Senator CARNAHAN, the distinguished Presiding Officer, and other Senators on a bipartisan basis strongly support permanent bankruptcy protection for family farmers, and I am proud to join Senator GRASSLEY and Senator CARNAHAN in that support.

The complex and competing interests involved in achieving fair and balanced reforms of our bankruptcy system demand we work in a bipartisan manner throughout the legislative process.

I look forward to working with Senators and Representatives on both sides of the aisle to further improve this legislation in conference.

Madam President, I see the distinguished Senator from Iowa is here. I ask unanimous consent that at noon, all time, held by whomever, be deemed to have been yielded back, and we will be prepared then to vote.

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

Mrs. CLINTON. Mr. President, I stand here today not in opposition to moving forward with the Bankruptcy Reform Act, but to send a clear message that I continue to have strong reservations about whether this bill is both balanced and responsible. I have long said that debtors that have the genuine capacity to repay some of their debt should be required to do so, but abuses by creditors need to be stopped.

I grew up with a father who never accepted any credit—never had a credit card in his life. He taught me the importance of always working hard and paying your debts. I believe every American should work hard to spend

responsibly and to repay their debts, but I also know that some families are hit by unexpected hardships.

This bill should not have the effect of targeting our most vulnerable consumers—women who are left with little resources as their husbands who were the primary breadwinners leave the family; or families with no health insurance who are struck with financial hardship when one family member becomes critically ill; or another family who suddenly finds that the primary breadwinner is laid off with little employment opportunities available in the region.

These are not the families who need to be further stuck by hardship of bankruptcy reform that is inflexible or overly harsh on debtors.

I voted for the S. 420, the Bankruptcy Reform Act of 2001, because I believed and still do believe that there were some important protections added to the Senate bill, but I will absolutely not vote in favor of the final bankruptcy reform bill if it does not include at least these minimal protections for our most vulnerable consumers.

During the floor debate on S. 420, the Bankruptcy Reform Act of 2001, I worked with my colleagues on both sides of the aisle to add additional protections for women and children. I worked hard to ensure that once bankruptcy is complete, we do more to ensure that single mothers can collect the child support they depend upon. Senator HATCH and I passed an amendment to ensure that the holder of the claim, meaning the parent with custody of the child, most often the mother, is informed by the bankruptcy trustee of his or her right to have the State child support agency collect the nondischargeable child support from the ex-spouse. I believe this change will help inform women of their rights to have the State help them in their claims to collect child support.

In addition, I was concerned about competing non-dischargeable debt so I worked hard with Senator BOXER to ensure that more credit card debt can be erased so that women who use their credit cards for food, clothing and medical expenses in the 90 days before bankruptcy do not have to litigate each and every one of these expenses for the first $750.

These are the most minimal of changes that I believe need to be in the final bill. I still do not believe that they go far enough. I believe that the final bill should protect child support full stop. I do not believe that child support should have to compete with any credit card debt. But it should certainly not retreat from these changes. The cap on protected expenses should not be lowered to the House version of $250.

I also believe that the bill needs to include Senator SCHUMER's amendment to ensure that any debts resulting from any act of violence, intimidation, or threat would be nondischargeable. It was a victory for the Senate to include this important amendment to ensure that those who are responsible for violence against women's health clinics are held responsible for their actions. I do not believe we should retreat on this point.

Let me be clear. This bill should go further to protect consumers, but it should certainly not retreat from the consumer protections in the bill.

I will vote for cloture on this bill, but I believe that as we move to conference we need to continue to work to ensure that we continue to gain more balance between creditors and debtors.

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

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

CLOTURE MOTION

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

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to Calendar No. 17, H.R. 333, the bankruptcy reform bill:

Harry Reid, John Breaux, James M. Jeffords, Ben Nelson of Nebraska, Daniel K. Inouye, Max Baucus, Blanche L. Lincoln, Evan Bayh, Zell Miller, Joseph I. Lieberman, Byron L. Dorgan, Daniel K. Akaka, Kent Conrad, Chuck Grassley, Robert Torricelli, and Joe Biden.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to H.R. 333, an act to amend title 11 of the United States Code, and for other purposes, shall be brought to a close? The yeas and nays are required under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

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

Mr. REID. I announce that the Senator from Washington (Ms. CANTWELL) is necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Ms. CANTWELL) would vote ''aye.''

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

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

[Rollcall Vote No. 230 Leg.]

YEAS—88

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

NAYS—10

Boxer	Dodd	Hutchison
Brownback	Durbin	Wellstone
Corzine	Feingold	
Dayton	Harkin	

ANSWERED ''PRESENT''—1

Fitzgerald

NOT VOTING—1

Cantwell

The PRESIDING OFFICER (Mrs. LINCOLN). If there are no Senators wishing to vote or change their vote, on this vote the yeas are 88, the nays are 10, and one Senator responded ''present.'' Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2001

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

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

The PRESIDING OFFICER. Under the previous order, the Senator from Vermont is recognized.

AMENDMENT NO. 974

Mr. LEAHY. Madam President, pursuant to the order of July 9, 2001, I send a substitute amendment on behalf of myself, Mr. HATCH, and Mr. GRASSLEY to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself, Mr. HATCH, and Mr. GRASSLEY, proposes an amendment numbered 974.

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

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

(The amendment is printed in today's RECORD under ''Amendments Submitted and Proposed.'')

CLOTURE MOTION

Mr. LEAHY. Madam President, on behalf of the majority leader, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented

under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

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

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

The PRESIDING OFFICER. Under the previous order, the matter is laid aside until Tuesday, July 17, 2001, at 9 a.m.

Mr. LEAHY. Madam President, I yield the floor.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 2217, which the clerk will report by title.

The legislative clerk read as follows:

A bill (H.R. 2217) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes.

Pending:

Byrd amendment No. 880, to make a technical correction.

Nelson of Florida amendment No. 893, to prohibit the use of funds to execute a final lease agreement for oil and gas development in the area of the Gulf of Mexico known as ''Lease Sale 181.''

AMENDMENT NO. 893

The PRESIDING OFFICER. Under the previous order, there will now be 4 minutes of debate prior to a vote in relation to the Nelson amendment No. 893.

Who yields time?

The Senator from Florida.

Mr. NELSON of Florida. Madam President, I yield myself 2 minutes. I say to Senator GRAHAM, if he would like some time of the 2 minutes for closing, I will certainly yield to him.

Madam President, yesterday we had the Durbin amendment, and it was not tabled by a vote of 57–42. It was on the issue of oil drilling in national monuments, national treasures.

Ladies and gentlemen of the Senate, the beaches of Florida are national treasures to us because of the importance of the beaches to our economy. If there is an oilspill, and a slick comes in on one of our beaches, it will shut down a beach, such as Clearwater Beach, for years and years. In an economy with a $50 billion tourism industry, in the Nation's fourth largest State, that is simply not worth the risk to us in Florida.

For the first time, the eastern planning area of the gulf, which heretofore has not been drilled, save for one test drill up here, is being invaded by this offering for lease of 1.5 million acres coming across the line. It is inevitable, in the march eastward, it would go straight toward Tampa Bay.

This is a matter of national treasure to us. You all honored that yesterday in adopting the Durbin amendment, by not allowing drilling in the areas of national monuments. Senator GRAHAM and I ask that you join with us today in helping us preserve our national treasure.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Louisiana.

Mr. BREAUX. I yield 1 minute to my colleague from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Madam President, I rise to oppose this amendment and urge my colleagues to join with Senator BREAUX, myself, and others—a bipartisan group—in opposing this amendment.

We have a problem in this Nation. Our demand for energy is too high and our supply is not great enough. We use 30 trillion cubic feet of natural gas. We only have 25 trillion cubic feet. We think the Gulf of Mexico, in places far from the shores of Florida, has an ample supply of natural gas.

Let us not move in the wrong direction. Our country needs us to respond in a positive way. This is not a new area. It is rich with natural gas. It was a compromise reached by a Democratic administration with many environmental organizations and with the industry. It is moderate.

If you are for rolling blackouts and high prices, vote with Senator NELSON. If you are for reasonable energy policy, vote with me when I move, on behalf of Senator BREAUX, to table this amendment.

I yield the Senator 30 seconds.

Mr. BREAUX. How much time do we have remaining?

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. BREAUX. I thank the Chair.

I bring to the attention of my colleagues, lease sale 181 was proposed by President Bill Clinton. It was this entire tract of area that I show you on this map. Democratic President Bill Clinton proposed it. The Democratic Governor of Florida at the time was Governor Lawton Chiles, our former colleague. He agreed to lease sale 181 because he took into consideration where it was located. They signed off on it.

In addition to that, the Democratic energy bill offered by our chairman, JEFF BINGAMAN, calls for going forward with lease sale 181. The potential natural gas in this lease sale, which has now been reduced in size by 75 percent, could supply 7 years' worth of natural gas to the State of Florida.

I ask, if we can't drill for oil and natural gas in the Gulf of Mexico, where in the world are we going to find it?

I think we should table the Nelson amendment. It is bad energy policy. It is not appropriate to undermine the carefully balanced proposal by President Clinton and also now by President Bush. We should table the amendment.

Ms. LANDRIEU. 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. 893.

The clerk will call the roll.

The result was announced—yeas 67, nays 33, as follows:

[Rollcall Vote No. 231 Leg.]

YEAS—67

Akaka	Dorgan	Miller
Allard	Ensign	Murkowski
Allen	Enzi	Murray
Baucus	Feinstein	Nelson (NE)
Bennett	Fitzgerald	Nickles
Bingaman	Frist	Roberts
Bond	Gramm	Santorum
Breaux	Grassley	Schumer
Brownback	Gregg	Sessions
Bunning	Hagel	Shelby
Burns	Hatch	Smith (NH)
Campbell	Helms	Smith (OR)
Cantwell	Hutchinson	Snowe
Carper	Hutchison	Specter
Chafee	Inhofe	Stevens
Clinton	Johnson	Thomas
Cochran	Kyl	Thompson
Collins	Landrieu	Thurmond
Conrad	Lincoln	Torricelli
Craig	Lott	Voinovich
Crapo	Lugar	Warner
DeWine	McCain	
Domenici	McConnell	

NAYS—33

Bayh	Edwards	Levin
Biden	Feingold	Lieberman
Boxer	Graham	Mikulski
Byrd	Harkin	Nelson (FL)
Carnahan	Hollings	Reed
Cleland	Inouye	Reid
Corzine	Jeffords	Rockefeller
Daschle	Kennedy	Sarbanes
Dayton	Kerry	Stabenow
Dodd	Kohl	Wellstone
Durbin	Leahy	Wyden

The motion was agreed to.

Mr. REID. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. REID. Madam President, it is my understanding that we automatically go to the Interior bill, is that right, for the purpose of further debate and amendment?

The PRESIDING OFFICER. That is correct.

Mr. REID. The Senator from Oregon has an amendment he wishes to offer.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

AMENDMENT NO. 899

Mr. SMITH of Oregon. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER (Mr. REED). The pending amendment will be set aside and the clerk will report.

The legislative clerk read as follows.

The Senator from Oregon [Mr. SMITH of Oregon] proposes an amendment numbered 899.

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

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

The amendment is as follows:

(Purpose: To direct the U.S. Fish and Wildlife Service to take certain actions for the recovery of the lost river sucker and the shortnose sucker, and to clarify the operations of the Klamath Project in Oregon and California, and for other purposes)

At the appropriate place in the bill, insert:

''None of the funds made available under this or any other Act may be used to provide any flows from the Klamath Project other than those set forth in the 1992 biological opinion for Lost River and shortnose suckers and the July 1999 biological opinion on project operations issued by the National Marine Fisheries Service, until the Fish and Wildlife Service takes the following actions identified or discussed in the April 1993 recovery plan for Lost River suckers and shortnose suckers:

(a) establishes at least one stable refugial population with a minimum of 500 adult fish for each unique stock of Lost River and shortnose suckers;

(b) secures refugial sites for upper Klamath Lake suckers:

(c) uses aeration for improving water quality and to expand refugial areas of relatively good water quality within Upper Klamath Lake;

(d) improves larval rearing and refuge habitat in the lower Williamson and Wood Rivers through increased vegetative cover;

(e) extirpates exotic species that are predators of the suckers:

(f) assesses the need for captive propagation and the potential for improving sucker stocks through supplementation, and the Secretary has submitted a report, including recommendations, to the Congress;

(g) implements a plan to monitor relative abundance of all life stages for all sucker populations;

(h) develops a plan to reduce losses of fish due to water diversions;

(i) determines the distribution and abundance of suckers in all waterbodies in the Upper Klamath Basin;

(j) implements the plan for wetland rehabilitation pilot projects;

(k) implements the most effective strategy to provide fish passage upstream of the Sprague River Dam;

(l) implements the plan to enhance spring spawning habitat in Upper Klamath Lake and Agency Lake;

and develops water management plans and land management plans, including sump rotations where appropriate, for the national wildlife refuges that receive water from the Klamath Project; and subsequently completes an evaluation of the impact of these actions on the recovery of the suckers before determining whether further modifications to project operations are needed and submits such evaluation to the Secretary of the Interior and to the Congress.

Mr. SMITH of Oregon. Mr. President, many Americans are becoming familiar with a part of my State and a part of California known as the Klamath Basin because of the coverage of a tragic situation that has developed there in a contest between suckerfish and farmers. If I may be permitted, I will put some context to this conflict.

I am the first Senator to be elected from Oregon who comes from its rural parts—eastern Oregon—in 70 years. I represent all of my State, but I have a special passion to represent those rural parts that I have watched be devastated for too long by Federal action. I believe the Endangered Species Act is a noble act with noble purposes, but I believe it is being used by some to very ignoble ends.

My actions today are not to subvert the Endangered Species Act. This is not reform. This is an act asking that its terms be implemented in a way that will relieve genuine human suffering in a way that may prevent the violence that has already been visited upon Federal property in a contest between farmers and the Bureau of Reclamation for the essential ingredient to life in the West, and that is water.

What has happened to the community of Klamath Falls, by conservative estimates, will cost that county $200 million. I thank the Senator from West Virginia, the chairman of the Appropriations Committee, and others, who helped me to get $20 million of relief to these people. Obviously, it is 10 percent of what is needed, even by conservative estimates.

What I propose to do today is to try to go back to a biological opinion that was in place just last April that would have permitted this drought to be managed as were the droughts in 1992 and in 1994, in which the suckerfish survived, as did the agricultural community around it.

When I speak of the agricultural community, I have to also mention the wildlife refuges that get their water from this basin but which are now drying up. So farmers and fowl are left with nothing under the new biological opinion.

I do this because, in 1993, the Fish and Wildlife Service laid out a plan of action for what it could do to save the suckerfish, so that 200,000 acres of land continue to receive water and that fish could survive. But none of these proposed action plans were pursued. For example, it recommended the removal of the Sprague River Dam, which would have made available tremendous spawning areas for the suckerfish. But that wasn't done. And there were many other actions that could have been taken to provide aeration, to improve the condition of this lake, so that the suckerfish could survive and the farmers along with it.

But now what we are doing is we are raising this lake 3 feet—it is a very big lake, very shallow, but it is being raised 3 feet—and cutting off all the water to farmers and fowl. It is being done to save the suckerfish, and now, while it is being saved, it is warming up. So the coho salmon that will soon be returning expecting to receive the cool waters of the Klamath will receive waters the temperature of a swimming pool. So, potentially, even the coho salmon—which is also a listed species—could be adversely affected by this biological opinion.

Well, there are two agencies of the Federal Government that are competing. One biological opinion is Fish and Wildlife with regard to the suckerfish. The other is the biological opinion of the National Marine Fisheries Service and the Commerce Department that affects the coho salmon. Both biological opinions essentially ask for 100 percent of the water which means cutting off 100 percent of the people.

The point I want to make is that would not be necessary if the Federal Government over the last 8 years would have kept its part of the bargain and done what it could to mitigate the impact to the sucker so that farmers would not be victimized.

What I do is simply reinstate the previous biological opinions that were in effect before this spring until the Federal Government can complete action on numerous recommendations of its 1993 recovery plan. Again, they were not acted upon over the last 8 years. Why? They say budgetary reasons.

I want this to be a priority. I want the budget to fix this problem. I do not want the whole budget burden thrown on the backs of rural people, but that is what was decided to be done.

I want to put some other context to this. This is a current farm family in Klamath Falls. These are the human faces being affected by what is being done. Foreclosure notices are already going out. Let me tell my colleagues about their parents. These are the parents. This is the front cover of Life magazine, January 20, 1947. This is a veteran of the Second World War. These are people who came home, having saved liberty, having defended democracy, having made the United States the power in the world that it is today, the force for good that it is today.

In his wisdom, Franklin Roosevelt, even before the war, began to open up this land so that people would have a way to escape the Great Depression, coming home from the war, and a place to go to work.

This is the land, the valley. I do not know whether my colleagues can see it, but this couple is overlooking the Klamath Basin—farms being developed, hay being raised, corn being raised, potatoes being raised that fill our shelves today. Look at the hopes and dreams in the faces of these people.

This is a little girl at an assembly of people at a rally a few weeks ago. Her sign says: ''Mommy says I can't eat, but fish can.''

That is what we are driving them to, and it is not right because they are being told they are of lesser value under our law than the shortnosed sucker.

This is a picture of the shortnosed sucker. It is a bottom-feeding fish. It lives in this shallow lake. It has gone through many droughts along with the farmers. It has survived, stressed, I am sure, just as humans are stressed in conditions of drought.

I am not saying this fish has no value. I have never thought the suckerfish is very good looking, but it has a mother, and that mother, I am sure, loves this fish. I know the Native Americans in this area value this fish,

and I am not suggesting in any way that we are not interested in saving this fish.

I am saying the purpose of the Endangered Species Act was not to engage in a process of rural cleansing, of throwing off their property people who had been given great promise and hope for the future. They are meeting the mailmen with foreclosure notices because the Federal Government decided it is going to breach its promise.

Let me show you, Mr. President, the deeds of the lands they were given. These are veterans. I doubt you can see it, but this is a deed assigned to a veteran of the Second World War to go to Klamath. The veteran's name goes in this space, and it is signed by Franklin Delano Roosevelt.

My point is that when we proceed to engage in environmental restoration, we must not forget that we have a human concern as well. We can do both, I am absolutely convinced of it, but we cannot do both under this condition.

This Klamath circumstance is different than other endangered species conflicts that always seem to pit the man against the beast. This is different. This is about something that is possible, where we can save the fish and we do not sacrifice the people.

I want to keep Franklin Roosevelt's promise alive today because these reclamation projects were greatly expanded under his leadership and an inland empire was built of rural people, but now those people are being told they are of lesser value than the suckerfish. I do not think Franklin Roosevelt would agree. I do not agree.

Mr. President, I plead for my colleagues to remember the human faces in this picture, to remember the promises made, and to help me help these people. This is not about a fish versus a farmer, unless we go down the road of these current biological opinions which have not been peer reviewed, in which the people there have no confidence. They are biological opinions that began with a determined outcome, and all of the activities that were said would be pursued—to provide offstream impoundment, take out a dam, provide some aeration—none of those things was done.

The only way I am going to get the Interior Department to understand that it cannot forget its human stewardship, that the Bureau's promises still ought to matter, is to go back to the old opinion and tell them that the new one cannot happen until they keep the promises made in 1993. In the meantime, this fish will survive, but my farmers will not if we do not begin to reverse course.

It is too late for this year's crops, I grant you that, but it is turning into a dust bowl that existed prior to Franklin Roosevelt's vision, and foreclosure notices are going out. At least now we can offer some hope that we, on our watch, will not permit this to be repeated. We need to give them some more money to make sure that no farm is lost to foreclosure because of Government inaction and then this action. But we have to help. We have to say this will not happen again.

I do not know how to plead this in as personal terms as I can for the help of this body to head off a disaster. This is not fish versus farmers. It does not have to be that. But it is that now under what has happened over the last 8 years.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. In relation to the Smith amendment, I move to table. I ask for the yeas and nays. And I further ask unanimous consent that the vote be held at 1:45. There are a number of people who are unable to come to the floor.

The PRESIDING OFFICER. Is there a sufficient second on the motion to table?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Without objection, it is so ordered.

Mr. REID. Mr. President, I ask that prior to the 1:45 vote, the Senator from Oregon be granted 2 minutes and the Senator from California be granted 2 minutes to explain the amendment to the Members of the Senate.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mrs. BOXER. Mr. President, I thank my friend from Nevada for making a motion to table the Smith amendment, which we will vote on at approximately 1:45. I wanted to thank my friend from Arizona who has an amendment he wants to lay down. He was gracious to allow me to go ahead of him and just not to interrupt the debate.

I hope the motion to table the Smith of Oregon amendment does carry. We all share deep concerns about the current drought in southern Oregon and in northern California. My constituents have also been hard hit by this very dry year. But I think we cannot legislate on an issue that is so far-reaching by bringing an amendment to the floor before we have even looked at the possible remedies.

I joined my colleague from Oregon in seeking $20 million in economic relief for losses facing Klamath Basin farmers, and I certainly pledge to continue working with him to seek more funding and a long-term solution to this very vexing problem of getting enough water for everyone who needs it and everyone who deserves it.

The whole history of my State is, in many ways, built around the water issue. It is something we deal with all the time because we have more ag than any other State. It is one of our biggest businesses in California. We also know our State thrives because of tourism, our environmental ethic is very strong, and because we have such a magnificent State we get the tourists.

Of course, we have more people than any other State in the Union—now almost 34 million people. So you have a constant debate, if you will, a constant struggle, if you will, between all the stakeholders. Everyone has something at stake with the water supply: The farmer, urban users, suburban users, and certainly the wildlife which do not have a voice, but we have to be their voice.

I can't join my colleague from Oregon in undermining the Endangered Species Act. The U.S. Fish and Wildlife Service in a recent opinion tells us that without this water the endangered fish will go extinct.

Science tells us through the Fish and Wildlife Service that there are two species of fish that will become extinct if we carry out the plan of the Senator from Oregon.

If we are going to take an action that would lead to the extinction of two species of fish, it ought to be done with a little different format and not come as an amendment to the appropriations bill.

I agree that it is very possible that the Fish and Wildlife Service has not fully implemented its 1993 recovery plan for these fish. I call on them to implement that plan. But cutting off water to the fish this year doesn't solve that problem. It will cause the extinction to take place.

I know that the immediate needs of my constituents in the farm areas and those in Oregon will not be helped this year. The reality is that most of the region's farmers didn't plant this year because they knew about this drought. Taking the water from these fish and the needs of these species is not going to help the farmers now. But economic relief will help them. I am certainly committed to that.

We need to answer the dire needs of the farmers of the Klamath Basin. But driving the fish to extinction while providing little real gain to our farmers is certainly the answer.

It is very hard to look constituents in the eye when they have a problem and say: If we help you make a move now that you say will help you even though, in fact, in this case it wouldn't really help this year, we can't do it because there is a bigger question; that is, the delicate balance in terms of who needs this water. It is hard to do that. But I think we can't come running to the floor every time to undermine laws that are in place—for real reasons. I happen to believe that we have the Endangered Species Act because we have

to protect God's creatures. That is my own feeling. In fact, it is a responsibility that we have as a people to do that. If we don't do it, it is not going to happen. We have to move to protect these species.

Again, there may be a reason to take another look at this matter, but I hope we will move to table. I am certainly committed to having some hearings and moving forward with more economic relief for the farmers that are affected in this Klamath River Basin.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona

Mr. MCCAIN. Mr. President, is the parliamentary situation such that there will be a vote at 1:45?

The PRESIDING OFFICER. There is to be a vote at 1:45 and there is 4 minutes of debate set aside prior to that vote.

Mr. REID. Mr. President, if the Senator from Arizona will yield, if the Senator from Arizona needs the extra 4 minutes, we would be happy to work that out.

Mr. MCCAIN. I thank the Senator.

AMENDMENT NO. 904

Mr. MCCAIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside.

The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 904.

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

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

The amendment is as follows:

(Purpose: To prohibit the use of funds for any purpose relating to Vulcan Monument, Alabama)

On page 153, line 22, before the period, insert the following: '', of which no funds shall be used for any purpose relating to Vulcan Monument, Alabama''.

Mr. MCCAIN. Mr. President, it is with great disappointment I again speak before the Senate about the compounding practice of porkbarrel spending, particularly in this year's Interior appropriations bill. Earlier this year, the administration and, I believe, our leadership pledged to curb the Federal Government's practice of funding extraneous porkbarrel spending.

I applaud the administration for its responsible fiscal stance. There is a chance for us to get serious. It might sound amusing. But let me tell my colleagues that, according to the Washington Post, House Members requested 18,898 earmarks in appropriations bills passed thus far. Considering this bill in the Senate on Interior, the subcommittee reports that it received 1,799 requests for select projects. That is a threefold increase since 1993.

It is shameful.

This year's Interior appropriations bill is no different. It includes $433 million in wasteful and unnecessary spending projects that have not been reviewed to determine if they are indeed the highest funding priorities. This amount is $153 million higher than the bill last year.

Let me highlight a few examples for you: $5 million to pay for fish screens in the Northwest power planning area; an increase of $2 million for the National Fish Health Lab at the Leetown Science Center—you will notice that most of these are designated geographically—an additional $350,000 for the Chicago Wilderness Program; $1 million for noxious weed management at Montana State University; $150,000 to rehabilitate a barn at the John Hay National Wildlife Refuge in New Hampshire; $3.5 million to renovate a single lodge in a wildlife refuge in North Carolina; $700,000 for exhibits at the Rangle National Park in Alaska; and an extra $160,000 set aside for public education on the Yukon River Salmon Treaty. I think that is also Alaska.

One of my favorite monuments of porkbarrel spending, another $2 million is provided to continue refurbishing the Vulcan Monument in Alabama. This particular monument also received $1.5 million last year. Now we are going to spend $3.5 million to refurbish the Vulcan Monument.

Earmarks for Alaska continue to exceed unprecedented levels, some of which are questionable inclusions in this bill. For example, an increase of $1.3 million is earmarked for an Alaska Native aviation training program.

I happen to sit on the Commerce Committee. We were never asked to authorize that.

Another $250,000 for the Alaska Market Access Program; $1.1 million for the Cook Inlet Agriculture Association; and $2 million for construction of kiln drying facilities.

My colleagues are well aware the National Park Service still faces a $5 billion backlog in capital maintenance and resource needs, and we are spending $2 million for the construction of kiln drying facilities.

After years of unchecked, questionable spending, we are in the unfortunate position of facing critical budget constraints that will hamper our ability to fund fully many necessary Federal programs. Instead, we are cutting deep into the taxpayers' pockets once again by expecting them to shell out more than $433 million in porkbarrel spending included in this bill.

I have compiled a 24-page list of objectionable earmarks and provisions in H.R. 2217. Unfortunately, it is too lengthy to include in the RECORD. But it will be available on my Senate Web page.

Now we come to the amendment.

Here is the Vulcan God of Fire and Iron. The colossal statue of Vulcan God of Fire and Iron was in the Palace of Mines and Metallurgy, where it represented the great iron and fuel industries of Alabama. The figure was cast in iron from a model by G. Morelli, a New York sculptor. It was brought to St. Louis in sections in over seven freight cars and mounted on a pedestal of coal and cike. The statue of Vulcan God of Fire and Iron stood 50 feet high and weighed 100,000 pounds. It was the largest iron casting ever made, and next to ''Liberty Enlightening the World,'' was the largest statue ever constructed. At the close of the Exposition the figure was removed to Birmingham and set up in Capital Park to remain as a permanent monument. It is a very impressive statue.

Now, in the bill before the Senate today—which, I mentioned, contains over $430 million in spending items that have not been properly reviewed to determine their worthiness for Federal funding—there is another $2 million to add to the $1.5 million last to continue Vulcan's face-lift.

At first blush, having the Federal Government give money to a Roman god may appear to violate the constitutional separation of church and state. Others, with some reason, may believe that this is a rather strange use of limited tax dollars. After all, while the on-budget Federal surplus is rapidly dwindling, why should Federal dollars pay for a face-lift of a statue of a Roman god in Alabama?

But, Mr. President, I worry this appropriation may set a dangerous precedent for others to follow that will only add millions and millions to the billions and billions and billions in pork barrel spending doled out year after year.

For example, what is to stop a Senator from sunny Arizona or New Mexico from demanding Federal dollars for a statue of Apollo, god of the Sun?

Or how to we prevent a Senator from California to beseech money for a statue of Bacchus, god of wine?

Or a Senator from Georgia, home to the great city of Athens, from asking for Federal funds to pay tribute to the Goddess Athena?

Or even a Senator form the home of some of the best hunting this side of the Mississippi, West Virginia, from getting Federal funds for Artemis, the ancient Greek goddess of the hunt?

Maybe this is the time to stop this. Not one more Federal dollar should be spent on this kind of foolishness.

I ask my colleagues to extinguish this Roman god of fire and strike a victory for taxpayers—and Metis, the goddess of prudence—by throttling down our insatiable appetite for pork barrel spenidng—starting today.

Finally, Mr. President, there are statues—for a moment of seriousness—all over this Nation that require refurbishing.

The PRESIDING OFFICER. Under the previous order, 4 minutes have been reserved at this time for the Senator from Oregon and the Senator from California.

Mr. MCCAIN. Mr. President, I ask unanimous consent for 1 additional minute.

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

Mr. MCCAIN. Finally, Mr. President, as I said before, there are statues all over this Nation erected to worthy, wonderful, and patriotic Americans as well as people from other countries that need refurbishment. If we are going to start down this path of millions of dollars to refurbish a statue of Vulcan, I don't know where it all ends.

I yield the floor and ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. I say to my friend from Arizona, it appears the two parties in relation to the prior amendment are going to talk for a couple minutes.

Mr. MCCAIN. Fine.

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

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 899

Mr. REID. Mr. President, under the previous order, the Senator from California has 2 minutes in opposition to the amendment of the Senator from Oregon. The Senator from Oregon has 2 minutes.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH of Oregon. Mr. President, I thank the majority whip and the chairman of the Environment and Public Works Committee for offering to have a hearing. I hope we have a hearing. But, frankly, I need the people of Klamath Falls to know where we are, so I am asking that we proceed with the unanimous consent agreement that is already in place, that we have a vote. And I know I may lose this vote. But I say to my colleagues, these are Federal projects. These were Federal promises. This is a Federal action now that is crushing people, some of whom have been there for 100 years or more. I think it is deplorable that this Government would have had a biological opinion and a whole list of actions they said they would take, and 8 years later there is nothing done except a new opinion that says no water for people, no water for farms.

It is time for us to start caring about rural folks who are increasingly powerless. I ask for a vote on their behalf.

I yield back my time.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized under the previous order.

Mrs. BOXER. Mr. President, if I could just be told when I have used 30 seconds, and I will leave the remainder of the time for Senator JEFFORDS, my chairman. And I thank him for coming down here.

Water is a vexing issue in California. We have had water wars for a long time. You have to figure out how everyone can be at the table: The farmers, the urban users, suburban users, and the environmental people—people with environmental concerns—because obviously the wildlife has no voice. We have to make sure we protect the wildlife.

If this amendment goes through today——

The PRESIDING OFFICER. The Senator has used 30 seconds.

Mrs. BOXER. I ask for 10 seconds—two species of fish are gone—that is it, extinct. That is the scientific word from Fish and Wildlife. I hope we will defeat this amendment.

I ask my friend to continue this conversation.

Mr. JEFFORDS. Mr. President, unfortunately, I have to rise in support of the motion to table. I had hoped my good friend from Oregon would agree to withdraw his amendment so that I could hold a hearing and ascertain for him and the public whether or not there should be an exception granted to the Endangered Species Act with respect to this particular problem. Unfortunately, I understand he does not desire to do so.

This is a critical issue and for us to summarily do this would be really inconsistent with the purposes of the Endangered Species Act. That act is an important one, and it is one that has saved many species which have resulted in huge breakthroughs in medicine and in other ways.

We have to be very careful about what we do with respect to endangered species. So I will support the motion to table.

Mr. REID. Mr. President, the amendment would prevent the Fish and Wildlife Service from providing water for fish in the Klamath basin. The water at issue here is water the Service has determined is necessary to prevent the extinction of threatened and endangered species like the suckerfish and coho salmon in Oregon and California.

Only 2 days ago, we approved a supplemental appropriations bill. During that debate we heard many Members argue for additional spending for very important priorities. Fiscal constrains prevented us for meeting many of them. But one of the priorities we did address in that bill dealt with the very subject of this amendment.

The bill provided $20 million to assist Oregon farmers who have been impacted by the drought and species concerns in the Klamath basin—$20 million. They are not the only farmers who have been impacted by drought (it's a problem that affects Nevada's farmers and ranchers this year as well), but to my knowledge they are the only farmers that received special aid in the supplemental.

The State of Nevada faces many of the same problems my colleague has spoken about here this afternoon. I would like to work with him to address those problems without modifying the Endangered Species Act in the manner he proposes.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 899. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 52, nays 48, as follows:

[Rollcall Vote No. 232 Leg.]

YEAS—52

Akaka	Dorgan	Lieberman
Baucus	Durbin	Lincoln
Bayh	Edwards	Mikulski
Biden	Feingold	Miller
Bingaman	Feinstein	Murray
Boxer	Fitzgerald	Nelson (FL)
Breaux	Graham	Nelson (NE)
Byrd	Harkin	Reed
Cantwell	Hollings	Reid
Carnahan	Inouye	Rockefeller
Carper	Jeffords	Sarbanes
Chafee	Johnson	Schumer
Cleland	Kennedy	Specter
Clinton	Kerry	Stabenow
Corzine	Kohl	Torricelli
Daschle	Landrieu	Wellstone
Dayton	Leahy	
Dodd	Levin	

NAYS—48

Allard	Enzi	Murkowski
Allen	Frist	Nickles
Bennett	Gramm	Roberts
Bond	Grassley	Santorum
Brownback	Gregg	Sessions
Bunning	Hagel	Shelby
Burns	Hatch	Smith (NH)
Campbell	Helms	Smith (OR)
Cochran	Hutchinson	Snowe
Collins	Hutchison	Stevens
Conrad	Inhofe	Thomas
Craig	Kyl	Thompson
Crapo	Lott	Thurmond
DeWine	Lugar	Voinovich
Domenici	McCain	Warner
Ensign	McConnell	Wyden

The motion was agreed to.

Mr. REID. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. DAYTON). The Senator from Nevada.

AMENDMENT NO. 904

Mr. REID. Mr. President, with permission of the managers of the bill, I ask that the two Senators from Alabama each have 2 minutes to speak in opposition to the McCain amendment, and Senator MCCAIN have the final 2 minutes to speak in favor of his amendment.

This appears to be the last amendment we are going to have on this bill. The managers have informed me, along with the two leaders, that around 4 o'clock we will have a vote on final passage. It will take that much time to work on the managers' amendment to get together the loose pieces.

I ask unanimous consent that we proceed now to a vote on the McCain amendment after the two Senators from Alabama speak and the Senator from Arizona speaks, and I also ask unanimous consent that when that vote is completed, the Senator from Oregon be recognized to speak for 5 minutes in relation to the Smith amendment of which we just disposed.

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

The Senator from Alabama, Mr. SHELBY.

Mr. SHELBY. Mr. President, I rise in opposition to the McCain amendment to the Interior appropriations bill. I am troubled, quite frankly, that I have to defend Federal funding for historic preservation of the Vulcan Monument, which is of great importance to the people of Alabama and the South.

The Vulcan Monument in Birmingham, AL, is a unique and enduring hallmark of the city. It was constructed in 1904 to mark the 100th anniversary of the Louisiana Purchase and stands as a symbol of economic transformation in the South. Much like the Arch, the Golden Gate Bridge, the Statue of Liberty, and the Liberty Bell represent their respective cities and are symbols representing greater achievements for their communities and our Nation, the Vulcan stands as an important historical landmark for Birmingham and represents the rebirth of industrial development in the South.

I want the record to be clear that while Federal funds are important to the restoration of the Vulcan Monument, city and local fundraising efforts are leading the way towards completing the restoration project. While the Federal share for restoration efforts reaches $3.5 million, private citizens throughout the region have contributed over $10 million.

This is an excellent example of a public-private partnership trying to preserve an important historical treasure for the South and our Nation. It happens to be in Birmingham, AL.

I believe this amendment is misguided, and I pray it will be defeated.

Mr. SESSIONS. Mr. President, I know Senator SHELBY travels throughout Alabama every year in every county, as do I. When we do so, we learn something about the State. As a kid going into Birmingham, I saw the Vulcan statue, the symbol for the steel city of Birmingham. It is a preeminent symbol of Alabama, and there will be no other statue in the State with as much prominence.

With the local citizens raising $10 million, with my support and certainly that of Senator SHELBY, the contribution from the Federal Government will help complete this historical renovation and restoration. It is a good use of the money, in my opinion as a Senator from Alabama. It is a good priority use of money for historic development.

I oppose the McCain amendment.

Mr. MCCAIN. Mr. President, let me quote from an October 23, 2000, issue of ''U.S. News & World Report'' entitled ''Washington Goes On A Spending Spree.''

. . . a 56-foot, iron rendition of the Roman god of fire and metalwork. Built as an entry for the 1904 World Fair, it won the grand prize in the Palace of Metallurgy. Steward Dansby, executive director of the Vulcan Park Foundation, says officials at the organization talked to Alabama Sen. Richard Shelby about helping to fund the renovation. ''Why are federal tax dollars being spent on a statue in Birmingham?'' asked Dansby. ''Because Vulcan is symbolic of American industrial strength. He represents the working person and. . . . [This is the best part.] These are federal dollars that would have gone somewhere.''

There are statues all over America that need refurbishment. I hope everybody lines up with statues that need to be refurbished because the store seems to be open.

I know this amendment will not pass, but everybody ought to be on record as to whether they support this kind of porkbarreling.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 904. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Wyoming (Mr. ENZI) is necessarily abent.

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

The result was announced—yeas 12, nays 87, as follows:

[Rollcall Vote No. 233 Leg.]

YEAS—12

Allard	Feingold	Kyl
Bayh	Graham	McCain
Carnahan	Gramm	Smith (NH)
Ensign	Hollings	Stabenow

NAYS—87

Akaka	Domenici	McConnell
Allen	Dorgan	Mikulski
Baucus	Durbin	Miller
Bennett	Edwards	Murkowski
Biden	Feinstein	Murray
Bingaman	Fitzgerald	Nelson (FL)
Bond	Frist	Nelson (NE)
Boxer	Grassley	Nickles
Breaux	Gregg	Reed
Brownback	Hagel	Reid
Bunning	Harkin	Roberts
Burns	Hatch	Rockefeller
Byrd	Helms	Santorum
Campbell	Hutchinson	Sarbanes
Cantwell	Hutchison	Schumer
Carper	Inhofe	Sessions
Chafee	Inouye	Shelby
Cleland	Jeffords	Smith (OR)
Clinton	Johnson	Snowe
Cochran	Kennedy	Specter
Collins	Kerry	Stevens
Conrad	Kohl	Thomas
Corzine	Landrieu	Thompson
Craig	Leahy	Thurmond
Crapo	Levin	Torricelli
Daschle	Lieberman	Voinovich
Dayton	Lincoln	Warner
DeWine	Lott	Wellstone
Dodd	Lugar	Wyden

NOT VOTING—1

Enzi

The amendment (No. 904) was rejected.

The PRESIDING OFFICER. Under the previous order, the Senator from Oregon is recognized for a period of 5 minutes.

AMENDMENT NO. 899

Mr. WYDEN. Mr. President, a few minutes ago the Senate voted on an Endangered Species Act amendment with special impact for farmers and rural people in my home State. I voted against the motion to table with great reluctance and wanted to take just a couple minutes to explain my vote this afternoon.

I think it is dangerous to legislate biological opinions about species without the opportunity to thoughtfully review the effects of such a far-reaching amendment. I think it is just as dangerous to force our citizens in rural communities into dire circumstances when a law that has accomplished many good things contains serious administrative flaws that are producing an increasing number of bad things.

It was my intent, if the Endangered Species Act amendment had not been tabled, to offer a second-degree amendment to it. My amendment would have allowed the Senate to pick up on the very generous offer made by Chairman JEFFORDS to try to get this job done right.

My amendment would have sought to try to address the problems in the Klamath Basin in a comprehensive way, in a fashion that would have helped farmers produce water conservation and improve water quality and, at the same time, would have protected species.

I think it is very clear that the challenge with the Endangered Species Act is to bring folks together. The challenge is to get everybody at the table—all of the stakeholders; farmers, environmental leaders, scientists, and others—to try to come up with ways that keep the important protections of the Endangered Species Act and, at the same time, encourage the administrative flexibility so we can have more homegrown solutions.

I am absolutely convinced that the objectives of the Endangered Species Act make a lot of sense. But what you do in the Klamath Basin has to be different than what you do in the Bronx. And what you do in Detroit to protect a species is different than the challenge in Coos Bay, OR.

I look forward very much to picking up on the generous offer of Chairman JEFFORDS to work with our colleagues, on a bipartisan basis, to find comprehensive solutions to this Endangered Species Act challenge.

As I say, I voted against the motion to table today with great reluctance. I am very anxious to work with our colleagues, on a bipartisan basis, for a more comprehensive solution.

Mr. President, I appreciate the Senate, on a hectic day, giving me a few minutes this afternoon to explain my vote. I yield back and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 975

Mrs. BOXER. Mr. President, I ask unanimous consent the pending amendment be set aside, and further, I ask

unanimous consent to send an amendment to the desk, that it be in order, and it also be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. BOXER], for Mr. BYRD, proposes an amendment numbered 975.

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

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

The amendment is as follows:

(Purpose: To modify the steel loan guarantee program)

At the appropriate place, insert the following:

SEC. ___. MODIFICATION TO STEEL LOAN GUARANTEE PROGRAM.

(a) IN GENERAL.—Section 101 of the Emergency Steel Loan Guarantee Act of 1999 (Public Law 106–51; 15 U.S.C. 1841 note) is amended as follows:

(1) REQUIREMENTS FOR LOAN GUARANTEES.—

(A) IN GENERAL.—Subsection (g) is amended in the matter preceding paragraph (1), by striking ''a private bank or investment company'' and inserting ''an institution''.

(B) CONFORMING AMENDMENT.—Subsection (f)(1) is amended by striking ''private banking and investment''.

(2) TERMS AND CONDITIONS.—Subsection (h) is amended—

(A) in paragraph (1), by striking ''2005'' and inserting ''2015''; and

(B) by amending paragraph (4) to read as follows:

''(4) GUARANTEE LEVEL.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), any loan guarantee provided under this section shall not exceed 85 percent of the amount of principal of the loan.

''(B) INCREASED LEVEL.—A loan guarantee may be provided under this section in excess of 85 percent, but not more than 95 percent, of the amount of principal of the loan, if—

''(i) the aggregate amount of loans guaranteed at such percentage and outstanding under this section at any one time does not exceed $500,000,000; and

''(ii) the aggregate amount of loans guaranteed at such percentage under this section with respect to a single qualified steel company does not exceed $100,000,000.''.

(3) REPORTS TO CONGRESS.—Subsection (i) is amended by striking ''of fiscal years 1999 and 2000, and annually thereafter,'' and inserting ''fiscal year''.

(4) TERMINATION OF GUARANTEE AUTHORITY.—Subsection (k) is amended by striking ''2001'' and inserting ''2003''.

(5) MONITORING, REPORTING, AND FORECLOSURE PROCEDURES.—Subsection (l) is amended by adding at the end the following: ''All monitoring, reporting, and foreclosure procedures (and other matters addressed in the guarantee agreement) established with respect to loan guarantees provided under this section shall be consistent with customary practices in the commercial banking industry. Minor or inadvertent reporting violations shall not cause termination of any guarantee provided under this section.''.

(6) DEFINITION OF STEEL COMPANIES.—Subsection (c)(3)(B) is amended to read as follows:

''(B) is engaged in—

''(i) the production or manufacture of a product identified by the American Iron and Steel Institute as a basic steel mill product, including ingots, slab and billets, plates, flat-rolled steel, sections and structural products, bars, rail type products, pipe and tube, and wire rod;

''(ii) the production or manufacture of coke used in the production of steel; or

''(iii) the mining of iron ore; and''.

(b) CONFORMING AMENDMENT.—Section 101 of the Emergency Steel Loan Guarantee Act of 1999 is further amended by striking subsection (m).

(c) APPLICABILITY.—The amendments made by this section shall apply only with respect to any guarantee issued on or after the date of the enactment of this Act.

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

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

AMENDMENT NO. 878

Mr. CRAPO. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. CRAPO], for himself, Mr. MURKOWSKI, and Mr. CRAIG, proposes an amendment numbered 878.

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

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

The amendment is as follows:

(Purpose: To help ensure general aviation aircraft access to Federal land and the airspace over that land)

At the appropriate place, insert the following:

SEC. 3___. BACKCOUNTRY LANDING STRIP ACCESS.

(a) IN GENERAL.—Funds made available by this Act shall not be used to permanently close any aircraft landing strip described in subsection (b) without public notice, consultation with appropriate Federal and State aviation officials, and the consent of the Federal Aviation Administration.

(b) AIRCRAFT LANDING STRIPS.—An aircraft landing strip referred to in subsection (a) is a landing strip on Federal land that—

(1) is officially recognized by an appropriate Federal or State aviation official;

(2) is administered by the Secretary of the Interior or the Secretary of Agriculture; and

(3) is commonly known for use for, and is consistently used for, aircraft landing and departure activities.

(c) PERMANENT CLOSURE.—For the purposes of subsection (a), an aircraft landing strip shall be considered to be closed permanently if the intended duration of the closure is more than 180 days in any calendar year.

Mr. CRAPO. Mr. President, first, I thank the chairman of the Appropriations Committee, Senator BYRD, and the ranking member, Senator BURNS, for the hard work they have put into this year's Interior and related agencies appropriations bill. It is a changing process and they have done an excellent job in balancing the competing interests within the confines of our effort to make sure we maintain a balanced budget.

At this point, I want to explain the amendment I present. I intend to withdraw the amendment when I am finished discussing it for reasons that will become apparent as I discuss it. In the past couple of years, we have seen a disturbing trend in the Department of the Interior and in the Depart of Agriculture regarding our Forest Service relating to back-country airstrips. The administration has begun to follow a pattern of allowing back-country airstrips to either go into a state of disrepair—here they become unusable—or to actually close, permanently close some of them, which is a serious problem to those parts of our public lands that need the services that these back-country airstrips can supply.

Idaho, right now, is home to more than 50 of these landing strips, and our State is known nationwide for its air access to public lands and wilderness and primitive areas. Unfortunately, in the past, many of these airstrips in Idaho, and in other parts of the country, have been rendered unserviceable through the neglect I talked about earlier, or the decisions to close the airstrips without adequate public notice or any justification being provided.

There is a concern about this because these airstrips provide not only access to the back country for recreational use, but they are critical for maintenance and some of the management purposes of the agencies in managing our public lands and fighting forest fires, for example, or in providing the necessary access by agency personnel to perform their work on public lands, and also as part of rescue missions when they find the need to provide for rescue. It is those who use the back-country airstrips who are often the ones who provide the valiant efforts to make rescues of people who are in distress in our national public lands.

Senators CRAIG and MURKOWSKI are cosponsors with me on the legislation to address this issue and to require the agencies to work with State and local communities and to engage in a process of public notice and justification. In fact, it is our hope that, ultimately, we will be able to pass this legislation on a permanent basis. That would require the agencies to obtain the consent of the State personnel who are involved with the management of our airways and aviation concerns.

At this point, we were prepared to offer this amendment to the bill this year to the Interior appropriations bill, which would have, simply for the period of this appropriations bill, required the agencies to consult with the State agency officials involved in aviation management in the States, and to assure that the right kind of consultation would occur between the various State and Federal officials before closure of any of these landing strips in our back-country areas.

However, we have been working with the administration to try to obviate the need to propose this amendment. I am pleased to say, that I am now able

to report to the people in the country that both the Department of the Interior and the Department of Agriculture have agreed—and I will be submitting letters for the RECORD in writing to indicate this agreement—that they will honor the purposes of this amendment and make it the policy of those two agencies to comply with the requirements of this amendment and to continue to work with us on our permanent legislation so we can address this issue on a permanent basis.

Mr. MURKOWSKI. I wonder if I can interrupt the Senator from Idaho in an effort to develop a colloquy with the Senator with regard to encouraging various agencies to work with the States on the issue of backcountry airport access.

Mr. CRAPO. I will be glad to yield to the Senator from Alaska.

Mr. MURKOWSKI. It is probably not applicable in areas of high concentration of private land, but out West, we have vast areas of virtually nothing. You can only appreciate that if you get in a small airplane and fly over the western part of the United States or my State of Alaska.

I had a group of Senators in a single-engine airplane a few years ago. We had been in the air 2½ hours cruising along at about 80 knots. Finally, one of them said: How much more wilderness do I have to see to, indeed, believe there is a lot of wilderness to be seen and beauty to be seen?

Nevertheless, when that engine quits, you have a problem. If you do not have some of these areas available—I know many of our friends from the east coast and populated areas cannot quite appreciate why we need them, but we vitally need them.

I join with my colleague in what I understand is a general commitment from the agencies, the Department of Agriculture and the Department of the Interior, to work with the States to identify what is in the interest of the States from the standpoint of safety access.

I commend him in that effort and hope when legislation is necessary that our colleagues will understand we need this in the wide open spaces out West. I see my friend from Montana who also agrees with this. I yield the floor.

Mr. CRAPO. Mr. President, I thank my friend and colleague from Alaska for his strong support on this issue. He is, as I indicated, a cosponsor of the legislation we will be pursuing and was supporting us in the effort to put this amendment on this bill again as it was last year.

Just so we can understand correctly, I want to read into the RECORD what the Department of the Interior and the Department of Agriculture committed to so we can begin the process, which I think is a very important first step in moving toward resolution of this issue.

The first letter is from Secretary Gale Norton, the Secretary of the Interior:

DEAR SENATOR CRAPO: The U.S. Department of the Interior is committed to working with you and other Members of Congress to develop a comprehensive process to ensure that state and local governments and citizens have an opportunity to participate in issues relating to backcountry airstrips located on lands managed by the U.S. Department of the Interior.

Our Nation's backcountry airstrips are important to many activities that take place on our public lands. Airstrips provide remote access for aerial firefighting efforts, they are an essential safety tool for pilots operating in rural and mountainous areas, and they provide a vital link to the outside world for many rural communities.

It is important to ensure that legitimate uses of backcountry airstrips are protected. It is also a priority for this Department that any proposals to alter use of federal lands must go through open and public process that includes close consultation with local communities. I commit to work with you, and other members of the congressional delegation, the State of Idaho, and local communities on any proposals to change the use of backcountry airstrips on lands managed by the U.S. Department of the Interior.

The second letter is from the Department of Agriculture:

DEAR SENATOR CRAPO: The U.S. Department of Agriculture is committed to working with you and other Members of Congress to develop a comprehensive, long-term approach for managing backcountry airstrips on lands managed by the USDA Forest Service.

We agree that it is appropriate to maintain airstrips that provide critical air access to rural, backcountry, or wilderness areas; that contribute to pilot safety; or that support aerial firefighting efforts. The Department also agrees that these airstrips should not be permanently closed without prior consultation with State aviation and other appropriate officials.

We appreciate your leadership on this issue and look forward to working with you in the future.

Sincerely,

ANN VENEMAN,
Secretary.

Mr. President, because we have now obtained the commitment of the Department of Agriculture and the Department of the Interior that they will work with us in a public process and in a consultative process with the State officials involved in managing aviation issues, and because they have acknowledged the important critical needs of maintaining these backcountry airstrips in good condition, and instead of closing them, keeping them open and available for use, we do not believe it is necessary to pursue this amendment on this legislation.

I appreciate the Secretaries of the Interior and Agriculture agreeing and working with us to avoid the need for this amendment, and we appreciate their commitment to work with us in the future on permanent legislation that will fully resolve this issue statutorily.

Therefore, Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment (No. 878) was withdrawn.

Mr. CRAPO. I thank the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I rise to respond to the Senator from Arizona who earlier today, in listing programs in this bill he felt were inappropriate—I believe he used the word ''pork'' or some other derogatory reference to those programs—cited a $150,000 proposal in this bill to build a barn at the John Hay estate in New Hampshire.

I honestly believe the Senator from Arizona has done a disservice to the people of New Hampshire by citing this item as one of the items on his list. It appears to me the research on that list may be rather weak if he is putting on the list items such as this. I want to give the history of this situation.

The John Hay estate is owned by the Fish and Wildlife Service. John Hay was Abraham Lincoln's secretary. He was Theodore Roosevelt's and William McKinley's Secretary of State. He served for years as a public servant of extraordinary import in our Nation's history in the latter part of the 19th century and into the beginning of the 20th century, playing a major role in a number of very significant events, especially in the period 1890 to 1905 when he died.

As part of his lifestyle, he was a Renaissance man. He had been, as I mentioned, secretary to Lincoln and is quite famous for his notes on Lincoln. In Washington, he started something called the Five of Hearts, a very famous historical group that met regularly at his home, which is now the Hay-Adams—Hay-Adams was not actually his home. His home was where the Hay-Adams is. That is the physical location.

That group involved five people of incredible intellectual capacity, and they became known as the Five of Hearts. He was part of that group and his wife was also.

As part of his effort and as part of the culture of that time actually, he wanted to set up a community which would be a respite from the hectic life of policy and government, and he chose the shores of Lake Sunapee in New Hampshire to try to do that. He came to New Hampshire and purchased a significant amount of land at that time—over a thousand acres—and an old farm and began to try to attract to that part of New Hampshire during the summer people who were world leaders in order to think and relax in what was really a bucolic atmosphere; it still is. It is a fabulous pastoral setting.

It is a lot like what Saint-Gaudens, who was another significant person in that period and tremendous artist in our history, had done in another part of New Hampshire called Cornish.

He built a farmhouse; he took the old farmhouse and renovated it. It was situated on 1,000 acres. Of course, with any farmhouse there was a barn, as one might expect in that period. His family has owned that property for years and years. In the late 1980s, his daughter gave the property as part of her estate to the U.S. Government because she

thought it was so important it be preserved as part of history because it is a truly unique piece of property.

One of the things he did on that property was bring in some extraordinary plants. In his travels he collected plants of alpine nature and built an alpine yard which is one of the rarest gardens in this country and has been designated so by the national garden groups. He built other gardens around the home. He had Theodore Roosevelt there and planted trees. There is a Theodore Roosevelt tree which grows outside the house.

The house itself was architecturally unique and presents a classic example of a Greek revival farmhouse in the New England tradition which existed in the late 19th century. But most of those homes have been lost either through fires or being torn down over the years.

The gift of this property to us, the people of America, by his family was an extremely generous act. At that time it was given to us, it involved only 100 acres but over a mile of frontage on the lake. Frontage on the lake is extremely expensive. The house itself was not in good repair, and the barn was not, and the gardens were at risk because the gardener who had been managing them for over 50 years was getting a little old and decided to give it up.

So as a result of a community effort with over 600 people involved, called the Friends of John Hay, we restored this home. There has been a fair amount of Federal dollars committed to trying to restore the home over the years. Senator Rudman, my predecessor, got the initial funds, and I have been successful in obtaining funds to restore the home. Why? Because, of course, it is a Federal property and we have responsibility. It would be as if we owned the home, and we may well own the home of Abraham Lincoln of Illinois, for all I know, and are restoring that home. But it is a Federal responsibility for which we have responsibility.

More importantly than that, it is a property that had such a magnetic effect in the region as a truly unique, historical site architecturally and because of the gardens, that the community around the property has risen up with great energy, enthusiasm, and support. There are over 600 people who participate now in maintaining the gardens in what is a voluntarism that is rather significant and instructive and now has the gardens back to where they should be, as the home is back to where it should be.

As part of this property, as I mentioned, there was a barn. The barn was also an architecturally unique building, with unique windows and unique buttresses inside. But more importantly, as part of the property, being a traditional New England home, it set the nature of the property.

This winter, for those who had the good fortune to go to New Hampshire and ski, we had great snow. We had such great snow, it never stopped snowing all winter long. Throughout our State and Vermont and Maine—Vermont does not get as great snow as we get, but they still get snow—a lot of homes, buildings, schools, in fact, found their roofs caved in. Regrettably, what happened at the Hay estate was, the barn, which was a historical barn, had a snow base on it which it could not maintain, even after 100 years—maybe not 100; maybe 85. Regrettably, the barn collapsed under the weight of the snow.

I guess it is the position of the Senator from Arizona that when a building that is on a historical site, which is the responsibility of the Federal Government to maintain, collapses, we should simply leave it there: Historical building that collapsed? Just leave it there. I guess that is the position of the Senator from Arizona.

What these funds were for—$150,000, which is not a great deal of money when you consider the character and size of the barn—was to restore the barn, put it back together, put it back up, and hopefully put in buttresses which will withstand the next major snow, which, of course, we hope to have again for our skiers.

The fact is, for the Senator from Arizona to come down here and represent it as somehow pork or inappropriate that the Federal Government has a responsibility to maintain a historical site of such significance, which had such huge community involvement when there was a disaster affecting that site which was the result of an act of God—by the way, an excessive snow year is pushing the envelope on how you define what are appropriate expenditures at the Federal level.

I cannot think of anything more appropriate than for the Federal Government to manage the property that has been given to the people of this country in a reasonable way. The reasonable thing to do, of course, is to rebuild the historical barn so the integrity of the property is maintained.

I believe the Senator from Arizona is misguided on this point. I want to put that in the RECORD. I will be happy to invite the Senator from Arizona on his next trip to New Hampshire, which appears to be reasonably frequent, to stop by at the Hay estate and see the barn, see the estate, see the gardens, maybe meet with the 600 people who work there on a regular basis as volunteers, and ask them whether that barn is an important part of that estate and whether the Federal Government has a responsibility to at least rebuild the barn when the people are volunteering literally thousands of hours to maintain the estate for free. I look forward to the Senator stopping by at the John Hay estate.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair and wish the Presiding Officer a good afternoon and hopefully a short one.

It was my understanding there was a distinct possibility with the upcoming expiration of the Iran and Libya Sanctions Act, which expires in August, a renewal of the Iran and Libya Sanctions Act might be offered as an amendment to the Interior appropriations bill. If that had been the case, I was prepared to offer a second-degree amendment to the ILSA renewal with respect to our energy dependence on Iraq. I have an amendment at the desk that would do just that.

I will not call up that amendment at this time, but I would like to alert my colleagues of the significance of what is going on with regard to Iraq. I think the occupant and other Members are aware of the Smith-Schumer letter which addresses the ILSA issue by extending for 5 years the moratorium on trade with both Iran and Libya.

The important thing to note is the 71 signatures in favor of extending that moratorium. As we know, it takes a 50-vote point of order to waive rule XVI, which is legislation on appropriations. I am not going to violate that.

We have a great inconsistency here. I have been coming to the floor for a long time talking about energy policies. I am referring today, of course, to our continuing dependence on petroleum from Iraq. We import somewhere between 500,000 and 750,000 barrels of oil from Iraq every day. That is about $6 billion worth in the last year.

Let me share with the Presiding Officer what the curve is relative to the increase in our oil imports from Iraq to the United States. It started in 1997 and has had its ups and downs. In 1998 we had a takeoff, and we are currently importing somewhere in the area of 700,000 barrels a day.

We had an interesting occurrence about 6 weeks ago where Iraq was unhappy with its treatment by the U.N. and made a decision to reduce its production by 2.5 million barrels a day for a month. That took 60 million barrels a day off the market.

Now, there were many in this body who thought OPEC would simply increase their production and offset that. That was not the case. OPEC simply decided to wait 30 days. As a consequence, the 30 days have passed, and Saddam Hussein did not get what he wanted from the U.N., but he did turn back his production level.

As a consequence, I think it is important to recognize what is happening with regard to Iraq. Many people forget we had a war over there in 1990 and 1991. That war cost us some 148 American lives. We had 400-some wounded. We had several taken prisoner. We were successful. The purpose of the war was very simple, it was to keep Saddam Hussein from invading Kuwait and going on into Saudi Arabia and basically controlling the world's supply of oil. Make no mistake about it, that was a real war.

The consequences of that are rather interesting to reflect on now. If we look at the situation with regard to our friend, Saddam Hussein, we find American families are now going to

Saddam Hussein for energy. Iraq is the fastest growing U.S. source of oil imports: Again, 750,000 from Iraq; about 2.3 million from the Persian Gulf countries; the OPEC countries, about 5 million barrels a day.

I am not going to stop there because I think that is where the issue is kind of left in the minds of many Americans. But let's think about realities. Since the gulf war, we have enforced an aerial blockade. Perhaps some of my colleagues could share with me the difference between an aerial blockade and a surface blockade. A surface blockade with the Navy is generally considered an act of war. We have been enforcing this no-fly zone. We call it a no-fly zone, but it is really an aerial blockade. We have flown nearly 250,000 individual sorties, flights, over Iraq, enforcing this aerial blockade. We have done it to prevent Saddam Hussein from threatening our allies in the region.

We are spending billions of dollars to keep Saddam Hussein in check. What are we doing with the oil? We take his oil, we fill up our airplanes, and send our pilots to fly over Iraq. They are shot at by Iraqi artillery. Then they return, fill up on Iraqi oil, and do it again.

I find that discomforting, to say the least. I am indignant. It is unacceptable. I could use many adjectives. But Saddam Hussein is heating our homes in the winter, getting our kids ready for school each day, getting our food from the farm to the table, and we pay him pretty well to do that.

Let me refer to what is happening as a consequence of this. I will get back to this chart a little later. We can view it with some reflection because it represents a very significant trend.

Let's talk about what Saddam Hussein does with the money we pay him. He pays his Republican Guards to keep him alive; he supports international terrorist activities—we are aware of that; he funds his military campaign against American interests, American service men and women and our allies; and he is desperately trying to shoot one of our aircraft down.

When that happens, if it happens, God forbid, I don't know what the reaction is going to be. But I know what my personal reaction is. This risk has been evident to the American people and the American Congress. We have condoned it. We have not done anything about it. Why not?

The inconsistency, of course, is we are proposing to extend our sanctions on Iran and Libya for another five years. We have not imported a drop of oil from Iran in 20 years. I am not suggesting we should. But we do not even mention Iraq.

In addition to paying his Republican Guards, supporting international terrorists, he builds an arsenal of weapons of mass destruction with biological capability. Who does he threaten? He threatens our ally, Israel. As a matter of fact, he ends virtually every speech with, ''Death to Israel.''

I don't know how more pointed I could get. Maybe I am missing something in this. Is this good policy? For a number of years the United States has worked closely with the United Nations on the Oil For Food Program. The program allows Iraq to export petroleum in exchange for funds which can be used for food, medicine, and other humanitarian products. But despite more than $15 billion available for those purposes, Iraq has only spent a fraction of that money for the needs of the Iraqi people. Instead, the Iraqi Government spends it on missile capability, defensive and offensive capability, a highly trained military. One has to wonder why, when billions of dollars are available to care for the people of Iraq; many of whom are malnourished, many of whom are sick, many of whom have inadequate medical care; why would Saddam Hussein withhold the money available and choose, instead, to blame the United States for the plight of his people? Why is Iraq reducing the amount they spend on nutrition and prenatal care? Why are they reducing that amount when millions of dollars are available? Why does $200 million of medicine from the U.N. sit undistributed in Iraqi warehouses? Why, given the urgent state of humanitarian conditions in Iraq, does Saddam Hussein insist that his country's highest priority is the development of sophisticated telecommunications and transportation infrastructure? Why, if there are billions available and his people are starving, is Iraq only buying about $8 million in agricultural products from the United States?

I do not have any quarrel with the Oil For Food Program. It is well intentioned. I do have a problem with the means with which Saddam Hussein has manipulated our growing dependency on Iraqi oil.

Three times since the beginning of the Oil For Food Program Saddam Hussein has threatened, or actually halted, oil production, as I indicated, disrupting energy markets, sending world prices skyrocketing. Why did he do this? I guess he wants to send a message to the United States. The message might be: I have leverage over you.

Every time I look at this chart I look at the increased leverage associated with Saddam Hussein and OPEC and the cartel. We do not have cartels in this country. We cannot. We have antitrust laws against it. But we are feeding this cartel with our appetite for crude oil.

The harsh reality is, as much as we would like to relieve our dependence on oil with alternative energies—we have alternative sources of energy. We have coal, we have natural gas, we have hydro, we have nuclear, but you do not move America or the world on that kind of energy. You move America and the world on oil. We do not have a substitute for that. We do not have anything realistic to replace it.

We are going to become more dependent unless we address the alternative and that is to reduce our dependence here at home by conservation and opening up new sources where we are likely to find a significant volume of oil.

One of the things in my energy bill as a specific goal and target is to reduce the dependence on imports of oil to less than 50 percent by 2010. You can do it in one fell swoop if, indeed, the oil in ANWR is what it purports to be, somewhere between 5.6 billion and 16 billion barrels a day. The question is, Can you do it safely; and the answer is clearly yes.

There is one other thing I would like to mention that has not gone into the ANWR argument to any extent. That is the interests of the residents of the area. That particular issue involved 95,000 acres of land that are in ANWR, up here at this very top of the world, in this area, Kaktovik—these Natives have 95,000 acres of land. I have a chart that shows the Native ownership. But the Native ownership is basically such that it has no access to the existing pipeline. It has no access from the standpoint of producing, even for the villagers there, the gas that is in the village site for use by the villagers. They are simply precluded.

We use the term ''corked'' in Alaska. Corked means that when you are out fishing and you have your net the way fish are swimming, somebody takes their net and goes in front of you.

That is just what has happened up here with our Native people. The Native people have 95,000 acres of private land. They are precluded from recovering even their own natural gas for development and usage. That is wrong.

As we look at reality, and as we look at our increased dependence on imports, by the votes we have seen here, whether it is on lease sale 181 or some of the issues relative to our national monuments, we had better come to grips with reality. Where are these deposits going to come from if they do not come from areas that are still open?

This is a chart that shows the areas that are closed. The west coast and the east coast are off limits. Take lease sale 181. Three-quarters of that is off limits. The entire overthrust belt is off limits as a consequence of actions by the last administration.

I make this point simply to highlight the reality. Here we are talking about extending moratoriums against Iran and against Libya with no mention of Iraq. We have placed our energy security in the hands of a madman, Saddam Hussein.

The administration has attempted valiantly to reconstruct a sensible multilateral policy towards Iraq. Those attempts, unfortunately, have not been successful. We are still dependent on foreign imports, and a significant portion is coming from Iraq.

I think before we can construct a sensible United States policy towards Iraq, we need to end the blatant inconsistency between our energy policy and

our foreign policy. We need to end our addiction to Iraqi oil. We need to basically go cold turkey. To that end, in a moment I will introduce legislation which would prohibit oil imports from Iraq, whether or not under the Oil for Food Program, until it is no longer inconsistent with our national security to resume these imports. I hope that this will be an initial step toward a more rational and coherent policy towards Iraq.

As a consequence, I am withdrawing my amendment at the desk. I trust my colleagues have picked up to some extent the points I have brought out.

Mr. President, I ask unanimous consent for 1 minute as if in morning business to introduce my bill. Then I will yield the floor.

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

The amendment is withdrawn.

Without objection, the Senator is recognized.

(The remarks of Mr. MURKOWSKI pertaining to the introduction of S. 1170 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. MURKOWSKI. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. CANTWELL). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DASCHLE. 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. DASCHLE. Madam President, I think we are at a stage in the debate on the bill that I can now say we have completed all of our work.

I compliment the chairman and the ranking member for their extraordinary work in the last couple of days in getting us to this point. Let me also thank Senator GRAMM of Texas for his work in the last couple of hours in working with Senator BYRD on a concern of great import to Senator BYRD.

There has been no request for a rollcall vote on final passage. I am now in a position to announce that there will be no more rollcall votes tonight.

There are no rollcall votes scheduled for tomorrow, nor will there be votes on Monday.

My hope is that we will be able to move to the energy and water appropriations bill on Monday for debate only, and then we will move into debate on amendments beginning as early as Tuesday. I hope Senators will file their amendments and will be prepared to offer them even though we will not have votes on Monday. I encourage them to do that.

I am hopeful we can get at least two appropriations bills done, if not more, next week.

We have a lot of work to do. But there are no more votes tonight. As promised, I have also made a commitment that a number of nominations—if I recall, something on the order of 20 nominations—will be offered shortly. We are about ready to do that. There is at least one that will be the subject of some discussion. But I know of no requests for rollcalls on those nominations. No more rollcall votes tonight.

We will begin work on Monday, hopefully, on energy and water.

I yield the floor.

Mr. BURNS. 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. BURNS. 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. BURNS. Madam President, I wish to take this opportunity to offer a few observations as we are closing up this Interior appropriations bill. I must thank the senior Senator from West Virginia for his work as chairman of this committee. His staff has been remarkable. They are easy to work with, and they have accommodated, I think, as many people in this body as they possibly could.

Peter Kiefhaber has done a commendable job in his first year as the clerk for the majority. His willingness to work with my staff has ensured that this bill has reached its bipartisan form. He has been assisted by a number of very capable staff members, including Ginny James, Leif Fonnesbeck, Brooke Livingston, and a detailee from the U.S. Fish and Wildlife Service, Scott Dalzell.

On my side of the ring, I thank my staff members who work with me on the minority side.

Bruce Evans lent his expertise after spending numerous years as the majority clerk under the very able chairmanship of Senator Slade Gorton of Washington. I have a lot more respect for the former Senator from Washington and the work he did because this is my first year on Interior appropriations. I personally thank Bruce for continuing his service in the Senate and helping me through my first year as chairman and then ranking member on this bill.

I also thank Christine Drager for her assistance on a number of extremely difficult accounts, as well as Ryan Thomas, who moved from my personal office to the Appropriations Committee to lend a helping hand in crafting this legislation.

While I am thanking those who have helped in the formation of this legislation, I want to single out Mark Davis. Mark has joined my office as a congressional fellow from the U.S. Forest Service. I want my colleagues to know that it was Mark's efforts that ensured we received all of your requests, and all the requests were considered. He sifted through the request letters, organized your request lists, and tracked your staff down to make sure we had the information necessary to help us meet the desires of each Member and make some very tough decisions. I thank him for his service.

Madam President, this has been somewhat of a difficult process. We were not able to fully meet the desires of every Member who offered an amendment to this bill. However, the chairman and I have attempted to remain fair while avoiding adding legislative riders that would slow the progress of this bill.

It is imperative that this bill be moved through Congress and be sent to the President as soon as possible. It is now mid-July and we have a lot of work ahead of us.

Again, I thank my chairman, Senator BYRD of West Virginia. I could not have asked for a better chairman as I enter the first year working on Interior appropriations. I thank him very much for his patience because he helped me through some of the rough spots. I thank him for that.

I yield the floor, and 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. BYRD. 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. BYRD. Madam President, I express my heartfelt gratitude to my colleague, the distinguished Senator from Montana, who is the ranking member on the subcommittee of the Department of the Interior.

I thank him for his very able representation of his people. I thank him for the consideration he has accorded to all other Senators as we have developed this bill, brought it to the floor and managed it together. I thank him for his equanimity, his very friendly and accommodating spirit. I thank him for being CONRAD BURNS. I thank him for the contribution he has made in the development of this bill in working with me as we have attempted to manage the bill and bring it to a conclusion.

I thank our respective staffs on both sides of the aisle for their courtesies to us and to our colleagues. I thank our colleagues for their cooperation and understanding. I thank the leaders on both sides for the assistance they have given to us. I particularly thank our Democratic whip.

I believe that Members will remember my taking the floor on many occasions to speak on the theme that the dog is man's best friend. Harry Truman said, ''If you want a friend in Washington, you better go buy a dog.'' Well, I believe that. Members often hear me extol the virtues of the dog. Not only can we say that a dog is man's great friend, but for those of us who have to manage bills on the floor, it has been my experience that the majority whip is the best friend that a manager of a bill can have.

I have seen a goodly number of whips in my time on the Senate floor. The Office of Whip goes back a long way, into

the 1600s, as a matter of fact, when it was said in the British Parliament that the whipper-in—the individual who kept the hounds from straying from the field during the fox chase. In those days, whips were sent in the form of circular letters to members of the opposition, members of the King's party to northern England, and sent as far away as Paris, France, to tell members to come in on a certain day and be prepared to vote on a certain matter. That was the whip's job.

The whip's position here has grown into an institution. During the early 1900s, during the first quarter of the 20th century, the offices known as majority whip, majority leader, minority leader, minority whip came into being. They are not constitutional offices, but these are offices that have been developed over the years.

The whip system in the House is much more refined and more highly developed than it is in the Senate, not quite so highly developed as it is in the British Parliament. In our body, we do not have the whip system they have in the House, but we have an extraordinarily good whip in HARRY REID from Nevada.

I was what I consider a good whip here for a good many years. I served with Mike Mansfield when he was majority leader. I was the majority whip, and I sat on the floor all the time. I never left the floor but a few minutes at a time. This whip, HARRY REID, performs that same function. He is on the floor. He is helping Senators with their needs. He is helping the managers of the bills to arrive at agreements. He is helping the managers of the bills to reach time agreements on amendments once they have been offered. He does an extraordinarily good job.

I express those compliments concerning HARRY REID. I think he is a better whip than ROBERT BYRD was. He has more patience than ROBERT BYRD had. I would say he has more political gumption than ROBERT BYRD probably had. He is a great whip. I salute him.

I have no hesitancy at all in saying if somebody does a better job than I can do, I salute them for it. He does an excellent job. I thank him.

He helped me and Senator STEVENS on the supplemental bill. He has helped Senator BURNS and myself on this bill. I thank him again.

Madam President, we will be going to conference next week on this bill, and Senator CONRAD BURNS and I will, again, stand shoulder to shoulder with the other members of our team on both sides of the aisle, and we will be working with the House Members in an effort to bring from the conference a bill the President will sign into law.

I merely wanted to express those few compliments, those few expressions of gratitude, and to say I am very glad that the Senate has reached the point now of finalizing the action on this bill prior to it being sent to conference.

The Senate has now approved the fiscal year 2001 Supplemental appropriations bill and the first fiscal year 2002 appropriations bill, the fiscal year 2002 Interior and related agencies appropriations bill. We have scheduled nine bills for action in the Senate Appropriations Committee during July and we hope to have Senate action on those bills before the August recess.

We have a long tradition on the Senate Appropriations Committee of working together on a bipartisan basis to produce fiscally responsible and balanced appropriations bills. Working together with my distinguished colleague and good friend TED STEVENS, we have gotten off to a good start this year.

The fiscal year 2001 supplemental appropriations bill passed the Senate on Tuesday by a vote of 98–1. It totaled $6.5 billion, not one thin dime over the President's request. It is a balanced bill that approved most of the President's request for defense and included a number of other priority programs such as funding for Education for the Disadvantaged, the Low Income Home Energy Assistance Program, and the Global AIDS program. It included no emergency funding. All unrequested items were fully offset so that we remain under the statutory cap on spending for fiscal year 2001.

Today, we have approved the fiscal year 2002 Interior appropriations bill by a voice vote. We have exercised discipline. The budget resolution sets very tight limits on overall discretionary spending. And this bill stays within the 302(b) allocation that the Appropriations Committee approved pursuant to the budget resolution.

In both bills we held the line. We stayed within our budgetary boundaries. We took a deep breath and were able to squeeze in between those narrow walls. But the walls are getting tighter. We have been given a difficult task. Much has been asked of us; a tremendous amount is expected when it comes to providing for the national need.

We are attempting to conduct the people's business—to pass the thirteen bills that fund government in a timely fashion. The clock is ticking. We hope to go to conference soon so that this bill can be sent to the President before the August recess.

The House and Senate Budget Committee are now projecting that we will be dipping into the Medicare surplus in fiscal year 2001 and fiscal year 2002 and that this trend is likely to continue for several years. This is taking place before a single appropriations bill has been sent to the President.

I believe that this change in our budget outlook will result in very tight limits on discretionary spending over the next few years. I don't like it, it won't be good for America, but it is a reality. As we consider the fiscal year 2002 bills, it will be very important that we understand the long term consequences of our actions. We should not be taking actions this year that will lock us into long term costs. We have a long tradition on this committee for working together on a bipartisan basis to produce responsible bills, one year at a time.

There will be a strong temptation to approve provisions this year that will mandate costs for specific programs in future years. We simply can not go down that road when we know that we are facing tight spending limits over the next few years.

Madam President, I ask unanimous consent that during the pendency of H.R. 2217, the managers be permitted to offer a managers' amendment; that once the amendment is reported, it be considered agreed to and the motion to reconsider be laid upon the table; that any amendments laid aside be modified and agreed to, as modified; that the motion to reconsider be laid upon the table; that no further amendments be in order; that the bill be advanced to third reading; that the Senate proceed to vote on passage of the bill with no intervening action; that the Senate insist on its amendment, request a conference with the House of Representatives, and the Chair be authorized to appoint conferees on the part of the Senate.

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

Mr. BYRD. Madam President, I yield the floor.

Mr. BURNS. Madam President, I again thank Senator BYRD for his leadership on this legislation. We set a record for an Interior appropriations bill due to the chairman's leadership. Two days is about as fast as we have done an Interior appropriations bill. That is a great credit to his leadership. I thank the Senator from West Virginia.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, I ask unanimous consent that any statements by Senators in connection with the bill be printed in the RECORD as though spoken.

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

UNANIMOUS CONSENT AGREEMENT—NOMINATION OF J. STEVEN GRILES

Mr. REID. Madam President, I ask unanimous consent that immediately following the vote on final passage of H.R. 2217, the Senate proceed to executive session to consider the nomination of J. Steven Griles to be Deputy Secretary of the Interior; that the Senate immediately vote on the confirmation of the nomination, with no intervening action; that the motion to reconsider be laid upon the table; that the President be immediately notified of the Senate's action; that there then be a period for debate regarding the nomination; and that following that debate, the Senate return to legislative session.

The PRESIDING OFFICER. Is there objection?

The Senator from Oregon.

Mr. WYDEN. Madam President, reserving the right to object, I ask unanimous consent that the agreement be

modified to reflect that the vote occur on the nominee following my remarks.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Madam President, I ask for no more than 2 minutes following the comments of the Senator from Oregon.

Mr. REID. I say under my own consent request, it is likely that the junior Senator from Florida will also want to speak. He has indicated that when we take our voice vote, he wants to be one of those known as having voted no. So I reserve some time for him, too, if he desires to come.

The PRESIDING OFFICER. Does the Senator modify his request?

Mr. REID. Yes.

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

AMENDMENT NO. 976

The PRESIDING OFFICER. The clerk will report the managers' amendment.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself and Mr. BURNS, proposes an amendment numbered 976.

(The text of the amendment is located in today's RECORD under ''Amendments Submitted.'')

The PRESIDING OFFICER. Under the previous order, the amendment is agreed to.

The amendment (No. 976) was agreed to.

The PRESIDING OFFICER. Under the previous order, all the pending amendments are agreed to.

The amendment (No. 880) was agreed to.

The amendment (No. 975), as modified, as agreed to, as follows:

At the appropriate place, insert the following:

SEC. ___. MODIFICATION TO STEEL LOAN GUARANTEE PROGRAM.

(a) IN GENERAL.—Section 101 of the Emergency Steel Loan Guarantee Act of 1999 (Public Law 106–51; 15 U.S.C. 1841 note) is amended as follows:

(1) TERMS AND CONDITIONS.—Subsection (h) is amended—

(A) in paragraph (1), by striking ''2005'' and inserting ''2015''; and

(B) by amending paragraph (4) to read as follows:

''(4) GUARANTEE LEVEL.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), any loan guarantee provided under this section shall not exceed 85 percent of the amount of principal of the loan.

''(B) INCREASED LEVEL ONE.—A loan guarantee may be provided under this section in excess of 85 percent, but not more than 90 percent, of the amount of principal of the loan, if—

''(i) the aggregate amount of loans guaranteed at such percentage and outstanding under this section at any one time does not exceed $100,000,000; and

''(ii) the aggregate amount of loans guaranteed at such percentage under this section with respect to a single qualified steel company does not exceed $50,000,000.

''(C) INCREASED LEVEL TWO.—A loan guarantee may be provided under this section in excess of 85 percent, but not more than 95 percent, of the amount of principal of the loan, if—

''(i) the aggregate amount of loans guaranteed at such percentage and outstanding under this section at any one time does not exceed $100,000,000; and

''(ii) the aggregate amount of loans guaranteed at such percentage under this section with respect to a single qualified steel company does not exceed $50,000,000.''.

(2) TERMINATION OF GUARANTEE AUTHORITY.—Subsection (k) is amended by striking ''2001'' and inserting ''2003''.

(b) APPLICABILITY.—The amendments made by this section shall apply only with respect to any guarantee issued on or after the date of the enactment of this Act.

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

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

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

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

The bill was read the third time.

INDIAN HEALTH SERVICES

Mr. DASCHLE. Madam President, I would like to bring to the attention of the Senate the critical shortfall in Indian Health Service funding. The Indian Health Service is unable to provide basic health services to American Indians and Alaska Natives. We are failing to uphold a promise we made many years ago in federal-tribal treaties as well as federal statute.

The Indian Health Service is tasked with providing full health insurance for American Indians and Alaska Natives, but is so underfunded that patients are routinely denied care that most of us take for granted and, in many cases, call essential. The budget for clinical services is so inadequate that Indian patients are subjected to a ''life or limb'' test. Unless their condition is life-threatening or they risk losing a limb, their treatment is deferred for higher priority cases; by the time they become a priority, there are often no funds left to pay for the treatment.

I attempted to address this crisis by offering an amendment to the fiscal year 2002 budget resolution. The amendment called for a $4.2 billion increase for the clinical services budget of the Indian Health Service. Seven of my colleagues cosponsored this amendment, which passed the Senate, but was not included in the bill that returned from conference.

I again attempted to address this situation in the Interior Appropriations bill, but it appears that we will be unable to do that at this time due to the inadequate budget allocation facing the Interior Appropriations Subcommittee. I would like to engage in a colloquy with the distinguished chairman of the Appropriations Committee on how we might address this situation in conference and advance the goal of living up to our commitment to provide essential health services to American Indians and Alaska Natives.

Mr. BYRD. Madam President, I am happy to address that issue with the majority leader. Can the leader tell me what would be required to offer the basic health services we promised to American Indians and Alaska Natives?

Mr. DASCHLE. Madam President, we have estimates of the funding that would be required to provide basic clinical services to American Indians and Alaska Natives. The President's fiscal year 2002 budget requests $1.8 billion for Indian Health Service clinical services. While this is an increase over the fiscal year 2001 appropriation, it will not allow the Indian Health Service to meet the basic level of health needs for American Indians and Alaskan Natives. For many years now, appropriations for the Indian Health Service have not even kept pace with medical inflation or population growth. The per capita spending on health care for each Indian Health Service beneficiary is only one-third of what is spent per capita for the general U.S. population. The Department of Health and Human Services and the Indian Health Service produce a tribal needs-based budget that calculates the true cost of meeting the health needs of Native Americans. According to these estimates, a $4.2 billion increase in the 2002 budget is required to meet the most basic health care needs.

The impact of serious, chronic underfunding of the Indian Health Service is immense. The disparities in health outcomes between American Indians and Alaska Natives as compared to other Americans is appalling. Infant mortality is just one example. An American Indian baby is 50 percent more likely to die before the age of one than a Caucasian baby. In some counties of my state, the infant mortality rate is 33.6 per 1,000, more than 5 times the Caucasian rate. The same disparities exist for diabetes, tuberculosis, alcoholism, liver disease, and fetal alcohol syndrome, all of which plague America's native communities at rates far above the incidence for other Americans. Sadly, the mortality rate for American Indians and Alaska Natives is higher than for all races in the United States; life expectancy is the lowest.

I know the distinguished chairman is concerned about these conditions, and I know that his efforts to increase Indian Health Service funding have been undermined by an inadequate budget allocation for this subcommittee. I certainly appreciate the severe constraints on the Appropriations Committee, particularly in light of the tax cut legislation recently enacted and the budget reestimates that indicate the projected budget surpluses are

dwindling. Still, I hold out hope that, as he and the other conferees negotiate with our colleagues in the House, they can find some way to provide additional funding for the clinical services budget of the Indian Health Service. I would not make this request unless I were truly convinced that we have fallen far short on our commitment to provide health care services to American Indians and Alaska Natives.

Mr. BYRD. Madam President, I assure the majority leader of my commitment to that effort. While we certainly will not be able to address all of the funding shortfall this year, I, too, am hopeful that we can find additional funds in conference to begin to address that shortfall.

Mr. COCHRAN. Madam President, I am concerned that there are members of the Mississippi Band of Choctaw Indians who are currently not allowed to be provided with health care services under the Indian Health Services Contract Health Services program. It is my understanding that there is a procedure which would allow the Mississippi Band of Choctaw Indians to include the approximately 300 tribal members who reside in Ripley, TN, within their authorized service area.

The Ripley community lacks the most basic health services. There are no resources for preventive health education and no access to either Indian Health Services or tribally operated facilities.

The Mississippi Band of Choctaw Indians has demonstrated a commitment to these tribal members by providing updated housing and other infrastructure and services. The tribe is currently constructing an appropriate health care facility at the Ripley Community. However, it is concerned that it does not yet have the authorization from Indian Health Services to provide those services.

I am sensitive to the constraints in the Interior Appropriations bill, which did not allow an increase in the Contract Services Program. I am hopeful that we can work with our colleagues from the House of Representatives in the conference for this bill to find additional funds for this program, to increase the likelihood that tribal members, no matter where they live, will be able to have access to the health services their tribe can offer.

Regardless of the funding situation, I hope that the Indian Health Services officials here in Washington, D.C., will review this situation and work closely with Chief Phillip Martin, the tribal council, and other officials of the Mississippi Band of Choctaw Indians, to expand its Contract Health Services area.

Mr. BYRD. The Senator from Mississippi has my assurance that I will support his effort to assist the tribe in his State. I encourage the Director of Indian Health Services to pay particular attention to the request of the Mississippi Band of Choctaw Indians to serve its tribal members in Ripley, TN.

ATLANTIC SALMON CONSERVATION

Ms. SNOWE. Madam President, my colleague from Maine and I would like to engage the subcommittee chairman and ranking member if we may.

Mr. BYRD. Please proceed.

Ms. COLLINS. I want to thank my colleagues from West Virginia and Montana for the support they have provided in their bill for Atlantic salmon conservation and restoration efforts in our State. I appreciate their fully funding the administration's request for $597,000 in the Fish and Wildlife Management Account as well as their willingness to make $1.1 million available to the National Fish and Wildlife Foundation to carry out a competitively awarded grant program to fund on-the-ground recovery efforts for Maine's Atlantic salmon.

Ms. SNOWE. I also want to thank my colleagues for their support for Atlantic salmon recovery. As the Senators know, the fiscal year 2001 Interior appropriations bill provided the funding to establish the National Fish and Wildlife Foundation's Atlantic salmon grant program. The program, which has leveraged an even greater amount of non-federal money, has been extremely successful at identifying and supporting innovative projects that will help with the recovery effort.

Mr. BYRD. I appreciate the comments of my colleagues from Maine and commend them for the hard work they have done to secure resources to help with the Atlantic salmon recovery efforts in their State.

Ms. COLLINS. In reporting its bill, the subcommittee originally provided $500,000 for the National Fish and Wildlife Foundation's Atlantic salmon grant program. It is my understanding that, in increasing funding for the program to $1.1 million, the subcommittee continues to meet the administration's request for $597,000 in funding for Atlantic salmon recovery efforts through the Fish and Wildlife Management Account.

Mr. BURNS. The Senator from Maine is correct. The subcommittee recommended an increase of $7,380,000 for Fish and Wildlife Management above the administration's request for this account. Of the $7,380,000, $600,000 has been reallocated as part of the manager's amendment to the U.S. Fish and Wildlife Service's General Administration Account for the National Fish and Wildlife Foundation's Atlantic salmon grant program, bringing the total provided by the bill for this program to $1.1 million.

Ms. SNOWE. The money that was provided last year has been utilized to engage a wide range of stakeholders, including local community groups as well as aquaculture, agriculture, and forestry companies in cooperative restoration efforts. They have worked hard to aid the rebuilding process. It is a reflection of the strong commitment of everyone in Maine that we have far more projects being proposed than funding to accommodate them all. I can assure you that the money you are providing today will make a significant impact. I thank the subcommittee chairman and the ranking member for their courtesy and continued support.

Ms. COLLINS. I also thank the Senators from West Virginia and Montana, and I look forward to continuing to work with them and the senior Senator from Maine to ensure that resources are available to assist in Atlantic salmon recovery efforts.

FUNDING FOR THE URBAN PARKS AND RECREATION RECOVERY FUND

Mrs. BOXER. Madam President, I would like to take this opportunity to clarify that it is the intent to seek additional funding for the Urban Park and Recreation Recovery Fund, UPARR, when the Senate Interior appropriations bill goes to conference.

UPARR plays a vital role in supporting the last remaining green spaces in some of our most congested urban areas. This program takes a relatively small amount of federal funds and leverages them to make a substantial contribution to the development and improvement of our nation's urban parks, playgrounds, and recreational areas. For many of my constituents, these small pockets of open space are a vital part of their community. They serve as playgrounds for children, meeting places for adults, and areas for fun, recreation, and respite from the daily hustle and bustle of our Nation's most economically and socially stressed neighborhoods.

I was pleased to see that the House included $30 million for this important program in its fiscal year 2002 Interior appropriations bill. This amount includes a slight increase over last year's funding levels and is consistent with the commitment made to this program last year in title VIII of the Interior appropriations bill.

I was disappointed, however, that the Senate bill did not match this funding level. I realize that this lower level of funding for UPARR is related to the lower overall level of funding in the Senate bill. When the bill gets to conference with the House, I hope we can accept the House level. Is that the chairman's intent?

Mr. BYRD. I agree with my distinguished colleague from California that UPARR is a worthy program. If additional funds become available in conference, I shall be glad to consider a higher level of funding for UPARR.

SEWALL-BELMONT HOUSE

Mrs. HUTCHISON. Madam President, I rise today to ask my colleagues Senator BYRD and Senator BURNS to work with me in conference on the Interior appropriations bill to ensure that the Interior Department provides funding for an important Capitol Hill landmark, the Sewall-Belmont House.

The Sewall-Belmont House has been a center of political life in Washington for more than 200 years. It was the home of Treasury Secretary Albert Gallatin from 1801 to 1813 and the only site in Washington to offer armed resistance when British troops invaded

the city in August 1814. The building later became a beacon of liberty for American women in the 20th century as the headquarters of the historic National Woman's Party and home of the suffragist leader, Alice Paul.

Congress provided $500,000 last year to begin much needed site preservation work at the Sewall-Belmont House. Funds will be needed this year to continue construction and ensure that this home remains a national treasure.

Recognition of the Sewall-Belmont House as a nationally significant heritage site has dramatically increased as a result of this preservation effort. Visitorship is steadily increasing, and the National Trust for Historic Preservation recently called the Sewall-Belmont House ''the most significant unrestored women's history site in the country.'' Again, I look forward to working with my colleagues to ensure funding for the continued preservation of Sewall-Belmont House.

Mr. BYRD. Madam President, I thank my colleague and share her commitment to preserving Sewall-Belmont House. As my distinguished colleague from Texas is undoubtedly aware, it will be difficult to address the funding needs of all the worthy requests before us. Nevertheless, I look forward to working with her in conference to address the funding needs of this unique historic site.

AUXILIARY POWER UNITS AND PORTABLE POWER IN THE DOE TRANSPORTATION FUEL CELL PROGRAM

Mr. HARKIN. Madam President, fuel cells, a family of technologies that produce energy electochemically, without combustion, are being developed for a exciting variety of applications. Some of these applications were not contemplated in 1992 when Congress authorized the Office of Transportation Technologies to support development in a variety of product areas. To its credit, the department has attempted to keep pace and to provide the most meaningful support possible to the research, development and demonstration of fuel cells.

My purpose today is to clarify the Senate's interest in two applications, auxiliary power units for motor vehicles and portable power. Auxiliary power units promise a substantial improvement in energy efficiency of vehicles of all types and may reach commercial readiness before complete fuel cell engine systems for vehicles. APU's might also encourage the development of fuel infrastructure and encourage consumer acceptance, readying the marketplace for fuel cell vehicles.

Successful development of fuel cell portable power units will also accelerate consumer understanding and market acceptance. The manufacture of portable power units would yield important experience in manufacturing technology and the increased production volumes would have a direct benefit in reducing the cost of fuel cell engines and systems for vehicles.

Is it the understanding of the distinguished chairman that these applications fall within the jurisdiction of the Office of Transportation Technology?

Mr. BYRD. Yes. The committee recognizes that vehicle auxiliary power units and portable power systems may be early commercial uses of fuel cells that would also develop infrastructure and experience needed for fuel cell vehicles, and considers these applications to be within the scope of the Office of Transportation Technologies fuel cell program.

Mr. HARKIN. I thank the Senator.

OHIO WATER PROJECTS

Mr. DEWINE. Madam President, I rise to enter into a colloquy with Appropriations Chairman BYRD and the ranking member of Interior Appropriations, Senator BURNS. I want to briefly discuss with my honorable colleagues an important conservation and recreation project that is of great interest to me and request their favorable consideration of $5 million for this project in the fiscal year 2002 Interior appropriations bill.

Madam President, a few miles west of Ohio's State capital of Columbus flow two outstanding waterways: the Big and Little Darby Creeks. These two creeks are recognized as State and National Scenic Rivers for their crystal clear water, their abundance of wildlife, and their importance to many Ohioans as a source of high quality outdoor recreation. The Nature Conservancy has even listed these watersheds as one of the ''Last Great Places'' in the Western Hemisphere. On more than one occasion, I have had the pleasure of visiting these two creeks. As a matter of fact, Mr. President, I spent a wonderful day canoeing on the Big Darby Creek earlier this week with two of my children.

Since 1959, the Franklin County Metro Parks have been purchasing land from willing sellers along these two creeks as part of their Battelle-Darby Creek Metro Park. The Park currently offers several recreational opportunities including a Streamside Classroom Education Program, a 1.6 mile walking trail, and several canoe access sites. In addition to welcoming the thousands of visitors the park receives each year, the park's dedicated and highly trained staff are conducting important wetland and prairie restoration programs in the area. At this time, there are several potential purchases that could substantially expand the park and ensure the protection of the creek and increase public access opportunities. I have urged my colleagues on the Interior Appropriations Committee to provide funding for these purchases.

I have discussed my interest in providing financial support for further expansion of the park with Senators BYRD and BURNS and I appreciate their willingness to enter into this colloquy. I also appreciate their interest in exploring funding opportunities for this project through the fiscal year 2002 Interior appopriations bill.

Mr. BYRD. Madam President, I have had the opportunity to discuss this project with Senator DEWINE, and I rise today to assure him that I appreciate and understand his interest in this important project and will give it serious consideration during further consideration of the fiscal year 1902 Interior appropriations bill.

Mr. BURNS. Madam President, I too have had the opportunity to discuss this project with my friend from Ohio. I share Senator BYRD's interest in examining potential funding opportunities to support this project.

WOLF RECOVERY PROGRAM

Mr. CRAIG. Madam President, I rise to commend Mr. BYRD and Mr. BURNS on their leadership and hard work on this bill. The subcommittee has had to make hard decisions about scarce resources and has labored to do so fairly. They have made real efforts to make sure the taxpayer's dollar is spent effectively and efficiently. I have seen first-hand, and appreciate, their dedication to the integrity of this process.

Would the distinguished gentlemen form West Virginia and Montana engage in a colloquy with me concerning the Central Idaho Wolf Recovery Program for the nonexperimental population of gray wolves?

Mr. BYRD. I would be pleased to engage in such a colloquy.

Mr. BURNS. As this program also affects my State, I too would be pleased to engage in a colloquy.

Mr. CRAIG. While I wish gray wolves did not reside in my State, they do, and they are not going away. Thus, I believe the U.S. Fish and Wildlife Service must be pro-active and aggressive in addressing issues related to the monitoring of the wolf population and working with the affected States of Idaho, Montana, and Wyoming to delist the population. The wolf population in Central Idaho is growing by leaps and bounds. As a result, permittees are faced with growing livestock-wolf conflicts. In addition, private property rights are infringed as these conflicts occur on private property. Yet the permittee must have a Federal permit to address conflict issues on their own land. Last, as the population grows, management efforts have not increased at the same rate. I feel that these individuals should not be punished because the wolves were re-introduced into central Idaho.

The subcommittee has worked to secure an additional $200,000 for the Central Idaho Wolf Recovery Program. I fee this additional money should be used to increase monitoring efforts and increase communication with potentially affected permittees, as well as, to focus efforts on defining and meeting criteria for delisting the wolves in central Idaho. I believe these funds should work to provide Idaho with flexibility in managing the wolf population to meet the needs of those most affected by the wolves.

Mr. BYRD. I will work with Mr. CRAIG to see that these funds are used for monitoring of the central Idaho wolf population.

Mr. BURNS. I agree with the gentleman from Idaho, these funds should be used to provide flexibility in managing the wolf population of central Idaho.

JUDICIAL TRAINING IN THE PACIFIC ISLANDS

Mr. SMITH of Oregon. Madam President, I would like to discuss with my distinguished colleagues, the chairman of the Appropriations Committee, and the ranking member on the Interior Appropriations Subcommittee, the need for judicial training in the Pacific Islands.

I have been working over the past year with the judges of the ninth circuit, the circuit charged with overseeing the judiciary in the Pacific Islands, to help them secure the funds to conduct a needs assessment for the training of judges in the United States territories and Freely Associated States in the Pacific. That assessment has been completed, and has identified the need for more training programs for nonlawyer and legally trained judges.

The judges of the ninth circuit have worked with the National Judicial College to design two separate one-year training programs for judges in the Pacific Islands. One is aimed at nonlawyer judges, and would be conducted in Pohnpei, the capital of the Federated States of Micronesia, in order to be the most cost effective. The second program would be conducted in the United States, and would be geared toward chief justices or presiding judges.

These training programs are necessary to help Pacific Islands facing burgeoning populations and judicial systems that are not fully developed. The need for further training of these judges has long been recognized by the ninth circuit. This program has the full support of the judiciaries in American Samoa, Guam, the Commonwealth of the Northern Marianas, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.

If we are to expect these areas to be able fully and effectively enforce applicable laws, including traditional laws, then we must ensure that the persons who serve in the local judiciaries are fully trained. Of all the technical assistance programs that we provide to improve the operations of government, this particular program has the greatest potential for improving society and the quality of life in these islands.

The cost of this 1-year program would only be approximately $100,000. I ask my colleagues' support in encouraging the Secretary of the Interior to support this effort.

Mr. BYRD. I support the training of these judges and would be pleased to encourage the Secretary to support this effort as well.

Mr. BURNS. I, too, support such an allocation by the Secretary.

DON EDWARDS NATIONAL WILDLIFE REFUGE

Mrs. FEINSTEIN. Madam President, I rise to join the chairman and ranking member of the Interior Subcommittee to discuss an issue important to the State of California. That is the continuing funding for the acquisition of San Francisco baylands adjacent to the Don Edwards National Wildlife Refuge.

Since the early 1900s, more than 90 percent of California's interior wetlands have been lost to development and other land use changes. The property for purchase constitutes more than 13,000 acres of salt ponds at the edge of San Francisco Bay, which itself provides important habitat for more than 1 million birds per year. This purchase will increase the bay's wetland area by 50 percent.

Mr. BYRD. I am familiar with this project. As I understand it, the owner of the land is asking for $300 million in Federal and State funds for the 13,000 acres. While, this may be a worthwhile endeavor, I question whether it will be possible to allocate such a large sum.

Mrs. FEINSTEIN. I understand the chairman's concern about the level of funding required to complete this purchase. I share his concern. I am personally working with all parties involved in the agreement in an effort to substantially reduce the federal share of the purchase price.

I am concerned, however, that by providing no funding in the fiscal year 2002 Interior appropriations bill, the seller will be forced to seek other buyers. This would be a lost opportunity of historic proportions. It would be my intention to secure a small amount of funding in the Senate bill to keep the project alive as we move forward in appropriations process with the goal of increasing the project's appropriation should a more realistic price be negotiated.

Mr. BURNS. As the Senator from California knows, funding for the Fish and Wildlife Land acquisition account has already reached its cap and any new funding would have to be offset from within the account.

Mrs. FEINSTEIN. I am aware of the problem raised by the ranking member. To this end, I am willing to reduce funding for two California land acquisition projects—the San Diego National Wildlife Refuge and the San Joaquin National Wildlife Refuge—by $250,000 each. I want to be very clear—I fully support these projects. In fact, they were included in the bill at my request. I intend to see that they are fully funded by the end of this process. However, due to the procedural necessity of providing an offset, the only way to ensure that all three equally important projects go forward is to make this reduction. Should the interested parties fail to come to an acceptable agreement over the San Francisco baylands, the funding could return to the San Diego and San Joaquin projects.

Mr. BYRD. I thank the Senator from California for this statement. With these assurances, I will support the reduction of funds at the San Diego National Wildlife Refuge and the San Joaquin National Wildlife Refuge, and the increase of funds at the Don Edwards National Wildlife Refuge.

JACOB RIIS PARK

Mr. SCHUMER. Madam President, I want to take a moment to thank Senators BYRD and BURNS for their stewardship of the Interior appropriations bill for fiscal year 2002. Their work on this bill will secure millions of dollars in funding to help preserve our Nation's precious natural resources, and I support their efforts wholeheartedly.

My colleague from New York, Senator CLINTON, and I would like to take a moment to engage our colleague in a colloquy.

Mr. BYRD. I thank my colleague for his kind words and will be happy to engage in a colloquy with the Senators from New York.

Mr. SCHUMER. In 1905, New York City's officials entered into an informal agreement with the New York Association for Improving the Condition of the Poor, an organization co-founded by journalist Jacob Riis, to build a recreational facility for the relief of New York tenement dwellers. The resulting Riis Park, opened to the public in 1936, provided opportunities for diversion to millions of city residents. The facility became part of the National Park Service's Gateway National Recreation Area in 1974, and nearly 30,000 people continue to visit this historic site every weekend.

Over the past few years, I have worked with colleagues from both sides of the aisle, in both the Senate and the House, to try to secure funding toward the construction of a natatorium complex at Jacob Riis Park. This project is supported by the New York Landmarks Conservancy, the Historic Districts Council, and the Queensboro Preservation League, as well as the thousands of constituents who turn to this park as a resource for recreation opportunities every spring, summer, and fall.

Mrs. CLINTON. Madam President, Riis Park serves an ethnically diverse population including hundreds of inner-city families, adhering to the ideas envisioned by Jacob Riis and carried on by City Parks Commissioner Robert Moses. By investing in this urban park, our government can ensure that it remains a viable resource for years to come. I stand in full support of funding for the Riis Park Natatorium Complex.

Mr. SCHUMER. My colleague and I have an inquiry to make of the chairman of the Appropriations Committee, the Senator from West Virginia. Both the House and Senate reports to the Interior appropriations bill for fiscal year 2002 have included $4.13 million in National Park Service construction funding for rehabilitation of Jacob Riis Park. Would the chairman support the use of these funds for construction on the Riis Park Natatorium Complex?

Mr. BYRD. I appreciate the remarks of the Senators from New York, and would support the use of these funds for such construction.

Mr. SCHUMER. I thank the Senator from West Virginia. I thank the Chair.

Mrs. CLINTON. I thank the Chair.

DEPARTMENT OF AGRICULTURE, UNITED STATES FOREST SERVICE

Mr. CLELAND. Madam President, I first thank my distinguished colleagues for their leadership and superb management of this bill. I want to take a moment to express my support for a matter of great importance to the people of my State, specifically obtaining funding for land acquisition in the Chattahoochee National Forest. I understand that the $2,320,000 included in the Appropriations Interior Subcommittee report for that purpose will be used to purchase available tracts of land in, or bordering, the Chattahoochee National Forest in Georgia. I inquire of the distinguished Senator from West Virginia and chairman of the committee, am I correct in understanding that $1,300,000 of that total is intended to purchase property at Mount Yonah near Helen, GA, with the remainder being used to purchase property at Jack's River near the Cohutta Wilderness and the Etowah River near Dahlonega, GA?

Mr. BYRD. The Senator from Georgia is correct regarding the committee's intent.

Mr. CLELAND. I thank the Senator for his inclusion of these worthwhile projects in the Interior appropriations bill.

TECHNICAL ASSISTANCE FOR THE NEW RIVER GORGE NATIONAL RIVER PARKWAY

Mr. BYRD. Madam President, I want to take a moment to ask the ranking member for his agreement to continue a program of importance to the State of West Virginia. The New River Gorge National River is a scenic whitewater river that flows through deep canyons and rugged terrain. The Congress has provided $125,000 annually for technical support and maintenance on the New River Gorge National River Parkway. Would the ranking member agree that funding for this purpose be continued within the National Park Service appropriation in fiscal year 2002?

Mr. BURNS. I agree with the distinguished chairman that this funding should be continued in fiscal year 2002.

NORTH AMERICAN WETLANDS CONSERVATION ACT AND CADDO LAKE INSTITUTE WETLANDS PROJECT

Mrs. HUTCHISON. Madam President, I rise today to thank my colleagues Senator BYRD and Senator REID for agreeing to work with me in conference on the Interior appropriations bill to ensure that the Interior Department funds the Caddo Lake Institute's wetlands project in east Texas through the North American Wetlands Conservation Act.

Caddo Lake and its associated wetlands provide habitat for over 150 species of fish and wildlife. It is one of only 17 wetlands in the U.S. that has earned the distinction of being designated a Ramsar wetland of international importance pursuant to the international wetlands convention signed in Ramsar, Iran in 1971. Caddo Lake earned this distinction, in part, because the local community surrounding Caddo Lake spearheaded a long effort to convert the area from an army ammunition plant to a refuge for fish and wildlife. With that accomplished, the next stage of the effort is to secure North American Wetlands Conservation Act funding through the Interior bill for the Caddo Lake Institute so that it may advance the planned restoration and wetlands education work at the lake. The Institute has been the local voice and enduring champion for Caddo Lake.

Mr. REID. I would like to be associated with the remarks of my colleague from Texas. I was fortunate to learn about Caddo Lake and the Institute's wetlands work at an April 10, 2001 Senate Committee on Environment and Public Works Committee hearing on wildlife conservation efforts. The premise of that hearing was that national and international conservation goals stand a better chance of accomplishment if they are driven by the local community.

Caddo Lake is a perfect illustration of that idea. At the lake, the local community organized the Caddo Lake Institute and then worked with the State of Texas and the federal government to further the conservation and educational wetland resources there. This not only implements important wetland conservation goals in the North American Wetlands Conservation Act and the Clean Water Act, but also the charge of the Ramsar Convention; that is, it implements both national and international conservation goals. Congressman MAX SANDLIN from the region testified eloquently about the beauty and value of the lake at my April 10 hearing, and I am happy to work with my colleagues to advance the important conservation and education work at Caddo Lake.

Mr. BYRD. I thank my colleagues for their work on this issue, and will work in conference to encourage the Interior Department to continue the work my colleagues have begun by funding a Ramsar-based wetland science, site management and education program through the Caddo Lake Institute working in partnership with the Division of International Conservation and the National Wetlands Research Center.

HTIRC

Mr. LUGAR. Madam President, I appreciate the previous support the subcommittee has granted to the Fine Hardwoods Tree Improvement and Regeneration Center at Purdue University. The HTIRC is engaged in research problems and technology transfer related to the regeneration of fine hardwoods. It is a regional center emphasizing not only genetic improvements and silvicultural goals, but addressing wildlife and riparian buffer issues and providing information and outreach to forest landowners.

In establishing the center, I worked with Dr. Robert Lewis of the Forest Service. The project has widespread support and is financially supported not only by the Forest Service and Purdue University, but by the Indiana Department of Natural Resources and by a very wide variety of forest landowner, industry groups and foundations. It is designed to improve the quality of hardwood tree seedlings and to address the annual shortage of hardwood tree seedlings in the midwest.

The Forest Service and the Department of Agriculture view the center as an excellent example of cooperation between government, academia, and industry in addressing important issues concerning the regeneration of hardwoods. The proposed new forest biology building and laboratory complex will soon house eighteen Forest Service employees and would provide office space and high tech laboratories for these Forest Service employees rent-free and without any charges for maintenance or services over the lifetime of the facility.

The total cost of the forestry complex is $27 million. Purdue has committed $20 million to this effort. The remaining $7 million would be derived from the Forest Service as its share of the cost to house its employees, who would receive office space rent-free and maintenance-free over the lifetime of the facility. Based on a life cycle analysis, the Forest Service has concluded that this degree of cost sharing is fully justified and is in fact extremely favorable to the Forest Service.

I thank the chairman and the ranking member for including a provision in this bill that releases $300,000 in previously appropriated funds for the design and construction of this facility. Construction of the facility is planned to begin during fiscal year 2002 and the Forest Service share of that fiscal year's funding needs is estimated at $2 million.

Mr. BURNS. I understand the need for the project, and I appreciate the Senator's leadership and strong desire to bring this into fruition.

Mr. BYRD. Senator BURNS and I will work with the Senator from Indiana to see if we can find sufficient resources through the conference process to support the Forest Service's share of this worthy effort.

CANE RIVER NATIONAL HERITAGE AREA

Ms. LANDRIEU. Madam President, I express my sincere appreciation to the distinguished floor manager and chairman of the Appropriations Committee for support of my request to provide funds for the Cane River Creole National Historical Park and Heritage Area. This park, one of America's most unique historical parks, is in Natchitoches Parish, LA, the seat of Louisiana's oldest settlement and home to one of the most interesting and unique cultures in the United States. It is my understanding that the committee report recommends $650,000 for the Cane River National Heritage Area.

Mr. BYRD. The Senator from Louisiana is correct. We were pleased to be able to recommend funding for this high priority of the Senator.

Ms. LANDRIEU. With the Senator's forbearance, I want to clarify the purposes for which these funds are allocated. My request to the committee, and I assume the committee's recommendation, will continue funding for the Cane River Heritage Area at last year's rate of $400,000 for salaries, expenses and grants and will make available to the Creole Center at Northwestern State University $250,000 to support important research and documentation of Creole culture in Louisiana. Is this the committee's intent?

Mr. BYRD. Yes. In developing this recommendation the committee assumed funding for both these activities in the amounts the Senator described.

MINNESOTA FOREST FUNDING

Mr. WELLSTONE. Madam President, I ask consent to engage in a colloquy with my distinguished colleague from West Virginia, the chairman of the Appropriations Committee and of its Subcommittee on Interior. The purpose is to discuss two items in the bill which relate to the management and vitality of national forests in my state of Minnesota—specifically, the Superior and Chippewa National Forests. The chairman and the subcommittee have done a very commendable job in the bill of providing needed funding for the continued multiple uses of our national forests. I would like to draw his attention to two provisions important to Minnesota.

First, as my colleague knows, on July 4, 1999, both the Superior and Chippewa National Forests bore the brunt of a massive, once-in-a-thousand years wind and rain storm that devastated parts of northern Minnesota. The storm damaged over 300,000 acres in seven counties, including as much as 70 percent of the trees in our national forests, and it washed out numerous roads. The damage severely hindered the U.S. Forest Service's ability to responsibly manage both the Chippewa and Superior National Forests.

The ''blowdown'' of trees created extreme risk of catastrophic fire due to the amount of downed and dead timber. Yet while the storm has changed affected portions of the forests for years to come and has created new risks and experiences for visitors and residents, officials from the Superior and Chippewa National Forests officials have been working with state, county, and local officials on storm recovery activities and planning to meet future needs. Key to that recovery is help provided last year in this bill. The Senate last year provided $14 million for efforts that continue today. I was pleased to work with the chairman, and I still appreciate his support at that time.

At the same time, there remains a dangerous fire threat in Superior and Chippewa, and the Forest Service plans to continue their recovery work there through fuel reduction, reforestation and general rehabilitation. The bill before us contains increased general funding for such management, recovery and rehabilitation, and I would seek my colleague's assurance that it is his understanding that an adequate portion of that funding will allow the Superior and Chippewa National Forests to continue their crucial efforts.

Mr. BYRD. I am aware of the devastating storm that affected my colleague's state in 1999, and I was pleased to assist the Senator from Minnesota at that time. The recovery efforts begun with that funding should certainly continued as needed, and I believe the subcommittee intends that this bill will provide adequate resources to complete scheduled work in the Superior and Chippewa National Forests.

Mr. WELLSTONE. I thank my colleague. The second item I would like to mention is that both the Superior and Chippewa National Forests are currently working to complete their forest management plans. The existing plans for these two forests, last revised in 1986, guide the forests' multiple use missions and lay out goals for habitat protection, resource production, soil protection and other aims. The National Forest Management Act requires an update of forest plans every 10–15 years. The Chippewa and Superior National Forests are now jointly revising their plans. This process allows efficient public participation rather than two parallel processes. It also provides greater consistency in resource management between the forests. Substantial public involvement has already helped develop the purpose and need for revising the plans, defining the issues and building a preliminary set of alternatives. The forests have ongoing consultation with four Minnesota Bands of Ojibwe, the Minnesota Department of Natural Resources, seven adjacent counties, as well as various interested stakeholders. The current forest planning work includes incorporating a required species viability evaluation initiated during 2000. While the 1986 forest plans continue to provide direction during the revision process, with ongoing public involvement, a final environmental impact statement and revised forest plans are expected in next year.

Again, I am seeking my colleague's reassurances that sufficient land management planning funds in this bill should be available to the Superior and Chippewa National Forests to allow for full revision of their forest plans?

Mr. BYRD. I appreciate the Senator's attention to this issue. He is correct to point out the commendable work underway in the Minnesota forests. The Senator is aware that the President requested $70,358,000 for land management planning in fiscal year 2002, while this Appropriations Committee has provided $70,718,000, an increase of $360,000. For that reason, I agree, and I believe the subcommittee would agree, that this legislation should provide adequate resources to the Superior and Chippewa National Forests to complete their forest management plans.

''CRITICAL ENERGY EFFICIENCY PROGRAMS''

Ms. CANTWELL. Madam President, I rise today on behalf of myself and Senators BINGAMAN, BOXER, and DORGAN, to state our strong support for critical energy efficiency programs within the Department of Energy. My colleagues and I have been working with the chairman and ranking member over the last few days to restore and fully fund these important programs. We believe that the proven efficacy of these programs merit allocation of additional funds.

The Federal Energy Management Program, or FEMP, uses alternative financing vehicles, technical assistance, and outreach campaigns to make our federal agencies more energy efficient. Although this program uses only a small amount of federal funding, its energy reduction strategies save the U.S. government, and thus American taxpayers, hundreds of millions of dollars a year. This program has proven to be a great investment. The Federal government is the largest user of energy in the United States and FEMP has helped reduce energy use per square foot of floor area in federal buildings by 19 percent since 1985, resulting in cumulative savings of $6 billion since 1985. FEMP has also trained over 13,000 federal energy managers, assisted with the design of over 200 energy saving projects, and helped federal agencies make use of market-based energy saving performance contracts.

These are the type of programs we must support, programs that provide a great return for our Federal dollars and keep returning those benefits year after year. These programs also lessen the environmental impact of the federal government, reduce our government's dependence on foreign oil, and leverage private sector resources.

I also suggest expanding several successful, community-based building technology assistance programs. These programs provide technical assistance, demonstrations, training, and education to communities to accelerate the use of innovative and cost-effective energy technologies, strategies, and methods. One particularly successful example is the Energy Smart Schools campaign that provides a comprehensive portfolio of energy efficiency technologies, and works directly with national, state, and local organizations that influence school construction and modernization.

Let me share with you how Seattle Public Schools used this program to reap the extensive rewards of energy-saving retrofits. Through a collaborative effort involving Seattle City Light, Seattle Public Utilities, Puget Sound Energy, and the Bonneville Power Administration, dozens of Seattle public schools received lighting retrofits, water conservation measures, upgraded energy management systems, and education on how to use energy more efficiently. Combined, these efforts reduced the school system's annual energy bills by a third, saving 15.5

million kilowatts of energy. I urge the Department to commit these additional funds in the Western states that have been severely impacted by the electricity crisis.

Because the budget allocation in the Senate is significantly less than the House, the Weatherization Program also has received less funding in the Senate than in the House bill. It is an effective program—for every one dollar spent, three are saved.

Mr. Chairman, my colleagues and I appreciate the budgetary constraints that we must operate within for the Interior and related agency appropriations bill. We appreciate the chairman's assistance in increasing funding levels for these programs.

Could the chairman of the Appropriations Committee inform me as to his intention with regard to increasing the funding levels of these key energy conservation programs?

Mr. BYRD. I agree that these energy conservation programs are very important. If additional funds are available during conference, I would consider increases in these programs.

Ms. CANTWELL. Thank you for your support.

RESTORATION AND MAINTENANCE OF THE ARLINGTON HOUSE

Mr. WARNER. Madam President, I rise to enter into a colloquy with Chairman BYRD and Ranking Member BURNS concerning the renovation and restoration needs of the National Park Service property, the Arlington House, across the Potomac River in Arlington National Cemetery.

Arlington House is uniquely associated with the historic Virginia families of Washington, Custis and Lee. It was built by George Washington Park Custis and was the home of Robert E. Lee until the Civil War. Over the years, Arlington House has become an integral part of the core monument area here in the Nation's Capital. Not only is it located at the center of the Arlington National Cemetery, but it is emblematic of the post-Civil War bond between North and South, Abraham Lincoln and Robert E. Lee are symbolically united by the Memorial Bridge which connects the Lincoln Memorial to Arlington House.

In recent years, the National Park Service has been unable to properly maintain the physical structure of Arlington House to safeguard its artifacts and collections, thereby causing many of the rooms in this historic house to be closed to the public.

The National Park Service has identified the total funding requirements to restore Arlington House. It is my understanding that a minimum of $2.5 million is needed in fiscal 2002 to preserve this facility.

I am aware that the chairman and ranking member were faced with many significant funding demands in this bill. They have done an admirable job to provide the maximum amount of funding available to preserve our nation's historic resources. I bring to their attention the significant needs of Arlington House and respectfully request that in conference with the House that this matter be given their attention.

Mr. BYRD. I thank the Senator from Virginia, Mr. WARNER, for his interest in the historic Arlington House. I am aware that funding for the restoration needs for the Arlington House was requested in the President's budget and I can assure the Senator from Virginia that the committee will carefully consider this important project as we continue to assess the maintenance and restoration needs of National Park Service properties.

Mr. BURNS. I concur with Chairman BYRD and can assure the Senator from Virginia that the restoration of the Arlington House will receive our attention during the conference with the House of Representatives. We will make every effort to address the needs of this historic home.

THE FOREST SERVICE AND WILD FIRES

Mr. STEVENS. Madam President there is a serious crisis in my home State of Alaska on the Kenai Peninsula, where literally millions of trees have been killed due to insect infestation. This is causing a major fire danger situation. Many homes and communities are at risk. I was very disturbed to learn recently that the Forest Service had initiated a prescribed burn near Seward that got away from them when the wind shifted. While fortunately the fire was contained before it damaged private property, this incident causes me to be concerned about the level of oversight the agency uses when burning in these very high risk areas.

Mr. BYRD. I recall that my friend from Alaska mentioning this during the committee markup of this bill. I assure you now, as I did then, that I am ready to help in any way possible to be sure the Forest Service applies adequate oversight to its hazard reduction activities.

Mr. STEVENS. I appreciate the chairman's remarks. I just recently met with Chief Dale Bosworth of the Forest Service and expressed my concern. I asked the chief to promptly provide me with a report that addresses how communities that are at risk can be assured when the agency plans a prescribed burn, that all potential factors are taken into account, and the decision to initiate a prescribed burn has been adequately reviewed. I also asked the chief to insure that local elected officials concerns are accounted for before a burn is ignited and to look at naming a Forest Service official in each region who would be in charge of approving any burn plans. I have also provided an amendment that I understand is in the managers package that addresses the specific situation with the prescribed burn I just noted on the Kenai and other areas of high fire risk across the country. This amendment provides the Forest Service with the authority to use $15,000,000 of Wildland Fire Management funds on adjacent non-federal lands, using all authorities available to the agency under its State and Private Forestry Appropriation. These funds will be available for reducing fire hazard on adjacent non-federal lands and protecting communities when hazard reduction activities planned on adjacent national forest lands. The Forest Service assures me that portions of these funds will be used to protect communities on the Kenai Peninsula. I expect the Forest Service to strongly consider areas of the Kenai as candidates for the stewardship end results contracting, as specified in Section 347 of public law 105–277, and which the committee has amended to provide for up to 28 additional contracts.

Mr. BYRD. I am pleased to include this amendment in the managers package and feel it will be extremely helpful in protecting communities from the threat of wild fire.

SMITHSONIAN CENTER FOR MATERIALS RESEARCH AND EDUCATION

Mr. SARBANES. Would the distinguished chairman yield for the purpose of a colloquy regarding language contained in the bill concerning the Smithsonian Center for Materials Research and Education.

Mr. BYRD. I would be happy to yield to my friend, the senior Senator from Maryland.

Mr. SARBANES. Mr. Chairman, I remain deeply concerned with the Secretary of the Smithsonian's decision to close a number of the Institution's scientific and research facilities, including the Smithsonian Center for Materials Research and Education (SCMRE) located in Prince George's County, MD. It is my understanding that language contained in the bill would preclude any funds to be utilized for the purpose of closing SCMRE and the other relevant facilities without the approval by the Board of Regents of recommendations made in this regard by the Secretary's proposed Science Commission.

Mr. BYRD. The Senator is correct.

Mr. SARBANES. It is also my understanding that the bill provides sufficient funding to ensure that SCMRE's programs can continue at last year's level.

Mr. BYRD. The Senator is again correct.

Mr. SARBANES. For nearly 40 years, researchers and scientists at SCMRE have been leaders in the field of preservation research and analysis. They have contributed greatly to the conservation efforts of museums and institutions throughout the nation and around the world by offering training programs and technical assistance. I would like to quote from an editorial that appeared on May 8 in the New York Times that captures the importance of preserving this facility:

. . . [C]aring for artworks, which can often be done in museum labs, is far different from scientifically studying how to care for them. Over the years, the Materials Research Center has created an extensive store of archaeological data based on its work on collections from around the world. It makes no

sense for the Smithsonian—the most remarkable accumulation of objects on earth—to close a national laboratory whose very purpose is to analyze the material basis of its collections.

I thank the chairman for his time and commend him for his leadership and assistance in this matter.

Ms. COLLINS. Madam President, I rise to thank the managers of the fiscal year 2002 Interior appropriations bill for working with me to provide Forest Legacy funding for an important conservation project in the western mountain region of Maine.

In drafting the Interior appropriations bill for fiscal year 2002, the managers have demonstrated, once again, their commitment to promoting conservation. I am particularly pleased that the bill funds Forest Legacy at $65 million—the most that has ever been allocated for this important and growing program—and I am grateful for the support Chairman BYRD and Senator BURNS have given to projects in my Sate this year and in years past.

Neither the Interior appropriations bill that passed in the house nor the Senate bill voted out of committee included funding for the Tumbledown/Mt. Blue conservation project in the western mountain region of Maine. Because of the importance of this project to my State, I proposed an amendment to the bill to dedicate Forest Legacy fund to the Tumbledown/Mt. Blue initiative. Chairman BYRD and Ranking Member BURNS have graciously agreed to accept a modified version of my amendment, which will earmark $1 million for the project.

The western mountain region of my State is a beautiful area that has long been valued for recreation, natural resources, scenic values and productive forest lands that fuel Maine's forest product industries. These traditional uses, which would be protected in perpetuity by this conservation project, are of tremendous value to the local communities and the region's economy.

Recent changes in land ownership and land use has led to local concern that the character of the Tumbledown/Mt. Blue area will be permanently altered. This has prompted the State, local businesses, and conservation groups to promote a long-term conservation vision for the region that will prevent this forested landscape from being converted as a result of development pressures. Making this conservation vision a reality entails the acquisition of 31,240 acres around Mt. Blue State Park and along Tumbledown Mountain through fee and easement purchases.

Funding the Tumbledown/Mt. Blue Conservation project will enable the State to protect critical properties adjacent to the park and some of Maine's most scenic areas—including Tumbledown Mountain, Jackson Mountain, Blueberry Mountain, and trailheads leading to these peaks. I would also proudly point out to my colleagues that Mt. Blue State Park is one of Maine's most popular recreation spots and was recently voted by Outdoor magazine as one of the ten best family vacation areas in the country. The area contains rugged summits, alpine ridges, and wetlands, as well as habitat for the federally listed bald eagle and one of Maine's only successful peregrine falcon nesting terrorities.

I am pleased to say that several landowners within the project area are ready now to put their resource lands into a conservation plan that will permanently protect and allow public access to recreation lands, scenic areas, and trailheads leading up Tumbledown, while providing for sustainable harvesting on the more productive and less environmentally sensitive forested areas. This is a locally driven win-win approach to resolving the various concerns that arise out of changes in the region. I applaud the many individuals and groups that have invested time in bringing this project about. It is heartening to know how deeply they care about their community, and I appreciate having this opportunity to determine my support for their efforts.

Last year, because of the generous funding level the Interior Subcommittee was able to provide the Forest Legacy Program, $1.17 million was allocated to the Mt. Blue/Tumbledown Mountain project for the first phase of acquisition. This year, to complete the project another $4 million is needed. I am concerned that unless we make funding progress in fiscal year 2002 with the willing sellers now in place, Maine will lose a once-in-a-lifetime opportunity to protect a truly wonderful resource.

I want to thank very much the Senators from West Virginia and Montana for their willingness to work with me and Senator SNOWE on this critical important project.

Mr. SMITH of New Hampshire. Madam President, I would like to take this opportunity to commend an agreement that was reached with regards to the Landrieu-Smith amendment to the Interior appropriations bill. Simply put, the purpose of the amendment was to fix what is essentially a technical concern with the bill and improve the way that States received their portions of the $100 million. This would be done by utilizing an already established wildlife conservation fund and its formula parameters instead of creating a new program with a new formula.

I do want to make it clear that I am extremely supportive of the funding that is provided in this Interior appropriations bill for the State Wildlife Grant Fund. I believe that these dollars will be of great benefit to State efforts to protect wildlife populations. I am especially pleased that the bill allows the States to determine the manner in which to utilize these resources.

The Landrieu-Smith amendment would seek to use the Wildlife Conservation and Restoration Program, under the popular and successful Pittman-Robertson Program, that was established in the fiscal year 2001 Commerce-Justice-State appropriation law. The law also provided $50 million under formula apportionment to the States for high priority wildlife conservation, education and recreation projects. That language was included at my request because of my concern for equitable distribution of valuable conservation funds. In fact, I have recently introduced a bill—the American Wildlife Enhancement Act of 2001, S.990—that would extend the authorization of that program through 2006. The Landrieu-Smith amendment would allocate the $100 million set-aside for the State Wildlife Grants Fund to the already established Wildlife Conservation and Restoration Program.

Adoption of our amendment would improve, and make more equitable, the way that these dollars are allocated to the States. Our amendment would allow for the allocation of funds under the formula established last year in the Wildlife Conservation and Restoration Program. Funding in that program is based two-thirds on the population of the State and one-third on the land area. It also guarantees that a single State would receive no less than one percent and no more than five percent of the available funds. This formula was supported by all 50 State fish and wildlife agencies as being the most equitable distribution to address conservation needs throughout the country.

The Interior appropriations bill that was reported by the Appropriations Committee would have changed that formula. This would result in a considerable gain of funds for only 2 States, but a loss for 37 other States. To change the already established formula would compromise the ability of the majority of our states to effectively address their wildlife conservation needs.

I am seeking to change back to what was established last year because I believe that is what is most fair to all States and already has their strong support. Regardless of whether or not our amendment was agreed to, New Hampshire's funding will not be impacted—to me it is an issue of fairness.

It also makes much more sense to appropriate the $100 million to an already existing account with set allocation parameters that has demonstrated success than to create a new bureaucratic process. The U.S. Fish and Wildlife Service and State fish and wildlife are agencies already familiar with the Wildlife Conservation and Restoration Program and could administer the program efficiently. Why impose a new set of criteria for allocation of the fiscal year 02 funds when the previously established criteria works so well?

Through excellent cooperation between the Fish and Wildlife Service and the State fish and wildlife agencies, all 50 States have already qualified to receive their apportionment of the $50 million made available by last

year's Commerce-Justice-State appropriations law and are in the process of submitting their project agreements. Adopting this amendment would have allowed this process to continue smoothly into the next fiscal year.

I am pleased to support what I believe is a fair compromise to this amendment. The Interior appropriations bill that passed the Senate this evening reflects the changes in the formula that our amendment intended to make, without sending the funds through the Wildlife Conservation and Restoration Program. Even though the previously established account is not being used to distribute the funds, I am pleased that the funds will be allocated using a formula that all 50 State fish and wildlife agencies have agreed to as fair and equitable.

Mr. VOINOVICH. Madam President, I rise in favor of the Landrieu amendment to the Interior appropriations bill regarding the distribution of $100 million in state wildlife grants for priority wildlife conservation, education, and restoration projects. As currently written, the Interior appropriations bill changes the way these grants are allocated to the States. The change would negatively affect the amount of grant money most states would receive.

Last year, Congress established the Wildlife Conservation and Restoration Account as part of the Pittman-Robertson Wildlife Restoration Fund. It was Congress' intent that funds from the account be distributed to the states through a formula based on one-third of the land area of a state and two-thirds population. Congress also said that no state will receive less than one percent or more than five percent of the total funding.

The Landrieu amendment would distribute the funds under the same formula allocation that was enacted last year by directing them through the Wildlife Conservation and Restoration Account.

All 50 State fish and wildlife agencies agree that the formula Congress enacted last year is the most equitable distribution of these funds. If we agree to the formula proposed in the Interior appropriations bill, 37 States will receive less money. Ohio would receive over $100,000 less than under the already established formula. The Ohio Department of Natural Resources supports the Landrieu amendment.

With so many States facing such large reductions in the amount of grant money they would receive, it makes sense to distribute these funds based on the equitable formula that Congress agreed to last year. Support of the Landrieu amendment will ensure that the $100 million appropriated for State wildlife grants is distributed fairly and provides all states with the funds they need for their most critical wildlife and conservation projects.

Mr. INOUYE. Madam President, in the managers' package is contained an amendment which provides for the repeal of section 819 of the Omnibus Indian Advancement Act.

In my view, this is a matter that is more appropriately addressed in the authorizing committee of jurisdiction, the Committee on Indian Affairs.

Accordingly, I intend to work with my colleagues to see that this proposed repeal of a section of authorizing legislation is removed from the Interior appropriations bill and addressed in the appropriate forum.

Mr. COCHRAN. Madam President, this bill is the first appropriations bill for fiscal year 2002 the Senate is considering. I am pleased to be a member of the subcommittee that has the responsibility for writing this bill each year.

I have enjoyed working on the issues and programs that must be addressed each year during our hearings and the development of this legislation.

The Department of the Interior and the U.S. Forest Service have a major presence in my state. The levels of funding for their activities and responsibilities in Mississippi have a significant impact on our interest in protecting our natural resources and historic attractions.

I'm glad the Committee's bill provides an increase in the funding for operation and maintenance of the Natchez Trace Parkway. The beauty and living history facilities of this parkway attract tourists and local visitors alike, and its completion has been one of my highest personal priorities.

The Vicksburg National Military Park will be enhanced by the acquisition of the house used by General Pemberton as his headquarters during the siege of Vicksburg. Along with funding for a needed stabilization project, this commitment will enable the Park to continue to attract more than one million visitors each year.

There are also funds in this bill to help pay the cost of acquisition, as part of the Gulf Islands National Seashore, of Cat Island, which is located in the Gulf of Mexico off the Coast of Mississippi.

Other provisions of this bill allow the continued construction of the Franklin County Lake in the Homochitto National Forest which will be a very important recreational resource for the people of southwest Mississippi.

An increase in funding is also provided in the bill as payments in lieu of taxes to counties that contain federal lands. This will help offset the losses that have occurred in many of these counties by changes in forest management policies of the U.S. Forest Service.

The bill also includes $6.3 million for research programs that will be performed by the University of Mississippi and Mississippi State University.

The National Park Service is also responsible for the operation and maintenance of the Natchez National Historical Park which contains some of the most interesting properties that reflect the lifestyles and cultural diversity of the early settlers in the oldest continuously inhabited town on the Mississippi River. The City of Natchez is also the southern terminus of the Natchez Trace Parkway.

This bill contains funds for continued enhancement of the historical park which will enrich the experience of visitors to this unique educational resource in my state.

Another interesting destination for visitors is the Corinth Battlefield in northeast Mississippi which was included in a list of the top ten most important Civil War battlefields by former Secretary of the Interior Manuel Lujan. It is located near the Shiloh National Military Park and will be the site of a new Civil War Interpretive Center. This building will be constructed with funds that are included in this bill at the request of our state's delegation in Congress.

My colleague, TRENT LOTT, has taken the lead in making this new addition to our state's list of federally supported projects a reality. Congressman ROGER WICKER has also been a key influence in the appropriations process on this project as well as the Brice's Crossroads site.

Taken as a whole, the provisions of this Interior Appropriations bill will contribute to the economy of our state and at the same time help protect valuable natural resources, historic attractions and our environment.

I appreciate the cooperation and assistance of the managers of the bill and my staff member, Ginger Wallace, who worked hard to help develop the provisions of the bill that were of specific interest in our State of Mississippi.

Mr. DORGAN. Madam President, I rise to support the Education and Training Center for the Power Generation Industry at Bismarck State College. Although funding for this program is not explicitly mentioned in the Interior Appropriations bill, I would like to see the relationship between Bismarck State College (BSC) and the Department of Energy grow during the next fiscal year as BSC builds on its Partnership to Improve Energy Technology Training and Education. Last year, BSC's Energy Technology Program received $50,000 in competitive Federal funding to develop a new curriculum based on conventional and advanced power technologies. Given that the Chairman has been kind enough to increase the budget request for fossil fuel research and development, I would hope that the DoE will provide the funds to expand this program next year, especially given the challenges that the power industry will face in the coming years.

I applaud those at Bismarck State College who have been working on this project, and it is my hope that the Committee could provide some funding for this program as we move this bill to conference so that the College could further develop the curriculum plan and provide nationwide online courses in power generation management.

Mr. KERRY. Madam President, I rise today to discuss an amendment I have

offered to section 107 of the Interior Appropriations bill for fiscal year 2002. The amendment is intended to clarify that under that section preleasing activities are prohibited, just as they are in other sections of the bill that restrict oil and gas development in other waters.

Section 107 now reads as follows: ''no funds provided in this title may be expended by the Department of the Interior for the conduct of offshore leasing and related activities placed under restriction in the President's moratorium statement of June 12, 1998.'' This includes the areas of northern, central, and southern California, the North Atlantic, Washington, Oregon, and the eastern Gulf of Mexico south of 26 degrees north latitude and east of 86 degrees west longitude.

I want to stress that it is my belief that section 107 prohibits preleasing activities because preleasing activities are, by their very nature, related activities. However, sections 108, 109 and 110 create moratoria on offshore leasing for the Mid-Atlantic, South Atlantic, North Aleutian Basin and portions of the Gulf of Mexico, and these sections restrict preleasing, leasing, and related activities. I am concerned that the discrepancy between Section 107 and these other sections creates the potential for legal ambiguity that may put the areas listed in Section 107 at risk. Specifically, it may be argued that a set of activities exists preleasing activities that are prohibited under Sections 108, 109 and 110 but not prohibited under Section 107.

The simple, straightforward amendment I have proposed adds preleasing to the list of prohibited activities in Section 107. It would clarify Congressional intent and serve as a preventative step against any challenge to the meaning of the prohibition. It would do no more than clarify that California, the North Atlantic, Washington, Oregon and portions of the eastern Gulf of Mexico have the same protections now provided to the Mid-Atlantic, South Atlantic and other areas in Sections 108, 109 and 110.

In closing I want to briefly discuss one reason why this amendment and the clarification it would provide is important to Massachusetts and New England. That reason is Georges Bank a natural wonder critically important to our state's economy and environment. Georges Bank supports Atlantic cod, scallops, haddock, yellowtail flounder and other valuable commercial species. Endangered species including the right whale, humpback whale and sei whale rely on Georges Bank and the surrounding area for feeding and as a migratory pathway. The National Oceanic and Atmospheric Administration, the federal agency charged with protecting marine resources, has warned that oil and gas exploration in Georges Bank threatens these commercial and endangered species. NOAA and others have pointed out that despite advances in drilling technology, exploration carries inherent risks from spills, other accidental releases, drilling muds, seepage and other sources. I strongly believe petroleum exploration in the unique and extremely valuable habitat of Georges Bank poses unnecessary economic and environmental risk.

I want to thank Chairman BYRD and Ranking Member BURNS for working with me to secure the passage of this important amendment.

Ms. SNOWE. Madam President, Senator KERRY of Massachusetts and I have introduced the Kerry-Snowe Georges Bank amendment to the fiscal year 2002 Interior Appropriations bill today to make absolutely certain that language in the fiscal year 2002 Interior Appropriations bill before us is modified to ensure that there will be no preleasing activities on Georges Bank. Language in the bill does prohibit the expenditure of funds by the Department of Interior for activities related to offshore leasing in the North Atlantic area, but I wanted the guarantee that pre-leasing activities would be out of bounds as well.

Currently, both the United States and Canada have moratoria on oil and gas exploration until 2012 for the ecologically sensitive Georges Bank. What the Kerry-Snowe amendment does is include language in the Senate bill to prohibit any pre-leasing activities for the Georges Bank area, such as is included for the Mid- and South Atlantic. We are adding this language for the North Atlantic as well because of indications over the past few months that the administration could be considering legal and administrative groundwork for accessing Georges Bank.

Report recommendations to the Secretary of Interior by the Subcommittee on Natural Gas on the U.S. Outer Continental Shelf included a recommendation that the Mineral Management Service, in consultation with industry and affected States, identify the five top geologic places for natural gas reserves in the moratoria areas, where industry would most likely explore, and where seismic data could be collected. Georges Bank is reported to be one of these prospects.

Our added pre-leasing language for the North Atlantic area makes Section 107 of the bill consistent with Section 110 of the bill that does not allow Interior Department funding to conduct oil and natural gas pre-leasing, leasing and related activities in the Mid-Atlantic and South Atlantic planning areas.

As I recently wrote the President, I strongly believe that the moratoria should not be lifted on this 185-mile-long bank that stretches from Nova Scotia to Cape Cod—five-sixths of which is owned by the U.S. This broad, shallow fishing ground is one of the world's most productive, and current available natural gas reserves in the U.S. dwarf those which are projected to be available on the Georges Bank.

I want to sincerely thank the Interior Appropriations Subcommittee Chairs BYRD and BURNS for accepting the Kerry-Snowe amendment as part of the Managers amendment.

Mr. DORGAN. Madam President, I rise to support the Trails and Rails Program, a national partnership between Amtrak and the National Park Service. This program provides onboard educational programs to rail travelers. It has played a valuable role in educating Americans about the historic landmark sites in this country. This is an excellent outreach program that allows the National Park Service to reach non-traditional visitors and introduce them to our national parks, trails and historic sites.

I am particularly excited about this program as we begin to celebrate the bicentennial of the Lewis and Clark expedition. Last May, the famous footsteps of the Lewis and Clark along the trail in North Dakota and Montana came alive as their historic journey was retraced by guests aboard Amtrak's Empire Builder train. This program has been laying the foundation for the National Lewis and Clark Bicentennial Commemoration, which will officially begin in 2003. Train passengers have already been able to explore historic areas along the Lewis and Clark trail such as the Union Trading Post National Historic Site in Williston, ND. It is my hope that the National Park Service could continue its partnership so that Amtrak passengers can explore other historic sites in the Lewis and Clark expedition.

Although fiscal year 2002 funding has not yet been identified for this program, I invite my colleagues to join me in supporting this important National Park Service partnership. I trust that some funding will be included for this partnership in the final version of the Interior appropriations bill.

Mr. WELLSTONE. Mr. President, I am pleased to support the provisions in this bill that enhance the Steel Loan Guarantee program. The changes adopted today will provide invaluable assistance to our nation's steel companies as they strive to stay afloat in the face of overwhelming surges of finished and semi-finished steel imports.

As you know, our domestic steel industry finds itself reeling from record import surges. Numerous companies are either in bankruptcy, have filed for bankruptcy, or are on the verge of doing so. On the Iron Range in my home state of Minnesota, for example, citing poor economic conditions, LTV Steel Mining Company halted production at the Hoyt Lakes mine, leaving 1400 workers out of work and affecting another 5000 additional workers as well. These are hard working people who want desperately to work the trades they were trained for and have been doing for generation upon generation.

The changes we are making today in the Steel Loan Guarantee program will make it easier for companies to access much needed capital. In particular, we are increasing the loan coverage for a

portion of the loans under this program from 85 percent to 95 percent and extending the duration of financing from 5 to 15 years. These changes represent one component of S. 957, the comprehensive Steel Revitalization Act of 2001 that I, along with Senator Byrd, Senator Dayton and others introduced earlier this year.

I am pleased that we are taking the opportunity today to move a portion of this comprehensive measure. And I will continue to press this passage of the remaining elements of this much-needed legislation.

Mr. FEINGOLD. Madam President, I wish to comment on the Interior appropriations bill which the Senate has passed by voice vote. I am satisfied, that unlike in years past, this bill is relatively free from anti-environmental riders. I commend the chairman (Mr. BYRD) and the ranking member (Mr. STEVENS) for producing a bill that is largely free from riders which many of my constituents view as an undemocratic way to address environmental issues. I have been pleased by the progress on this bill, and by the manager's efforts to allow important environmental issues the benefit of an up or down vote on the floor.

Though the bill this year has been considered by the Senate with an improved process, I do have some concerns about a few of the bill's provisions. First, I understand that the Senate fiscal year 2002 Interior bill includes $65 million for the Forest Legacy Program of the U.S. Forest Service, a program I strongly support. I further understand that, of the $65 million provided for the Forest Legacy program, $35.26 million has been allocated by the Senate Interior appropriations Subcommittee in the committee report to fund specific projects. I hope tat this allocation leaves approximately $29.8 million available to be distributed by the Forest Service to other priority projects, such as the Tomahawk Northwoods project in Northern Wisconsin. The Tomahawk project was specifically enumerated to receive funds by in the House report on the 2002 Interior appropriations bill, and it is my hope that the Senate's bill leaves flexibility so that this project can indeed be funded by the Forest Service.

I also want to share my concern regarding section 330 of the fiscal year 2002 Interior appropriations bill. Section 330 extends for 50 years a special use permit for a cabin located in the Absaroka-Beartooth Wilderness Area in Montana. I hope that the conferees on this legislation will give serious consideration to removing this provision and referring the matters to the Senate Energy Committee for their review. My concern, as a Senator who is concerned about federal wilderness management, is that allowing the cabin to remain, without the benefit of review by the appropriate authorizing committee, could set a precedent that is contrary to the Wilderness Act, Forest Service policy and the Custer National Forest Management plan. It would be my hope that review by the Energy Committee would clarify whether the Montana State University-Billings indeed has the ability to apply for an extension of the special use permit that had been held by the cabin's previous owner.

Finally, I understand that the managers' amendment contains language concerning the management of cruise ships in Glacier Bay National Park. Though I understand that this language represents a compromise worked out over the last few hours, I feel that an important policy matter such as this one would be better left to the authorizing committee. I believe legislative language which seeks to addresses serious legal issues over the reduction of cruise ship traffic required by Federal courts deserves full and fair consideration through proper hearings and review. I hope that the conference committee will give serious consideration to removing this provision.

I am pleased to support this year's bill, and I hope so see a bill free from environmental riders emerge from conference.

Mr. REID. Madam President, I have been fortunate to be in this Chamber during the entire time the Interior bill has been debated. I would like to take a few minutes to commend the President pro tempore of the Senate, who is also the chairman of the Interior Subcommittee, for the tremendous leadership he has shown not only on the Interior bill but on the supplemental appropriations bill we passed. It shows his experience and his dedication to the Senate. He has taken the helm of the Appropriations Committee firmly and has confidently steered this bill in the right direction. There have been very difficult decisions to make in crafting this bill.

I also want to take a minute to express my public appreciation to Ranking Member Burns for the work they have done. If there were ever a bipartisan bill—and I hope it remains that way in the remaining hours of this bill, and I am confident it will—this is it.

These two legislators have worked to come up with an appropriate package that has the best they could do with the tools they had, the limited amount of money they had, to satisfy hundreds and hundreds of requests from Members and from different entities making up our Federal Government. It has been a very difficult time. From a personal perspective, I think they have done exemplary work.

About 4 years ago I asked President Clinton to convene a summit in Lake Tahoe. I did that out of desperation. I was at the lake and had, for 15 years, worked to try to do something to improve the quality of a place that has been called by Mark Twain the fairest place in all the Earth. It is a beautiful lake. It is a part of nature that you can only appreciate by being there; it is so absolutely fantastic.

We had a show over here, and there is a display now in the rotunda of the Russell Building that has great photographs of Lake Tahoe. I spoke briefly there last night. A man by the name of Dr. Goldman, who is the leading expert on the ecology of that lake, spoke. He said he has been all over the world. He has been to Lake Baikal in Siberia in the Soviet Union. Lake Baikal has 20 percent of all the fresh water in the world, in one lake. It is well over a mile deep. It is a beautiful lake. I am fortunate; I have been there. But Dr. Goldman said he has been to most all the major lakes in the world, and, by far, Lake Tahoe is the most beautiful.

So I asked the President to convene a summit because I had not been able to accomplish what I needed. Out of desperation, I said to the press that I thought the only thing that would work is to convene a summit and have the world understand what a calamity is about to occur.

I confided in the President that I had done this and asked if he would support me in this effort. He said: Yes, I will come to Lake Tahoe. And he did. It was not a photo opportunity. And that would have been more than I could ask, if the President of the United States would come to Lake Tahoe for a photo opportunity, but he did more than that. We had six Cabinet officers who held townhall meetings in the months prior to the President coming. Over 1,000 people participated in those townhall meetings when the summit was convened, with the President and Vice President there at Lake Tahoe, and the groups concerned about the lake—the environmentalists, the people who had wanted to build homes there, contractors, small businessmen, big businessmen, people who were against gambling, people who were for gambling. They were all there speaking from the same page.

They agreed that something had to be done. So the summit—rather than being a boisterous affair where people were pointing fingers at each other—was a lovefest. As a result of that, we have been able to get a lot of help for Lake Tahoe. Part of that help is in this bill.

This bill increased, by over 100 percent, the amount of money going to Lake Tahoe. Senators FEINSTEIN and BOXER—and now Senator ENSIGN—we have worked together. We have made progress. But it all started as a result of that summit.

I appreciate very much the attention of Senators BURNS and BYRD, recognizing that Lake Tahoe really may be the fairest place in all the Earth.

They have increased funding this year by over 100 percent. This commitment will help make the Federal Government a full partner in the ongoing effort to conserve this exquisite jewel of the American environment. California has done its share. Nevada has done its share by floating bond issues. Now the Federal Government is coming through.

Chairman BYRD and ranking member BURNS also helped improve the prospects for county governments throughout the entire West by allocating $220 million for PILT—Payment in Lieu of Taxes—Programs.

I thank Senators BYRD and BURNS for making an effort to breathe life back into the budget of the United States Geological Survey, which was treated very badly by this administration. The Bush administration did everything it could to kill the Geological Survey, this great institution of government. John Wesley Powell was the first leader of the U.S. Geological Survey, a man whose arm was cut off. The nerves were exposed and whenever he would bump it, it would hurt more than a person can imagine. With that bad arm, he led the first group to float the mighty Colorado. He was the father of the Geological Survey. Senators BYRD and BURNS have breathed life back into this wonderful institution that is so important to our country.

This agency has had a tremendously positive impact all over the United States. For example, the Presiding Officer traveled with me to Fallon, NV, to find out why we have children dying. Since we were there, one child has died. They have discovered two or three other cases of childhood leukemia. We went there seeking evidence as to why these children are sick and dying.

One of the things being done about this is being done by the U.S. Geological Survey. They are testing water wells in Fallon as I speak so people in Nevada know whether the water they are drinking is safe. The U.S. Geological Survey is our preeminent scientific agency, some say the greatest scientific agency we have in Government. That is debatable, but they do great work.

I appreciate the leaders of the subcommittee who recognized this by restoring the budget. The public land agencies funded by the Interior appropriations bill are of great importance to the State of Nevada: the Bureau of Land Management, Bureau of Reclamation. They do tremendous things for our country. I am grateful that Chairman BYRD and ranking member BURNS have done their best to fund these agencies.

I am confident we can finish this bill today. I hope we can. The managers have worked during the night, and staff members are still working to come up with a proposal to end this legislation quickly. There may be a few disputed matters to be resolved this afternoon. I wanted to spend a minute recognizing the great work done by the two managers.

The PRESIDING OFFICER: The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 2217), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendment and requests a conference with the House of Representatives and the Chair appoints Mr. BYRD, Mr. LEAHY, Mr. HOLLINGS, Mr. REID, Mr. DORGAN, Mrs. FEINSTEIN, Mrs. MURRAY, Mr. INOUYE, Mr. BURNS, Mr. STEVENS, Mr. COCHRAN, Mr. DOMENICI, Mr. BENNETT, Mr. GREGG, and Mr. CAMPBELL, conferees on the part of the Senate.

EXECUTIVE SESSION

NOMINATION OF J. STEVEN GRILES OF VIRGINIA TO BE DEPUTY SECRETARY OF THE INTERIOR

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to executive session to consider the nomination of J. Steven Griles to be Deputy Secretary of the Interior, which the clerk will report.

The legislative clerk read the nomination of J. Steven Griles of Virginia to be Deputy Secretary of the Interior.

The PRESIDING OFFICER (Mr. CARPER). The Senator from Oregon.

Mr. WYDEN. Mr. President, I rise tonight to discuss my opposition to the nomination of J. Steven Griles as Deputy Secretary of the Department of the Interior. In my view, Mr. Griles' past record and recent statements, both public and private, indicate he is lacking the single most important quality needed for this key position; that is, the ability to bring people together despite very disparate and differing views on natural resources issues.

We have learned in the West—and I see my good friend Senator CRAIG from Idaho. He and I, again and again, sat in hearings in the forestry subcommittee, and we have seen how difficult these natural resources issues are. I am proud we have come together on issues such as the county payments bill which the Forest Service said was the most important law in the last 30 years, and Senator CRAIG and I teamed up to get that law passed because we recognized how important it was to bring people together.

What has troubled me about Mr. Griles' past record—and I will discuss that—and his recent statements, both public and private, is that record indicates he really isn't much interested in the kind of work that Senator CRAIG and I have spent many years pursuing.

One of the things that struck me earlier this year was that Mr. Griles told the Washington Post, in effect, that he had changed. He said he had matured, he had learned from his past experience. When I read about these statements, I was very encouraged. I don't oppose people on philosophical grounds; I don't think that is right. I read these statements and I got the distinct impression that Mr. Griles was going to work to be more inclusive, collaborative, and more creative in looking at the difficult natural resources issues.

He said he was going to be a problem solver who would try to listen to all the parties involved and try to take a balanced approach to any and all issues.

Again, I was encouraged by these comments. Mr. Griles came to my office. I told him about my concerns about his past record, and given his statements I was hoping he had, in fact, changed, and if he would give me some examples. He really didn't have any that day. I said: I will ask you about this when you come for your confirmation hearing.

When he came for his confirmation hearing, he was not any more forthcoming. I said after the hearing my door would still be open to him and that I hoped he would give me some examples in areas such as the Endangered Species Act that require so much cooperation, that he would come forward with some specific ideas. He has not. He has not been willing on three separate occasions to show some evidence that he would take a more collaborative, inclusive approach, and that he would be more balanced in his approach to natural resources issues.

My concern is that as of now the record indicates the J. Steven Griles of the past is going to be back in action after the Senate confirms him.

I will talk for a few minutes about that Jay Steven Griles' track record over 20 years. Over 20 years, again and again, he has placed the interests of powerful special interests above the public. This includes the support for environmentally unsound drilling for oil off the coast of California and looking the other way when powerful corporations were fined for breaking the environmental laws.

It is one thing to try to figure out ways to ensure compliance with the environmental laws; however, it is another thing to not follow through when these powerful interests have actually been fined for violating the law.

I was troubled about those past positions. I told Mr. Griles about that. It is certainly his right to hold those views. I have not made it a habit of opposing candidates with whom I differ on substantive issues. Given those past positions, given his public statements and his private statements to me that, in fact, he was going to change, it is troubling we have not seen any evidence of it.

His record is important. I will give a few examples of that record.

During his service with the Reagan administration, Mr. Griles is reported to have single-mindedly pushed for an oil lease sale off the coast of California, despite objections from his own Fish and Wildlife Service biologists. In 1988, he wrote a memo to the Assistant Secretary advising him to change the tone and conclusions of a Fish and Wildlife Service report citing the specific environmental damage that could be caused by a proposed northern California offshore oil lease. Mr. Griles concluded that memo by stating:

The memorandum is part of the public record and could prove very damaging to this lease sale.

The subsequent final report on the sale, from Fish and Wildlife, did not refer to any potential environmental harm that could result from the lease sale. Within the year, as Americans know, the Exxon Valdez disaster occurred and, by 1990, the first President Bush declared a moratorium on offshore oil leases, so this lease sale was never completed. But it is certainly troubling to me that Mr. Griles wanted Federal researchers not to report accurate conclusions but to prop up a decision, regardless of the environmental facts.

This, in my view, would have been an ideal issue that Mr. Griles could have raised with me and with colleagues and said: Look, there are a variety of ways that I treat these oil sales differently now, having learned from some of the controversy in the past. Yet he was unwilling to say that or anything resembling that.

He has also, as far as the public report, indicated that he has no interest in cracking down on the illegal behavior of polluters and special interests. Of course, that would be a task that he would be expected to perform in this position.

Between 1984 and 1987, the House of Representatives reviewed, for example, the internal workings in the Office of Surface Mining. They found that, under his leadership, this office collected only $6.8 million of an estimated $200 million due in civil penalties for those who broke the environmental laws.

Again, I have tried to single out just the areas of the record that concern me the most. There is not a Member of the Senate who is in favor of breaking the environmental laws. Yet this was an instance where there were violations and they were not followed up. I think that is troubling and, in fact, in successive years the percentage of collection of the civil penalties that were owed continued to go down.

I am concerned about the past public record, but I would not be here making the statement that I am tonight if Mr. Griles had said: Look, all of us change and here are some approaches that I would take in the days ahead to ensure that we could do the kind of work that Senator CRAIG—I see my friend Senator BURNS here as well—that the three of us have sought to do.

These natural resources issues are extraordinarily difficult. The American people want what I call the win-win. They want to protect our treasures and at the same time they want to be sensitive to local economic needs. It is a lot easier said than done. But Senator CRAIG and Senator BURNS and I have teamed up to do just that.

I had been hoping that Mr. Griles would offer some specifics, given that he said he had changed, and would indicate he would want to do the kind of bipartisan work that we Westerners have done on some of these particularly contentious issues. Unfortunately, on three separate occasions, in both public and private, Mr. Griles was unwilling to back up his public statements about how he had changed, how he would take a more collaborative approach. So tonight I want to make clear I am opposed to the nomination of J. Steven Griles to be Deputy Secretary of the Department of the Interior. My questions have not been answered. My reservations about the nominee's commitment to finding common ground have not been resolved.

I tell my colleagues, I do not think we can get on top of these natural resources issues without a collaborative approach. Mr. Griles has said he is in favor of it but has not offered any evidence that he will actually do it. With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I ask for a couple of minutes. Let me also ask unanimous consent that Senator FRANK MURKOWSKI, who is coming to the floor, be allowed to speak for a period of time prior to the action. I believe Senator NELSON is here to do the same.

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

Mr. CRAIG. Mr. President, I join with my colleague, Chairman RON WYDEN, tonight to visit about Steven Griles and the reality that Steven is about to become a major operative in the Department of the Interior. I stand tonight in full support of the decision of George W. Bush to nominate him to become Deputy Secretary. I do that because I know Steven Griles and I know he will do it when he looks me in the eye and he looks Senator WYDEN in the eye and says he will work in the character of the new Secretary, Gale Norton, as it relates to the four C's that she has so clearly laid out over the time of her confirmation hearings and as, I think, she has clearly demonstrated in the period of time in which she has served our country as our new Secretary of the Interior. That is one of consultation, cooperation, and communication that results in conservation of our natural resources to benefit all of the interests of our country. I believe Steven Griles will do that following the direction of the Secretary of the Interior.

While RON WYDEN and I will disagree a bit, we also understand the critical nature of cooperation, as he has so clearly spelled out, in the collaborative process. The models under which we must make decisions on our public land resources have changed from the days in which Steven Griles served the Reagan administration and in which Steven Griles will now have the privilege of serving the Bush administration. We have tried to pioneer with the concept of a collaborative process. Clearly, the effort Senator WYDEN and I launched last year that is now law incorporates within it the idea of bringing all of the principals together to sit down to resolve conflict over resource issues at the local level and ultimately we believe we can aspire to that at the national level.

Therefore, I stand in favor of Steven Griles becoming our new Deputy Secretary at the Department of the Interior and I think he will at the end serve us well and I think the record will demonstrate that.

Let me say in closing, and I say it in all fairness to our majority leader, TOM DASCHLE, I thank him and I thank HARRY REID for the cooperation they have offered to all of us tonight in moving expeditiously some of the nominees that were at the desk or other nominees who were just moved out of committee today, both the Armed Services Committee and the Interior Committee.

It is absolutely critical that the President of the United States be allowed to nominate and have people of his choice to serve him in the administration of our Government at the executive level. Tonight we move a great number of people, probably the largest number we have moved to date at one time. That has been because of a cooperative effort on the part of the majority leader, TOM DASCHLE, and all of us working together to make that happen.

I hope to achieve our goal that the some 173 who are now before the authorizing committees across the Senate can be brought to hearings, heard, voted out of committee, brought to the floor and I hope many of them could be moved before the August recess.

A lot of these fine people who have been asked to serve our Government are men and women who have families and who need to make decisions over whether to leave their families and their children in the schools where they now are or whether they are going to be allowed to get them in Washington in time to enroll them in school as it would start in late August or early September. Surely this Senate can operate in a reasonable and responsible fashion to do the appropriate hearings, to find out if these men and women are clearly qualified, as the President believes they are, to serve our country at the executive level, bring them from the committee, bring them to the floor, and allow to happen what is happening this evening.

When disagreements arise, as they do—as with Senator WYDEN and Mr. Griles—they are either voted on or are spread upon the RECORD as a template from which to judge the people who will serve in the executive branch, and to hold before them as a constant reminder of what they pledged to us in their confirmation hearings before the committee. That is fair and responsible, and it is the job of the Senate to respond in that fashion.

I am extremely pleased that we are able to move expeditiously on a good number tonight to give our President the tools by which to operate the executive branch of Government and to

allow him, as the citizens of this country have chosen, to govern our Nation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, let me congratulate the floor manager for offering the conclusion associated with the Interior appropriations bill. It has been a difficult battle, and it has been really tough with the many issues that are subject to rule XVI which often come up in this process.

I thank the Senator from Montana and his colleagues on the other side. They have done an extraordinary job.

My purpose in rising is to recognize an injustice that has been done to Steven Griles. The injustice was not on the merits of whether Mr. Griles is qualified or not. It is the manner in which his nomination was delayed.

I think it is appropriate that the RECORD note that the intent to nominate Mr. Griles occurred on March 9. The nomination was received on May 1. Hearings were held May 16. He was reported favorably by the Energy Committee, which I happened to chair at that time, 18 to 4. I repeat—18 to 4 on May 23, 2001.

All of this, of course, occurred before the switch of Senator JEFFORDS and, as a consequence, the control of the Senate.

Mr. Griles was cleared on the Republican side on May 23. In executive session on May 23, we moved one nomination. On May 24 we moved 19 nominations. On May 25 we moved 33 nominations. On May 26 we moved 8 nominations. In each case, Mr. Griles was cleared on our side and was objected to by the Democrats, which they have every right to do.

But during this period, a unanimous consent agreement was offered to allow for 2 hours of debate, and a vote on which the Democrats indicated, according to the RECORD, that they needed 2 hours, with consideration the week we returned from that recess. That was rejected by the Democrats, as was the modification that then deleted the time certain and only included the time limitation.

At that point, it was clear that we would no longer as Republicans control the floor, and hence the timing on our return.

In executive session on June 14, under Democratic control, we cleared three additional nominations, but the Democrats would not agree to Griles. It wasn't agreed to as an issue of the debate on the merits, it was simply an effort to deprive—that is the only conclusion one can come to—the Department of Interior of his services, and hence to the public of this country.

As of today, Mr. Griles has been pending 51 days. Again, I refer to the fact that he was reported out of the committee 18 to 4. He is going to be voted out tonight on a voice vote. But I think it is appropriate to note the manner in which it was handled.

I am very disappointed. I, as chairman under the former administration, felt the obligation to respond to the development of the precedents and the officials within the various Cabinet departments. Under no circumstances had we had a situation similar to this where a nominee was delayed for such an unreasonable amount of time.

Who suffers? Perhaps this body suffers in self-examination.

Again, I am not arguing the merits concerning issues that my friend from Oregon or my friend from Florida may have, but clearly, the way this was handled was delay, delay, delay. The public suffered. The Department of the Interior suffered. Up until a short time ago, the Department of the Interior had one confirmed position. That was the Secretary of the Interior.

I think all of us have a responsibility to work together, in spite of our political differences, to serve the country.

I think it is appropriate that the RECORD note the reality associated with this nominee. It is my hope that situation is not repeated again because I think this body bears the responsibility.

I am happy to yield to my friend from Florida.

I wish the Presiding Officer a good evening, and the rest of my colleagues, and in particular the staff. I hope we get out at a reasonable hour.

Mr. NELSON of Florida. Mr. President, the administration's policy is to try to drill its way out of an energy problem—and that is clearly reflected in their nominee for the number two position at the Interior Department, J. Steven Griles.

I have expressed my opposition to Mr. Griles prior to today, in the form of an objection to a Senate vote on his nomination.

However, based on assurances I received today from Interior Secretary Norton—specifically that the agency's upcoming 5-year plan contains no new drilling in the eastern Gulf of Mexico, beyond the disputed area in lease sale 181—I have withdrawn my objection to proceeding to a vote.

I also met with Mr. Griles this morning. While I respect his commitment to public service, I cannot vote for his nomination.

He has a history of advocating for oil and gas exploration off the coasts of both Florida and California.

In fact, his record as a former Reagan administration official and an oil- and gas-industry lobbyist reveals his aggressive support for expanded oil drilling in sensitive waters.

Mr. Griles' support for drilling is so forthcoming that in biographical information he supplied the Senate for his confirmation he emphasizes his record for helping lease ''more Federal offshore oil and gas acreage during 1984–1989 than in any prior period of federal leasing activities.''

His position is clear. Unfortunately, this position presents a serious risk to Florida's economy and environment.

I thought I would take this opportunity to clear up for the Senator from Alaska some of the things he said.

The Senator from Alaska should know that this Senator from Florida did not place a hold on the Griles nomination until June 19. That is just a matter of some 2½ weeks ago. It became apparent to me—and it didn't have anything to do with personalities or politics—on the substance of the matter that this was something of such importance to Florida on whether or not we were going to have drilling off the coast of Florida which would threaten the economy of Florida because of its beaches. I think Florida has the longest coastline of any State in the country. So much of our economic lifeblood comes from those pristine beaches.

When I looked at the substance of the nominee's background I saw that he had been an advocate for offshore oil drilling not only over a decade ago in California but where he stated in his testimony that he was in favor of drilling for the entire 6 million acres of the lease sale 181 and what that represented as a threat to Florida in that original lease sale coming to within 30 miles of Perdido Key, which is the westernmost beach of the State of Florida.

It became very clear as a matter of substance to me that it was going to be something that was perceived to be—and he was perceived to be—a threat to the economic lifeblood of the State of Florida.

Only on June 19 did I write a letter to the majority leader asking him to honor my request, which was a hold on the consideration of the nomination.

Today, Mr. Griles came to see me. I find him entirely a delightful fellow, an engaging fellow, and one with whom I shared exactly this story. I asked him the question: Since the likelihood was that the reduced lease sale 181 was in fact going to be approved—the administration apparently had been working it very hard and had the votes, as the vote earlier today showed—what was his intention with regard to the drilling in the rest of the eastern Gulf of Mexico planning area?

He said since he had not been confirmed that he could not speak with the administration. But he offered that he thought he could get an answer from the administration and get back to me before this vote occurred.

Indeed, it was within a few minutes that a phone call came in that Secretary Norton was requesting to come and see me, of which I gladly received her. It is the first time I had met her—a very gracious lady. And I asked her the same question. And she said: Senator, I want to assure you that in the 5-year plan, which is going to be issued next week, there will be no additional lease sales in the 5-year plan. And the 5-year plan that will be issued next week is operative, effectively, as law, since a lease cannot be offered for sale or lease unless it is in the 5-year plan.

That was a little bit of good news. It was on the basis of that that I additionally encouraged the majority leader that I thought he was right. It is his

prerogative as majority leader to lift the hold.

I shared with Mr. Griles that I was going to vote against his nomination because of his history. I am glad that I was in this Chamber to hear my friend from Alaska so that he could hear from his colleague from Florida as to exactly what my intention on the substance of the matter has been.

I yield the floor.

The PRESIDING OFFICER. Is there further debate on this nomination?

The Senator from Montana.

Mr. BURNS. Mr. President, I am glad we are finally considering the nomination of Steve Griles. It has been a long time. I can remember going through the hearings on the Energy Committee and him being reported out of that committee on the 23rd. It has been a long 40-some-odd days. It has been too long.

It seems that we are asking our Cabinet Secretaries to do their jobs by themselves. We are having a hard time getting them any help downtown. I just think that is a wrong thing to do to any administration.

I remember when President Clinton first came to town back in 1992, 1993; whenever we went through the process, I always took the position that each President got his Cabinet members and the people he wanted in his administration because he had been duly elected by the people of this country. So he could move his agenda as he saw fit. We have been holding up folks going downtown far too long.

Twenty-eight percent of Montana is public land. With the BLM and the Forest Service and, of course, with the BIA and the Indian lands and Indian country, this position is very important. Of course, with Mr. Griles coming from a standpoint of multiple use, single use does not work. I think that we can balance the use of our lands. We have had a tendency in the last 10 or 15 years to redefine conservation. Conservation is the wise use of any resource. That has been the driving force on any of our resources found on our public lands and on our private lands.

I have an agricultural background. This position in the Department of the Interior requires a man of not only high integrity and high purpose but also to have guts enough to make a decision. We have gone through these situations where nobody wants to make a decision.

We had a situation on the Flathead Lake in just finding its level. We had too many cooks in the kitchen and nobody knew who was in charge when trying to make a decision on what level we wanted to maintain at Flathead Lake in northwestern Montana.

I know there are some of my colleagues in this body who have some real heartburn with Mr. Griles. In fact, I know there are many colleagues in this body who have heartburn with the words ''multiple use.''

But, nonetheless, we who come from the land and the resources—and especially from a resource-based economy—think we understand just how important renewable resources are. We realize that in oil and gas, it is sort of finite—there may not be any more of it made. But on renewables, we should be using conservation practices that consider wise use.

Tough decisions will have to be made by the Department. We need someone who is confident in making them and also basing the decisions on science and common sense.

So the reason I support Steve Griles is because he brings outstanding credentials to the job. He served at many levels, both inside and outside of Government. I think everybody will find he will be an able listener, and he will also show the cooperation in being a good Deputy Secretary.

The PRESIDING OFFICER. Is there further debate on the nomination?

Mr. BURNS. Are we ready to vote?

Mr. MURKOWSKI. Yes.

Mr. BURNS. Mr. President, I urge that this nomination be confirmed as Deputy Secretary, and on a voice vote.

The PRESIDING OFFICER. Is there further debate on the nomination?

If not, the question is, Will the Senate advise and consent to the nomination of J. Steven Griles, of Virginia, to be Deputy Secretary of the Interior?

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is laid upon the table, and the President will be immediately notified of the Senate's action.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

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

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

THANKING THE MANAGERS OF INTERIOR APPROPRIATIONS

Mr. REID. Mr. President, while the Presiding Officer is in the Chamber, I rise to express how much I appreciate his work of the last 2 days. It has been very difficult.

He and I worked together on Military Construction when I was chairman and he was ranking member. Through each ordeal we experience we become closer, and I have become more appreciative of his legislative abilities.

For both of us to be able to work with one of the legends of the Senate, Senator BYRD, is always a pleasure and a learning experience. I want to make sure that spread on the RECORD is my appreciation for the good work done by the two managers of this bill.

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to consider the nominations reported earlier today by the Foreign Relations Committee as follows: Peter R. Chaveas to be Ambassador to the Republic of Sierra Leone; Lori A. Forman to be Assistant Administrator for the United States Agency for International Development; Aubrey Hooks to be Ambassador to the Democratic Republic of the Congo; Donald J. McConnell to be Ambassador to the State of Eritrea; Nancy Powell to be Ambassador to the Republic of Ghana; George McDade Staples to be Ambassador to the Republic of Cameroon and to the Republic of Equatorial Guinea; that the nominations be confirmed, and the motions to reconsider laid on the table.

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

The nominations were considered and confirmed as follows:

DEPARTMENT OF STATE

Peter R. Chaveas, of Pennsylvania, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Sierra Leone.

Lori A. Forman, of Virginia, to be an Assistant Administrator of the United States Agency for International Development.

Donald J. McConnell, of Ohio, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Eritrea.

Aubrey Hooks, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of the Congo.

Nancy J. Powell, of Iowa, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Ghana.

George McDade Staples, of Kentucky, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cameroon, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Equatorial Guinea.

Mr. REID. Mr. President, I ask unanimous consent that the Senate consider and confirm Executive Calendar Nos. 199, 200, 203 through 210, 213, 214, 221 and 222, that the nominations be confirmed and the motions to reconsider be laid on the table.

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

The nominations were considered and confirmed as follows:

DEPARTMENT OF DEFENSE

Douglas Jay Feith, of Maryland, to be Under Secretary of Defense for Policy.

Peter W. Rodman, of the District of Columbia, to be an Assistant Secretary of Defense.

Thomas P. Christie, of Virginia, to be Director of Operational Test and Evaluation, Department of Defense.

Diane K. Morales, of Texas, to be Deputy Under Secretary of Defense for Logistics and Materiel Readiness.

Steven John Morello, Sr., of Michigan, to be General Counsel of the Department of the Army.

William A. Navas, Jr., of Virginia, to be an Assistant Secretary of the Navy.

Michael Montelongo, of Georgia, to be an Assistant Secretary of the Air Force.

Reginald Jude Brown, of Virginia, to be an Assistant Secretary of the Army.

John J. Young, Jr., of Virginia, to be an Assistant Secretary of the Navy.

Michael W. Wynne, of Florida, to be Deputy Under Secretary of Defense for Acquisition and Technology.

Dionel M. Aviles, of Maryland, to be an Assistant Secretary of the Navy.

DEPARTMENT OF ENERGY

Jessie Hill Roberson, of Alabama, to be an Assistant Secretary of Energy (Environmental Management).

DEPARTMENT OF AGRICULTURE

Joseph J. Jen, of California, to be Under Secretary of Agriculture for Research Education, and Economics.

James R. Moseley, of Indiana, to be Deputy Secretary of Agriculture.

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to consider the following nominations reported earlier today by the Energy Committee: Patricia Lynn Scarlett to be Assistant Secretary of Interior; William Gerry Myers III to be Solicitor of the Department of Interior; Bennett William Raley to be Assistant Secretary of Interior; Vicky A. Bailey to be Assistant Secretary of Energy; Frances P. Mainella to be Director of the National Park Service; John W. Keys III to be Commissioner of Reclamation; that the nominations be confirmed, and the motions to reconsider be laid on the table.

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

The nominations were considered and confirmed as follows:

DEPARTMENT OF THE INTERIOR

Patricia Lynn Scarlett, of California, to be an Assistant Secretary of the Interior.

William Gerry Myers III, of Idaho, to be Solicitor of the Department of the Interior.

Bennett William Raley, of Colorado, to be an Assistant Secretary of the Interior.

DEPARTMENT OF ENERGY

Vicky A. Bailey, of Indiana, to be an Assistant Secretary of Energy (International Affairs and Domestic Policy).

DEPARTMENT OF THE INTERIOR

Frances P. Mainella, of Florida, to be Director of the National Park Service.

John W. Keys, III, of Utah, to be Commissioner of Reclamation.

Mr. REID. Mr. President, I ask unanimous consent that the HELP Committee be discharged from consideration of the following nominations:

Grover Whitehurst, to be Assistant Secretary of Educational Research and Improvement; Susan B. Neuman, to be the Assistant Secretary for Elementary and Secondary Education; Rebecca Campoverde, to be the Assistant Secretary for Legislation and Congressional Affairs; Robert S. Martin, to be Director of the Institute of Museum and Library Services; that the Senate proceed to their consideration, en bloc; that they be confirmed; that the motions to reconsider be laid on the table; that any statements on any nominations confirmed today appear at the appropriate place in the RECORD; that the President be immediately notified of all the Senate's actions, and the Senate return to legislative session.

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

The nominations were considered and confirmed as follows:

DEPARTMENT OF EDUCATION

Grover J. Whitehurst, of New York, to be Assistant Secretary for Educational Research and Improvement, Department of Education.

Susan B. Neuman, of Michigan, to be Assistant Secretary for Elementary and Secondary Education, Department of Education.

Rebecca O. Campoverde, of Virginia, to be Assistant Secretary for Legislation and Congressional Affairs, Department of Education.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Robert S. Martin, of Texas, to be Director of the Institute of Museum and Library Services.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that there be a period for the transaction of morning business with Senators permitted to speak therein for up to 5 minutes each.

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

BEIJING'S BID FOR THE OLYMPICS

Mr. WELLSTONE. The International Olympic Committee is going to announce tomorrow which country will host the 2008 summer games. The competition is fierce. Toronto and Paris are serious contenders. Yet it seems likely that Beijing will get the prize.

I will speak briefly about this decision because I think there should be some discussion on the Senate floor and the implications. I believe China's authoritarian and oppressive government should not be granted the privilege of hosting the 2008 games. The current Government in Beijing does not deserve the international legitimacy and the spotlight that this honor bestows. Its chronic failure to respect human rights violates the fundamental spirit of the Games, and I think it should disqualify Beijing.

Many of my colleagues argue that human rights should never be a consideration in determining our trade relations with other countries. I don't agree. I do think a government's record on human rights should not be ignored with respect to choosing the site for the Olympics which confers enormous prestige on the host government and which is intended to celebrate human dignity and achievement.

I have a sense-of-the-Senate amendment because the feeling was it would be inappropriate to do it on an appropriations bill. I do not believe doing it that way gets the support that it deserves. I know there are Senators who argue that to say the Olympics should not be in China is to politicize this question. If we are silent about this and Beijing hosts the Olympics, we are making a political statement. The political statement we are making is their violation of human rights does not matter.

Either way, it is a political statement. I prefer to speak out for human rights. The Olympics are first and foremost about sports and the joy of athletic competition, but human rights and dignity are also central to the Olympic ideal. The Olympic charter makes clear ''respect for universal fundamental ethical principles'' are central to the Olympic ideal.

Look at the State Department report. China's Government record has worsened as it committed ''numerous serious abuses'' from raiding home churches, imprisoning Tibetan monks and nuns, locking up Internet entrepreneurs, silencing democracy activists, and cracking down on Falun Gong.''

The Chinese Government continues to hold a number of American scholars on suspicious charges of spying. Dr. Gao Zhan has not been allowed to contact her husband, her 5-year-old child, both American citizens, or her lawyer or the State Department.

This doesn't matter? Moreover, hundreds of thousands of people languish in jails and prison camps merely because they dared to practice their Christian or Buddhist or Islamic faith. These are the facts. Respected international human rights organizations have documented hundreds of thousands of cases of arbitrary imprisonment, torture, house arrest, or death at the hands of the Government. That is a fact.

What they have done, the brutal crackdown on the Falun Gong is unbelievable. This is a harmless Buddhist sect. According to international media reports, approximately 50,000 of these practitioners have been arrested and detained, more than 5,000 have been sentenced to labor camps without a trial, and hundreds have received prison sentences after sham trials, show trials. Detainees have often been tortured and scores of practitioners of this faith have died in Government custody. These are facts. This is the empirical evidence. Millions of others have been persecuted for so-called crimes such as, if you are ready, advocating for political pluralism and the ideals of democracy. Hundreds continue to languish in jail under a ''counterrevolutionary'' law which the Government repealed 3 years ago. Some of them are survivors of the Tiananmen Square massacre.

While China signed the International Covenant on Civil and Political Rights—I remember the Clinton administration has made such a big deal of this—the Chinese Government has not

ratified it. Instead, it stepped up its repression of individuals seeking to exercise the very rights the covenant is designed to protect. And we do not speak out about this.

We make the argument, to grant this country the honor of hosting the Olympics, we should not raise questions about this because to raise questions would be to make a political statement about the Olympics. Isn't it also making a political statement about the Olympics not to raise questions, to legitimize and validate this repression?

Chinese courts have sentenced members of the Chinese Democracy Party, an open opposition party, to terms of 11, 12, and 13 years for ''conspiring to subvert state power.'' This is a fact.

Charges against these political activists—do you know what they are? They included this: They organized a party—wound up in prison. They received funds from abroad promoting independent trade unions—they wound up in prison. They used e-mails to distribute materials abroad—they wound up in prison. And they gave interviews to foreign reporters—they wound up in prison.

Here is where the Olympics is going to go. Without a word from our Government? Without a word from the Senate?

Chinese officials have also ruthlessly suppressed dissent from ethnic minorities, including Xinjiang and Tibet. According to a report by Amnesty International, the Chinese Government has reportedly committed gross violations, including widespread use of torture to exact confessions, lengthy prison sentences, and numerous executions. Are we not going to speak up about a government that tortures its citizens and that executes its citizens for no other reason than they have had the courage to speak up for democracy or to try to practice their religion?

In an apparent attempt to stop the flow of information overseas about this crackdown, Chinese security officials continue to detain a prominent businesswoman, Ms. Rebiya Kadeer, in the Province of Xinjiang. Her husband is a U.S. resident who broadcasts on Radio Free Asia and the Voice of America, championing the cause of people. She was arrested by the Chinese security forces on her way to meet with members of a visiting Congressional staff delegation.

For years, the same Ms. Kadeer has been praised by the Chinese Government for her efforts to promote economic development, including a project to help women own their own businesses. She has also been praised in the Wall Street Journal for her business savvy. She owned a department store in a provincial capital, as well as a profitable trading company. But now she has been put out of business, charged with—here is the charge, Mr. President—''illegally offering state secrets across the border,'' and sentenced to 8 years of hard labor. Her son and her secretary were also detained and sent to a labor camp.

Given this horrendous record, I do not believe China should be rewarded for this sort of repression. I am not a cold war warrior. I am not trying to resurrect the cold war. My father was born in Odessa, Ukraine. Then, to stay ahead of Czarist Russia, he was a Jewish immigrant. They moved to Habarovsk in the Far East, Siberia, and then Harbin, and lived in Pakeen, lived in China, and he came to the United States of America at age 17, in 1914. I am an internationalist.

I look forward to the day that Beijing hosts the Olympic games. The Chinese people are some of the most extraordinary, talented, and resourceful people on the planet. I do not for a moment want to bash or overgeneralize. I dream of a day when I can come to the Senate floor and I can celebrate the idea of China hosting the Olympic games. But not now. Not with the persecution, not with the torture, not with the murder of innocent citizens, not with the political oppression, not with the religious persecution, not with what they have done to the country of Tibet, the people of Tibet.

I believe strongly China's authoritarian, repressive Government should not be granted the privilege of hosting the 2008 games. It does not deserve the international legitimacy and spotlight that this honor bestows. Instead, this Government's chronic failure to respect human rights, I believe, violates the fundamental spirit of the Olympic games and should disqualify Beijing.

This is perhaps my morning for tilting at windmills because I believe the international committee will probably give China the Olympic Games, but sometimes it is important just to make that statement on the floor of the Senate. I believe others should speak out as well.

VIOLENCE AGAINST WOMEN OFFICE ACT

Mr. DOMENICI. Mr. President, I rise today to announce my cosponsorship of S. 570, the Violence Against Women Office Act introduced by my colleague Senator BIDEN. This bill will further our efforts in combating the problem of domestic violence. Domestic violence is not simply a localized, private issue, the ripple effect—socially and economically—from this problem makes it a concern for all Americans.

The statistics make my case. The crime of battering occurs every 15 seconds in this country. Over 50 percent of women will experience physical violence in an intimate relationship during their lifetime. Estimates range from 960,000 incidents of violence against a current or former spouse, boyfriend, or girlfriend per year to three million women annually who are physically abused by their husband or boyfriend.

The Violence Against Women Act is a strong indication of our commitment to address this problem. Any possible action we can take to enhance the effectiveness of our government's efforts in this arena must be taken. This bill is one such action.

Establishment of the Violence Against Women Office, (VAWO) by statute will provide permanency in our federal efforts to combat domestic violence. This bill will institutionalize the office and will help to fulfill the federal government's responsibility to meet the goals embodied in the Violence Against Women Act, (VAWA).

This office will be located within the U.S. Department of Justice, placed within the Associate Attorney General's Office, and will be led by a director appointed by the President and approved by the Senate. In addition to running the VAWO, the Director will serve as Special Counsel to the Attorney General on all issues related to violence against women. The office is responsible for the development of policy, programs, public education initiatives, and management of all grant programs funded under the VAWA. I would underscore that this legislation does not contemplate increased staff or require any expenditure of funds beyond that currently appropriated.

In the past, the VAWO director has brought visibility and credibility to the matter of violence against women, making it an issue of national concern and earning the respect of police, prosecutors, and victim service providers. This precedence should be furthered by establishing an office to address violence against women by statute. The Office and its Director will reflect the importance that Congress and the Administration place on making this issue a priority for the federal government and the country.

In addition, this step will insure that succeeding Administrations will continue to fully implement the provisions of the VAWA. An office placed under the direct supervision of the Associate Attorney General will reflect the Justice Department's understanding that non-criminal justice system services should be offered as part of a community coordinated response. By employing a specialized knowledge of the best practices in the field, a statutory mandate will guarantee that grant funds are well utilized. A strong and visible office is necessary to implement the recommendations embodied in the National Agenda and Call to Action on Violence Against Women.

I am proud that New Mexico has many dedicated individuals offering services to battered women in our state. The Violence Against Women Act has bolstered their means to provide shelters for women in crisis, get access to legal assistance, and transition out of abusive situations. Further, VAWA funding is provided for educational outreach to medical providers and local law enforcement to increase their abilities to identify and respond in domestic violence cases.

Just last year, New Mexico entities received numerous grants as a result of the Violence Against Women Office. These grants included:

El Refugio, Inc. of Silver City received $304,931 from the Civil Legal Assistance Grant Program, an increase from their 1998 grant of $295,596. With these monies, they will be able to continue existing project activities in their legal assistance program from low income and indigent battered women.

Likewise, The Eight Northern Indian Pueblos, Inc., the Jicarilla Apache Tribe, the Pueblo of Laguna, and the Santa Ana Pueblo have collectively received $331,593 from the STOP Violence Against Indian Women Discretionary Grant Program. This allocation will be used to enhance and maintain current programs aimed at decreasing violence against women.

Since enactment of VAWA, other grants totaling over $1.5 million have been provided to the City of Albuquerque in support of the Albuquerque Police's Domestic Abuse Response Team (DART), to Santa Fe County for implementation of a judicial oversight program to enhance offender accountability, and to Dona Ana County's efforts to expand prosecutorial services for victims, DART and La Casa Inc., the local battered women's shelter.

This nation-wide problem demands a local response. Federal funding is being effectively used to leverage existing community-based organizations and local law enforcement officials to help prevent and persecute domestic violence.

Last year I cosponsored the Violence Against Women Act. This year I am supporting full funding of VAWA programs for the Justice Department programs and in the Health and Human Services budget, despite the tight fiscal constraints and competing priorities for those agencies.

Domestic violence is a scourge. We must commit to addressing it. This legislation is one concrete step in the right direction.

THE PUBLIC HEALTH IMPLICATIONS OF GUN VIOLENCE

Mr. LEVIN. Mr. President, before we adjourned for the Fourth of July recess, we spent two weeks on the Senate floor discussing the Patients Bill of Rights. I supported the strong, enforceable bill which the Senate finally approved on June 29th. After years of consideration and a hard legislative battle, the bipartisan vote this bill received reflects the overwhelming support the bill has from the American people.

Over the next several months we will continue to discuss the importance of reforming our health care system to make it more affordable and more accessible to the American people. But as we debate the subject, we must not ignore an issue that is often overlooked as a public health problem. I'm talking about gun violence. Because, Mr. President, accompanying the tremendous human costs of gun violence are enormous public health costs that we cannot afford to ignore.

According to a 1999 report from the Office of Juvenile Justice and Delinquency Prevention, every day in the United States, 93 people die as a result of gunshot wounds and an additional 240 sustain gunshot injuries. The report states that ''the fatality rate is roughly equivalent to that associated with HIV infection—a disease that the Centers for Disease Control and Prevention has recognized as an epidemic.'' In addition, according to a 1997 study cited by the Violence Policy Center, the cost of gunshot wounds exceeded $126 billion in 1992 alone. That same year, the injury cost per bullet sold in the United States exceeded $25.

So as we in the Senate work to improve health care for all Americans, we should work just as hard to address the loopholes in our gun laws. Only by doing the latter can we reduce the costs to public health that result from gun violence.

BURMA MILITARY PURCHASES

Mr. MCCONNELL. Mr. President, the illegitimate regime in Rangoon has once again shown its true colors. On this bright, sunny morning in Washington, I want to draw the attention of my colleagues to gathering storm clouds in Southeast Asia.

According to Jane's Defence Weekly, Burma's State Peace and Development Council, SPDC, has signed a contract to purchase 10 MiG–29 fighter aircraft from the Russian Aircraft-building Corporation. These fighters were built in the early 1990s and are being stored at the Lukhovitsy machine-building plant. The total cost of the 10 MiGs to the SPDC is $130 million, 30 percent of which will be paid up front and the balance settled over the next decade.

This purchase is troubling for several reasons, and underscores that despite its name the SPDC is neither committed to peace nor the development of Burma. Thailand—and the United States—should be concerned with the acquisition of these aircraft, which boosts the junta's capabilities well beyond the 42 Chengdu F–7M and Nanchang A–5C currently sitting on Burmese runways. Tensions between the Thais and the junta have already spilled over into exchanges of gunfire and mortars; an escalation to an air war would be destabilizing to the entire region. China may be the only country to view the sale in a positive light, as it strengthens the military capability of one its staunchest allies in the region.

From drug dealing to the forced use of child soldiers, the Burmese military has distinguished itself as a world's leading violator of human rights and dignity. This purchase serves as evidence that the regime is committed to remaining in power at any and all costs. The international community must now double its efforts to ensure that even greater human rights abuses are not waged against the innocent people of Burma by the military, which is corrupt to the core.

The acquisition of MiG fighters adds 10 more reasons why the United States should view skeptically the discussions between Rangoon's thugs and thieves and Burma's legitimate leader Daw Aung San Suu Kyi. The contract with Russia sends a signal that despite all the rhetoric and few prisoner releases, the talks may be hollow. What meaningful concessions can the generals make to Suu Kyi if they are arming themselves?

The $130 million contract—and where is that money coming from, Mr. President?—demonstrates yet again that the junta has not made the welfare of the people of Burma a priority. From an escalating HIV/AIDS crisis to forced labor practices, the junta has yet to demonstrate the political will to tackle the hardships the Burmese face every day.

Finally, the sale is an indication that the Russians are willing to sell military hardware to anyone, anywhere. We can add Burma to the growing list, which includes Iran and North Korea, of Russian client countries.

RACISM

Mr. BAUCUS. Mr. President, today I rise to call attention to racism in our society.

There are certain moments when we are reminded that it exists, and that it is a very ugly thing. Recently, the Committee of 100, a group of prominent Chinese-Americans, published a survey that measured attitudes toward Asian-Americans, especially those of Chinese descent. It was the first such comprehensive survey—the group wanted to establish a baseline that can be compared to future studies so that we can determine whether racist attitudes against Chinese-Americans are rising or falling.

The result of this first survey was distressing. Apparently, one-quarter of Americans hold ''very negative attitudes'' toward Chinese-Americans, and one-third think that Chinese-Americans are more likely to be loyal to China than to the United States. Stop and think about that: a charge of disloyalty is a sensational accusation when it is leveled by one American against another. This survey suggests that 90 million people in this country accuse millions of their fellow Americans of disloyalty.

The same poll also tested attitudes toward Asian-Americans in general, with similar results. Twenty-four percent of Americans would be upset if someone in their family married an Asian-American; 23 percent would be uncomfortable voting for an Asian-American president; and 17 percent would be disappointed if an Asian-American moved into their neighborhood.

Prejudice toward Chinese-Americans, and toward Asian-Americans in general, is not unique. Immigrants from all parts of the world have been stereotyped and reviled at some point in our

history, and many groups continue to face these attitudes today. I chose to focus on Chinese-Americans today only because the survey so surprised and concerned me.

Chinese immigrants began entering the country in large numbers in the 1850's. They were initially welcomed in the tight labor market of the rapidly expanding West. In fact, American industry brought many of the immigrants from China as contract laborers. Some of these immigrants toiled in gold mines and on the transcontinental railroad. Others worked in vegetable and fruit farms in California or on sugar plantations in Hawaii. Still others opened grocery stores, laundries, and other businesses.

But as labor became more plentiful and the gold rush petered out, public sentiment toward these new Americans turned. A campaign to drive the Chinese out of the country was fueled by racist slogans and developed , at times, into all-out hysteria. Discriminatory laws and boycotts against Chinese labor resulted, along with lynchings and beatings. In 1882, the federal government put an official stamp on this racism by passing the Chinese Exclusion Act, which made it illegal for Chinese people to emigrate to this country. This unprecedented and embarrassing law stayed on the books until 1943.

Another indignity that immigrants faced was the system of ''anti-miscegenation'' laws against intermarriage. In 1880, California passed a statute forbidding marriage of a white person to a ''Negro, Mulatto, or Mongolian.'' The federal government passed the Cable Act in 1922, revoking the citizenship of any American woman who married an Asian man. It wasn't until 1967 that the Supreme Court struck down these laws.

I am sorry to report that my own state of Montana was not immune to anti-immigrant action. Census data show that in 1870, the Chinese accounted for the largest foreign-born population in the state—larger even than the Irish. Chinese workers made a particularly significant contribution to the mining town of Butte, but by the 1880's they faced discrimination and hate attacks. Ads in newspapers appeared with the slogan ''Chinese need not apply'' Anti-peddling ordinances were enacted against Chinese grocers. In fact, the town's fourth mayor rode to victory on the slogan ''The Chinese must go.''

There is no single description of a Chinese-American. Some Chinese-Americans were already wealthy and well-educated when they arrived here. Others arrived in penury and followed the American path to education and success. Some Chinese-Americans continue to celebrate their Chinese origin. Others deny, or have forgotten completely, the cultural heritage of their ancestors. Yet all are Americans.

Cruz Reynoso, the first Mexican-American to serve on California's Supreme Court, put it this way:

> Americans are not now, and never have been, one people linguistically or ethnically. America is a political union—not a cultural, linguistic, religious, or racial union. It is acceptance of our constitutional ideals of democracy, equality, and freedom which acts as a unifier for us as Americans.

Political scientist Carl Friedrich made a similar point when he wrote in 1935: ''To be an American is an ideal, while to be a Frenchman is a fact.'' An individual is an American if he or she embraces the founding political ideals of our Nation.

It is the responsibility of all of us, as the elected representatives of the American people, to combat racism in our society, to raise awareness of how racism damages our nation and our society, to point to the ideals that bind us together as citizens of this great nation. Thank you.

SUPPORT FOR THE U.S. COAST GUARD

Mr. DEWINE. Mr. President, I rise today to thank the chairman and ranking member of the Appropriations Committee, Senators BYRD and STEVENS, for working with me and so many others in support of the $92 million for the U.S. Coast Guard. This funding was included in the 2001 Emergency Supplemental Appropriations bill we recently passed.

The Coast Guard needs this assistance to meet basic operational expenses and fund unexpected fiscal year 2001 budget requirements. We must support the critical services that the Coast Guard performs across the country. By passing this bill, we have demonstrated our strong support for its missions and will help it stay in the business of saving lives.

Known as ''the rescue expert,'' our Coast Guard responds to 40,000 search and rescue cases each year, saving 3,800 lives. And, though it is the rescue and response missions that get the headlines, the Coast Guard also is very dedicated to preventing emergencies. The Coast Guard inspects all commercial ships—including cargo ships, tankers, and cruise ships.

There are many other ways that the Coast Guard protects our citizens. One major component of Coast Guard operations is drug interdiction. Last year, the Coast Guard seized more than 66 tons of cocaine, with a street value of $4 billion—that's more than the total operating cost of the entire Coast Guard.

Perhaps one of the Coast Guard's toughest jobs is the day to day enforcement of U.S. immigration law. Coast Guard men and women are challenged daily to carry out their responsibilities with due regard for the law, human dignity, and above all, the safety of human life. It is a tough job, and each case is unique. But day in and day out, the Coast Guard continues to carry out its duties with professionalism and a never-ending commitment to those it serves.

These are just some of the vital missions the Coast Guard conducts. But the Coast Guard is reaching the point where it is stretched so thin and the condition of its equipment is so poor that I fear it will no longer be able to sustain daily operations.

When compared to 41 other maritime agencies around the world, the ships that make up our Coast Guard fleet of cutters are the 38th oldest. Because the fleet is so old, the Coast Guard has had to spend twice as much money to fix equipment and hull problems. This is a very serious problem, Mr. President. It is a problem that does not result from mismanagement, but rather, it is a problem that has resulted from a continual lack of adequate funding for our Coast Guard.

We need to provide the Coast Guard with the resources necessary so the American people can have the services that they require and deserve. The funding included in the 2001 Emergency Supplemental Appropriations bill certainly will help keep our Coast Guard afloat. And, we must remain committed to ensuring that our Coast Guard has adequate resources not just now, but well into the future.

I look forward to continuing to work with my colleagues on this vital issue.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred March 13, 1998 in San Francisco, California. A gay man, Brian Wilmes, 45, was beaten to death allegedly by another man who yelled anti-gay epithets and then fled with a woman. Edgar Mora, 25, was charged with murder.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

RURAL TRANSPORTATION

Mrs. CARNAHAN. Mr. President, I rise today to acknowledge a group of courageous young men and women from Canton, MO. They are visiting the Nation's capital this week.

The group's journey began more than a year ago on a two-lane road in northeast Missouri. Seventeen-year-old Kristin Hendrickson was killed on Highway 61 when her car struck another vehicle head on. A four-lane road with a divider might have saved her life.

Kristin was just a few months away from graduation at Canton R–5 High

School. Her unused prom dress hung in her closet, a reminder of how full of life she had been.

Kristin's friends tried to make sense of what happened.

Determined to make something positive out of this terrible loss, they started a grassroots movement: Students of Missouri Assisting Rural & Urban Transportation, or SMART. Their goal was to ''promote and ensure the safety of rural transportation needs in the State of Missouri.''

Many of the students who created SMART graduated a few weeks later, but younger students carried on the work. And those who graduated stayed involved as advisors.

The group developed four objectives:

First, to educate the public on the need to improve local transportation;

Second, to grow into other local districts, and then move statewide;

Third, to lobby legislators for funding to improve rural transportation; and

Fourth, to contact candidates for statewide office for their position on transportation, and use this information to educate the public.

SMART has already become a powerful advocacy group in Missouri. Just 2 months after the organization was founded, the nonpartisan group made a presentation at a meeting of the Missouri Highway and Transportation Commission. Their members have also addressed the Missouri Governor's Conference on Transportation. Representatives of the group have met personally with Missouri Governor Bob Holden and members of the Missouri General Assembly to encourage additional funding for rural transportation projects.

But their greatest victory to date came in January when the Missouri Department of Transportation announced that it would upgrade more than 10 miles of highway 61 between Canton and LaGrange to a four-lane road.

Although the victory came too late for Kristin, there is no way to know how many lives it will save in the years to come. It would not have happened without the forceful activism of these young people.

I am extremely proud of these young people. Not only because of what they accomplished, but because of what they still intend to accomplish. They are not yet satisfied, and we have not heard the last of them.

The group continues to organize similar groups throughout Missouri. They have come to Washington this week to encourage Members of Congress to support highway safety and to advocate for additional federal resources for transportation infrastructure.

These committed young people can teach us all a lesson about how to get things done. The example they have set is not just valuable for other young people, but also for adults who have grown cynical about the political process. These young leaders have shown that you can make a difference—through action and determination. And I intend to work with them to increase the Federal Government's investment in our Nation's highways.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, July 11, 2001, the Federal debt stood at $5,709,374,137,996.57, five trillion, seven hundred nine billion, three hundred seventy-four million, one hundred thirty-seven thousand, nine hundred ninety-six dollars and fifty-seven cents.

One year ago, July 11, 2000, the Federal debt stood at $5,665,065,000,000, five trillion, six hundred sixty-five billion, sixty-five million.

Five years ago, July 11, 1996, the Federal debt stood at $5,152,640,000,000, five trillion, one hundred fifty-two billion, six hundred forty million.

Ten years ago, July 11, 1991, the Federal debt stood at $3,536,904,000,000, three trillion, five hundred thirty-six billion, nine hundred four million.

Fifteen years ago, July 11, 1986, the Federal debt stood at $2,068,672,000,000, two trillion, sixty-eight billion, six hundred seventy-two million, which reflects a debt increase of more than $3.5 trillion, $3,640,702,137,996.57, three trillion, six hundred forty billion, seven hundred two million, one hundred thirty-seven thousand, nine hundred ninety-six dollars and fifty-seven cents during the past 15 years.

ADDITIONAL STATEMENTS

TRIBUTE TO KNIGHTS OF COLUMBUS ROCHESTER COUNCIL NO. 2048

● Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to the Knights of Columbus Council No. 2048 of Rochester, NH, on the creation of the successful Future Unlimited Banquet Program. Future Unlimited is an annual event which recognizes the Valedictorians and Salutatorians from eight high schools in the Seacoast region of New Hampshire.

The eight high schools represented in the program include: St. Thomas Aquinas High School, Berwick, ME, Dover High School, Somersworth High School, Farmington High School, Nute High School, Alton High School, Kingswood Regional High School and Spaulding High School.

I commend the Knights of Columbus Rochester Council for their recognition of the scholastic achievements of the high school seniors in the Seacoast region. As a former schoolteacher, I applaud the efforts of the Knights of Columbus for rewarding students who have established goals and high standards of excellence in their academic, extracurricular and civic endeavors.

The Knights of Columbus Rochester Council No. 2048 have served the citizens of Rochester and our state with pride and honor. The young men and women in the Seacoast region are blessed to have the encouragement and support of an organization which recognizes the qualities of hard work, perseverance and dedication. It is truly an honor and a privilege to represent them in the U.S. Senate.●

TRIBUTE TO LES AND MARILYN GORDON

● Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Les and Marilyn Gordon, owners of The Candlelite Inn in Bradford, NH, on being named as Inn of the Year by the Complete Guide to Bed & Breakfast Inns and Guesthouses in the United States, Canada and Worldwide.

Built in 1897, The Candlelite Inn has provided a relaxing atmosphere for visiting guests for over 100 years. The Gordons purchased the Inn in 1993, and have successfully continued the tradition of accommodating the needs of discriminating travelers touring the Lake Sunapee Region.

Throughout the year The Candlelite Inn hosts special weeks for their guests to enjoy including: Currier & Ives Maple Sugar Weekend in March, Old Glory Heritage Tours in July, August and September, Foliage Midweek Getaways in September and October, and Murder Mystery Parties throughout the year.

I commend Les and Marilyn for the economic contributions they have made to the hospitality and tourism industries in our state. The citizens of Bradford, and New Hampshire, have benefitted from their dedication to quality and service at The Candlelite Inn. It is truly an honor and a privilege to represent them in the U.S. Senate.●

FORD MOTOR COMPANY'S LIVING LEGENDS TOUR

● Mrs. CARNAHAN. Mr. President, I would like to take this opportunity to recognize Ford Motor Company's Living Legend Tour featuring the new 2002 Thunderbird and the Mustang Bullitt GT. These Ford vehicles will drive across Missouri from July 18–20, allowing Missourians to view them. Ford Motor Company and its employees, including the men and women of the United Auto Workers, have been instrumental in keeping Missouri's economy strong and our communities prosperous. More than 8,000 Missourians are employed in Ford assembly plants, credit locations, and dealerships across the state. We are gifted with a strong automotive industry in both the Kansas City and St. Louis areas.

In addition, at each stop along this tour, Ford is raising money for the Missouri Children's Trust Fund, which is a nonprofit organization started by the state legislature in 1983. This organization provides education and training to reduce abusive situations for

children, while creating a friendly environment for them to thrive.

I am very pleased to welcome this automobile tour to Missouri to demonstrate the quality of these vehicles and highlight the hard work and the generosity of Ford's Missouri employees. Thank you to all Ford employees across the State for making me proud to be a Missourian.●

HONORING INDEPENDENCE, MISSOURI AS AN ALL-AMERICAN CITY

● Mrs. CARNAHAN. Mr. President. I am proud to take this opportunity to honor a very special place in Missouri. On Saturday, June 23rd, Independence, MO, the hometown of Harry S. Truman, was selected as an All-American City. The All-American City Competition is the Nation's oldest award for civic accomplishment. The winning cities serve as ''models of exemplary grass-roots problem solving.''

A 51-member delegation of business interests, community leaders, and nonprofit organizations came together to lead Independence's participation in the competition. While community partnerships are sprouting up in cities across America, Independence is in a league of its own. Under the leadership of Mayor Ron Stewart, Independence has achieved a real sense of unity and community. So many different entities with widely divergent interests were recognized for their ability to successfully work together when faced with civic challenges.

Independence's winning presentation, appropriately themed ''Together We Can,'' highlighted recent citywide improvements such as cleaning up the historic Truman district, a sales tax approved by the voters to repair streets and parks, and the William Chrisman High School program which involved youth in public service programs. Furthermore, even Independence's physical presence at the competition was a united effort. Community groups worked together to raise funds to pay for the trip and prepare the presentation. This truly exceptional community certainly deserves its prestigious recognition as an All-American City.

Congratulations to Mayor Ron Stewart, participation coordinator Larry Kaufman, the delegation, and the residents of Independence. Your passionate work epitomizes the unlimited possibilities of cooperation. Thank you for making me proud to be a Missourian.●

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.)

MESSAGE FROM THE HOUSE

At 2:52 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 2216) an Act making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as the managers of the conference on the part of the House: Mr. YOUNG of Florida, Mr. REGULA, Mr. LEWIS of California, Mr. ROGERS of Kentucky, Mr. SKEEN, Mr. WOLF, Mr. KOLBE, Mr. CALLAHAN, Mr. WALSH, Mr. TAYLOR of North Carolina, Mr. HOBSON, Mr. ISTOOK, Mr. BONILLA, Mr. KNOLLENBERG, Mr. OBEY, Mr. MURTHA, Mr. DICKS, Mr. SABO, Mr. HOYER, Mr. MOLLOHAN, Ms. KAPTUR, Mr. VISCLOSKY, Mrs. LOWEY, Mr. SERRANO, and Mr. OLVER

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2330. An act making appropriations for Agriculture, Rural Development, Food and Drug Admininistraion, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes.

The message further announced that pursuant to section 303(a) of Public Law 106–286, the Speaker appoints the following Members of the House of Representatives to the Congressional-Executive Commission on the People's Republic of China: Mr. LEVIN of Michigan, Ms. KAPTUR of Ohio, Ms. PELOSI of California, and Mr. DAVIS of Florida.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1668. To authorize the Adams Memorial Foundation to establish a commemorative work on Federal land in the District of Columbia and its environs to honor former President John Adams and his legacy; to the Committee on Energy and Natural Resources.

H.R. 2330. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; to the Committee on Appropriations.

MEASURE PLACED ON THE CALENDAR

The Committee on Appropriations was discharged from further consideration of the following bill, which was ordered placed on the calendar:

H.R. 2311. An act making appropriations to energy and water development for the fiscal year ending September 30, 2002, and other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2759. A communication from the Assistant Attorney General of the Office of Legislative Affairs, transmitting, pursuant to law, the Annual Report of the Office of the Juvenile Justice and Delinquency Prevention for 2000; to the Committee on the Judiciary.

EC–2760. A communication from the Director of the National Legislative Commission, transmitting, pursuant to law, a report relative to consolidated financial statements with supplementary information for 1999 and 2000; to the Committee on the Judiciary.

EC–2761. A communication from the National Treasurer of the Navy Wives Clubs of America, transmitting, pursuant to law, a report relative to financial statements for Fiscal Year 1999; to the Committee on the Judiciary.

EC–2762. A communication from the Federal Co-Chairman of the Appalachian Regional Commission, transmitting, pursuant to law, the report of the Office of the Inspector General for the period from October 1, 2000 through March 31, 2001; to the Committee on Governmental Affairs.

EC–2763. A communication from the Acting Inspector General of the General Service Administration, transmitting, pursuant to law, the report of the Office of the Inspector General for the period beginning October 1, 2000 through March 31, 2001; to the Committee on Governmental Affairs.

EC–2764. A communication from the Secretary of the Department of Housing and Urban Development, transmitting, pursuant to law, the Annual Report on Performance and Accountability for Fiscal Year 2000; to the Committee on Governmental Affairs.

EC–2765. A communication from the Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–2766. A communication from the Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–2767. A communication from the Assistant Director for Executive and Political Personnel, transmitting, pursuant to law, the report of a vacancy in the position of Under Secretary of the Navy, received on July 5, 2001; to the Committee on Armed Services.

EC–2768. A communication from the Assistant Director for the Executive and Political Personnel, Department of the Navy, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary of the Navy, Installations and Environment, received on July 5, 2001; to the Committee on Armed Services.

EC–2769. A communication from the Under Secretary of Defense, Acquisition and Technology, transmitting, pursuant to law, the Annual Materials Plans for Fiscal Years 2001 and 2002; to the Committee on Armed Services.

EC–2770. A communication from the Head of Regulations and Legislation, Office of the Judge Advocate General, Department of the Navy, transmitting, pursuant to law, the report of a rule entitled ''Naval Discharge Review Board'' (RIN0703–AA64) received on July 5, 2001; to the Committee on Armed Services.

EC–2771. A communication from the Head of Regulations and Legislation, Office of the Judge Advocate General, Department of the Navy, transmitting, pursuant to law, the report of a rule entitled ''Rules Limiting Public Access to Particular Installations'' (RIN0703–AA63) received on July 5, 2001; to the Committee on Armed Services.

EC–2772. A communication from the Head of Regulations and Legislation, Office of the Judge Advocate General, Department of the Navy, transmitting, pursuant to law, the report of a rule entitled ''Garnishment of Pay of Naval Military and Civilian Personnel for Collection of Child Support and Alimony'' (RIN0703–AA67) received on July 5, 2001; to the Committee on Armed Services.

EC–2773. A communication from the Head of Regulations and Legislation, Office of the Judge Advocate General, Department of the Navy, transmitting, pursuant to law, the report of a rule entitled ''Assistance to and Support of Dependents; Paternity Complaints'' (RIN0703–AA66) received on July 5, 2001; to the Committee on Armed Services.

EC–2774. A communication from the Head of Regulations and Legislation, Office of the Judge Advocate General, Department of the Navy, transmitting, pursuant to law, the report of a rule entitled ''Rules Applicable to the Public'' (RIN0703–AA62) received on July 5, 2001; to the Committee on Armed Services.

EC–2775. A communication from the Head of Regulations and Legislation, Office of the Judge Advocate General, Department of the Navy, transmitting, pursuant to law, the report of a rule entitled ''Availability of Department of the Navy Records and Publication of Department of the Navy Documents Affecting the Public'' (RIN0703–AA58) received on July 5, 2001; to the Committee on Armed Services.

EC–2776. A communication from the Head of Regulations and Legislation, Office of the Judge Advocate General, Department of the Navy, transmitting, pursuant to law, the report of a rule entitled ''Disposition of Property'' (RIN0703–AA60) received on July 5, 2001; to the Committee on Armed Services.

EC–2777. A communication from the Head of Regulations and Legislation, Office of the Judge Advocate General, Department of the Navy, transmitting, pursuant to law, the report of a rule entitled ''Application Guidelines for Archeological Research Permits on Ship and Aircraft Wrecks Under the Jurisdiction of the Department of the Navy'' (RIN0703–AA57) received on July 5, 2001; to the Committee on Armed Services.

EC–2778. A communication from the Head of Regulations and Legislation, Office of the Judge Advocate General, Department of the Navy, transmitting, pursuant to law, the report of a rule entitled ''Rules Applicable to the Public'' (RIN0703–AA69) received on July 5, 2001; to the Committee on Armed Services.

EC–2779. A communication from the Under Secretary of Defense, Personnel and Readiness, transmitting, pursuant to law, a report relative to the review of policy and payment of claims; to the Committee on Armed Services.

EC–2780. A communication from the Secretary of Commerce, transmitting, pursuant to law, the report under the Electronic Signatures in Global and National Commerce Act dated June 2001; to the Committee on Commerce, Science, and Transportation.

EC–2781. A communication from the Program Analyst of the Office of the Managing Director, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Assessment and Collection of Regulatory Fees for Fiscal Year 2001'' (Doc. No. 01–76) received on July 2, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2782. A communication from the Attorney for the Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Hazardous Materials Regulations: Minor Editorial Corrections and Clarifications'' (RIN2137–AD51) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2783. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: Fireworks Display, Hyannis, MA'' ((RIN2115–AA97)(2001–0037)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2784. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: Festa Italiana 2001, Milwaukee Harbor, Wisconsin'' ((RIN2115–AA97)(2001–0038)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2785. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: Swampscott July 2nd Fireworks, Swampscott, Massachusetts'' ((RIN2115–AA97)(2001–0035)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2786. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: Northcoast Rockin' and Roarin' Offshore Grand Prix, Lake Erie and Cleveland Harbor, Cleveland, Ohio'' ((RIN2115–AA97)(2001–0034)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2787. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: Fireworks Display, Provincetown, MA'' ((RIN2115–AA97)(2001–0036)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2788. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Technical Amendments; Organizational Changes; Miscellaneous Editorial Changes and Conforming Amendments'' ((RIN2115–ZZ02)(2000–0002)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2789. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: Lake Erie, Huron, Ohio'' ((RIN2115–AA97)(2001–0030)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2790. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: Kewaunee Annual Trout Festival, Kewaunee Harbor, Lake Michigan, WI'' ((RIN2115–AA97)(2001–0032)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2791. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: Lake Erie, Huron, Ohio'' ((RIN2115–AA97)(2001–0031)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2792. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Tall Ships Challenge 2001, Moving Safety Zone, Muskegon Lake, Muskegon, MI'' ((RIN2115–AA97)(2001–0033)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2793. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regatta Regulations; SLR; Maryland Swim for Life, Chester River, Chestertown Maryland'' ((RIN2115–AE46)(2001–0015)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2794. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Raising the Threshold of Property Damage for Reports of Accidents Involving Recreational Vessels'' (RIN2115–AF87) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2795. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regatta Regulations: SLR; Patapsco River, Baltimore Maryland'' ((RIN2115–AE46)(2001–0016)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2796. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regatta Regulations: SLR; Northeast River, North East, Maryland'' ((RIN2115–AE46)(2001–0017)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2797. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: Milwaukee, WI'' ((RIN2115–AA97)(2001–0029)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2798. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Sabine Lake, Texas'' ((RIN2115–AE47)(2001–0048)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2799. A communication from the Attorney/Advisor of the Department of Transportation, transmitting, pursuant to law, the report of a nomination for the position of Administrator of the National Highway Traffic Safety Administration, received on July 5,

2001; to the Committee on Commerce, Science, and Transportation.

EC–2800. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: American Champion Aircraft Corporation 7, 8, and 11 Series Airplanes'' ((RIN2120–AA64)(2001–0261)) received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2801. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Annual Report on Transportation Security for Calendar Year 1999; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted on July 12, 2001:

By Mr. DURBIN, from the Committee on Appropriations, without amendment:

S. 1172: An original bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 2002, and for other purposes (Rept. No. 107–37).

By Mr. BIDEN, from the Committee on Foreign Relations, with an amendment and with an amended preamble:

S. RES. 122: A resolution relating to the transfer of Slobodan Milosevic to the International Criminal Tribunal for Yugoslavia, and for other purposes.

By Mr. BIDEN, from the Committee on Foreign Relations, without amendment and with a preamble:

S. RES. 128: A resolution calling on the Government of the People's Republic of China to immediately and unconditionally release Li Shaomin and all other American scholars of Chinese ancestry being held in detention, calling on the President of the United States to continue working on behalf of Li Shaomin and the other detained scholars for their release, and for other purposes.

By Mr. BIDEN, from the Committee on Foreign Relations, without amendment:

S. 1021: A bill to reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2004.

By Mr. REID, from the Committee on Appropriations, without amendment:

S. 1171: An original bill making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes.

By Mr. BIDEN, from the Committee on Foreign Relations, without amendment and with an amended preamble:

S. CON. RES. 28: A concurrent resolution calling for a United States effort to end restrictions on the freedoms and human rights of the enclaved people in the occupied area of Cyprus.

By Mr. BIDEN, from the Committee on Foreign Relations, with an amendment and an amendment to the title and with an amended preamble:

S. CON. RES. 34: A concurrent resolution congratulating the Baltic nations of Estonia, Latvia, and Lithuania on the tenth anniversary of the reestablishment of their full independence.

By Mr. BIDEN, from the Committee on Foreign Relations, without amendment:

S. CON. RES. 53: Concurrent resolution encouraging the development of strategies to reduce hunger and poverty, and to promote free market economies and democratic institutions, in sub-Saharan Africa.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HARKIN for the Committee on Agriculture, Nutrition, and Forestry.

*Joseph J. Jen, of California, to be Under Secretary of Agriculture for Research, Education, and Economics.

*James R. Moseley, of Indiana, to be Deputy Secretary of Agriculture.

By Mr. SARBANES for the Committee on Banking, Housing, and Urban Affairs.

*Roger Walton Ferguson, Jr., of Massachusetts, to be a Member of the Board of Governors of the Federal Reserve System for a term of fourteen years from February 1, 2000.

*Angela Antonelli, of Virginia, to be Chief Financial Officer, Department of Housing and Urban Development.

*Donald E. Powell, of Texas, to be Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation for a term of five years.

*Donald E. Powell, of Texas, to be a Member of the Board of Directors of the Federal Deposit Insurance Corporation for a term of six years.

*Ronald Rosenfeld, of Maryland, to be President, Government National Mortgage Association.

*Jennifer L. Dorn, of Nebraska, to be Federal Transit Administrator.

By Mr. BINGAMAN for the Committee on Energy and Natural Resources.

*Patricia Lynn Scarlett, of California, to be an Assistant Secretary of the Interior.

*William Gerry Myers III, of Idaho, to be Solicitor of the Department of the Interior.

*Bennett William Raley, of Colorado, to be an Assistant Secretary of the Interior.

*Vicky A. Bailey, of Indiana, to be an Assistant Secretary of Energy (International Affairs and Domestic Policy).

*Frances P. Mainella, of Florida, to be Director of the National Park Service.

*John W. Keys, III, of Utah, to be Commissioner of Reclamation.

By Mr. BIDEN for the Committee on Foreign Relations.

*Lori A. Forman, of Virginia, to be an Assistant Administrator of the United States Agency for International Development.

*Aubrey Hooks, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of the Congo.

Nominee: Aubrey Hooks.

Post: Ambassador to the Democratic Republic of the Congo.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses: Leah Jean Hooks Billings and Kevin Billings, none; Michael Aubrey Hooks and Sandra Montero Hooks, none; Keren Jean Hooks Lundy and Michael Lundy, none; Joseph Aubrey Hooks, none; Daniel Aubrey Hooks, none; and Stephanie Jean Hooks, none.
4. Parents (deceased).
5. Grandparents (deceased).
6. Brothers and spouses: Cecil Wayne Hooks and Linda Jean Elliott Hooks, none; Jimmy Hooks, none; Johnnie Hooks and Angela Hooks, none; and Ricky Hooks, none.
7. Sisters and spouses: Wanda Jane Hooks Graham and Michael Graham, none; Mabel Hooks, none; Betty Hooks, none; Judy Pearl Hooks Laxton and Newton Laxton, none; and Jackie Darnell Hooks Strickland and Nelson Strickland, none.

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*Peter R. Chaveas, of Pennsylvania, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of American to the Republic of Sierra Leone.

Nominee: Peter R. Chaveas.

Post Ambassador to Sierra Leone.

The following is a list of all members of my immediate family and their spouses. I have asked each of these person to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self: $200, 7/1/97, Democratic National Committee; $200, 12/2/97, Democratic National Committee; and $200, 3/22/00, Democratic National Committee.
2. Spouse, none.
3. Children and spouses: Pamela M. Chaveas, none; and Michael M. Chaveas, none.
4. Parents: William and Evelyn Chaveas, none.
5. Grandparents (deceased).
6. Brothers and spouses: Richard and Debbie Chaveas, none; Paul and Carol Chaveas, $50, 8/11/97, Committee for Continued Good Government; $25, 5/12/98, Committee for Continued Good Government; and $50, 6/28/00, Committee to Re-elect Hartman, Johnstone, Renzulli.
7. Sisters and spouses, none.

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*Donald J. McConnell, of Ohio, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Eritrea.

Nominee: Donald Joseph McConnell.

Post: Ambassador to Eritrea.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self, none.
2. Spouse, none.
3.Children and spouses, none.
4. Parents, none.
5. Grandparents, none.
6. Brothers and spouses, none.
7. Sisters and spouses, none.

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*Nancy J. Powell, of Iowa, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Ghana.

Nominee: Nancy J. Powell.

Post: Accra, Ghana.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self, none.
2. Spouse, not applicable.
3. Children and spouses, not applicable.
4. Parents: Joseph and J. Maxine Powell, none.
5. Grandparents (deceased).
6. Brothers and spouses: William Powell, none.
7. Sisters and spouses, not applicable.

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*George McDade Staples, of Kentucky, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cameroon, and to serve concurrently and without additional compensation

as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Equatorial Guinea.

Nominee: George M. Staples.

Post: Cameroon and Equatorial Guinea.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self, none.
2. Spouse: Jo Ann Staples, none.
3. Children and spouses: Catherine D. Staples, none.
4. Parents (deceased).
5. Grandparents (deceased).
6. Brothers and spouses, none.
7. Sisters and spouses: Mildred E. Staples, none.

*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. CHAFEE (for himself, Mr. DEWINE, Mr. LEAHY, and Mrs. FEINSTEIN):

S. 1168. A bill to amend the Foreign Assistance Act of 1961 to provide for the establishment of a Clean Water for the Americas Partnership within the United States Agency for International Development; to the Committee on Foreign Relations.

By Mr. FEINGOLD (for himself, Mr. MURKOWSKI, Ms. COLLINS, and Mr. KERRY):

S. 1169. A bill to streamline the regulatory processes applicable to home health agencies under the medicare program under title XVIII of the Social Security Act and the medicaid program under title XIX of such Act, and for other purposes; to the Committee on Finance.

By Mr. MURKOWSKI:

S. 1170. A bill to make the United States' energy policy toward Iraq consistent with the national security policies of the United States; to the Committee on Finance.

By Mr. REID:

S. 1171. An original bill making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. DURBIN:

S. 1172. An original bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 2002, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. BAYH:

S. 1173. A bill to amend the Internal Revenue Code of 1986 to extend the work opportunity credit to the employment of any adult food stamp recipient; to the Committee on Finance.

By Mr. LEAHY (for himself, Mr. HATCH, and Mr. KENNEDY):

S. 1174. A bill to provide for safe incarceration of juvenile offenders; to the Committee on the Judiciary.

By Mr. LOTT (for himself and Mr. COCHRAN):

S. 1175. A bill to modify the boundary of Vicksburg National Military Park to include the property known as Pemberton's Headquarters, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. VOINOVICH (for himself and Mr. CARPER):

S. 1176. A bill to strengthen research conducted by the Environmental Protection Agency, and for other purposes; to the Committee on Environment and Public Works.

By Ms. SNOWE (for herself, Ms. COLLINS, Mr. JEFFORDS, and Mr. LEAHY):

S. 1177. A bill to amend title XI of the Social Security Act to clarify that the Secretary of Health and Human Services has the authority to treat certain State payments made in an approved demonstration project as medical assistance under the medicaid program for purposes of a rebate agreement under section 1927 of the Social Security Act, and for other purposes; to the Committee on Finance.

By Mr. COCHRAN (for himself, Mr. FRIST, and Mr. LEAHY):

S.J. Res. 19. A joint resolution providing for the reappointment of Anne d'Harnoncourt as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

By Mr. COCHRAN (for himself, Mr. FRIST, and Mr. LEAHY):

S.J. Res. 20. A joint resolution providing for the appointment of Roger W. Sant as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DASCHLE (for himself and Mr. LOTT):

S. Res. 129. A resolution electing Jeri Thomson as Secretary of the Senate; considered and agreed to.

By Mr. DASCHLE (for himself and Mr. LOTT):

S. Res. 130. A resolution notifying the House of Representatives of the election of a Secretary of the Senate; considered and agreed to.

By Mr. DASCHLE (for himself and Mr. LOTT):

S. Res. 131. A resolution notifying the President of the United States of the election of a Secretary of the Senate; considered and agreed to.

By Mr. CAMPBELL (for himself, Mr. KOHL, Mr. INHOFE, Mr. COCHRAN, Mrs. LINCOLN, Mr. WARNER, Mr. ENSIGN, Mr. DORGAN, Mr. DEWINE, Mr. AKAKA, Ms. LANDRIEU, Ms. STABENOW, Mr. DODD, Mr. SMITH of Oregon, Mr. ENZI, Mr. LOTT, Mr. HELMS, Mr. HAGEL, Mr. DOMENICI, and Mr. MILLER):

S. Res. 132. A resolution recognizing the social problem of child abuse and neglect, and supporting efforts to enhance public awareness of it; to the Committee on the Judiciary.

By Mr. CORZINE:

S. Res. 133. A resolution expressing the sense of the Senate that information pertaining to Nazi war criminals should be brought to light so that future generations can learn from Holocaust, and for other purposes; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 131

At the request of Mr. JOHNSON, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 131, a bill to amend title 38, United States Code, to modify the annual determination of the rate of the basic benefit of active duty educational assistance under the Montgomery GI Bill, and for other purposes.

S. 145

At the request of Mr. THURMOND, the names of the Senator from North Carolina (Mr. HELMS) and the Senator from Vermont (Mr. JEFFORDS) were added as cosponsors of S. 145, a bill to amend title 10, United States Code, to increase to parity with other surviving spouses the basic annuity that is provided under the uniformed services Survivor Benefit Plan for surviving spouses who are at least 62 years of age, and for other purposes.

S. 233

At the request of Mr. FEINGOLD, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 233, a bill to place a moratorium on executions by the Federal Government and urge the States to do the same, while a National Commission on the Death Penalty reviews the fairness of the imposition of the death penalty.

S. 492

At the request of Mr. THOMPSON, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 492, a bill to amend the Internal Revenue Code of 1986 to repeal the alternative minimum tax on individuals.

S. 494

At the request of Mr. BIDEN, his name was added as a cosponsor of S. 494, a bill to provide for a transition to democracy and to promote economic recovery in Zimbabwe.

S. 531

At the request of Mrs. LINCOLN, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 531, a bill to promote recreation on Federal lakes, to require Federal agencies responsible for managing Federal lakes to pursue strategies for enhancing recreational experiences of the public, and for other purposes.

S. 543

At the request of Mr. WELLSTONE, the names of the Senator from Washington (Ms. CANTWELL) and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 543, a bill to provide for equal coverage of mental health benefits with respect to health insurance coverage unless comparable limitations are imposed on medical and surgical benefits.

S. 570

At the request of Mr. BIDEN, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 570, a bill to establish a permanent Violence Against Women Office at the Department of Justice.

S. 571

At the request of Mr. THURMOND, the name of the Senator from Alabama

(Mr. SESSIONS) was added as a cosponsor of S. 571, a bill to provide for the location of the National Museum of the United States Army.

S. 583

At the request of Mr. KENNEDY, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 583, a bill to amend the Food Stamp Act of 1977 to improve nutrition assistance for working families and the elderly, and for other purposes.

S. 624

At the request of Mr. GREGG, the name of the Senator from Kentucky (Mr. MCCONNELL) was added as a cosponsor of S. 624, a bill to amend the Fair Labor standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off and biweekly work programs as Federal employees currently enjoy to help balance the demands and needs of work and family, to clarify the provisions relating to exemptions of certain professionals from minimum wage and overtime requirements of the Fair Labor Standards Act of 1938, and for other purposes.

S. 654

At the request of Mr. TORRICELLI, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 654, a bill to amend the Internal Revenue Code of 1986 to restore, increase, and make permanent the exclusion from gross income for amounts received under qualified group legal services plans.

S. 656

At the request of Mr. REED, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 656, a bill to provide for the adjustment of status of certain nationals of Liberia to that of lawful permanent residence.

S. 672

At the request of Mrs. FEINSTEIN, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 672, a bill to amend the Immigration and Nationality Act to provide for the continued classification of certain aliens as children for purposes of that Act in cases where the aliens ''age-out'' while awaiting immigration processing, and for other purposes.

S. 839

At the request of Mrs. HUTCHISON, the names of the Senator from South Carolina (Mr. HOLLINGS), the Senator from New Jersey (Mr. CORZINE), and the Senator from Nevada (Mr. REID) were added as cosponsors of S. 839, a bill to amend title XVIII of the Social Security Act to increase the amount of payment for inpatient hospital services under the medicare program and to freeze the reduction in payments to hospitals for indirect costs of medical education.

S. 910

At the request of Mr. ROCKEFELLER, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 910, a bill to provide certain safeguards with respect to the domestic steel industry.

S. 932

At the request of Mr. HARKIN, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 932, a bill to amend the Food Security Act of 1985 to establish the conservation security program.

S. 942

At the request of Mr. GRAHAM, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 942, a bill to authorize the supplemental grant for population increases in certain states under the temporary assistance to needy families program for fiscal year 2002.

S. 992

At the request of Mr. NICKLES, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 992, a bill to amend the Internal Revenue Code of 1986 to repeal the provision taxing policy holder dividends of mutual life insurance companies and to repeal the policyholders surplus account provisions.

S. 1021

At the request of Mr. BIDEN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1021, a bill to reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2004.

S. 1042

At the request of Mr. INOUYE, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1042, a bill to amend title 38, United States Code, to improve benefits for Filipino veterans of World War II, and for other purposes.

S. 1075

At the request of Mr. GRASSLEY, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 1075, a bill to extend and modify the Drug-Free Communities Support Program, to authorize a National Community Antidrug Coalition Institute, and for other purposes.

S. 1087

At the request of Mr. CONRAD, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1087, a bill to amend the Internal Revenue Code of 1986 to provide a shorter recovery period of the depreciation of certain leasehold improvements.

S. 1088

At the request of Mr. ROCKEFELLER, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 1088, a bill to amend title 38, United States Code, to facilitate the use of educational assistance under the Montgomery GI Bill for education leading to employment in high technology industry, and for other purposes.

S. 1090

At the request of Mr. ROCKEFELLER, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 1090, a bill to increase, effective as of December 1, 2001, the rates of compensation for veterans with service-connected disabilities and the rates dependency and indemnity compensation for the survivors of certain disabled veterans.

S. 1091

At the request of Mr. ROCKEFELLER, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 1091, a bill to amend section 1116 of title 38, United States Code, to modify and extend authorities on the presumption of service-connection for herbicide-related disabilities of Vietnam era veterans, and for other purposes.

S. 1093

At the request of Mr. ROCKEFELLER, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 1093, a bill to amend title 38, United States Code, to exclude certain income from annual income determinations for pension purposes, to limit provision of benefits for fugitive and incarcerated veterans, to increase the home loan guaranty amount for construction and purchase of homes, to modify and enhance other authorities relating to veterans' benefits, and for other purposes.

S. 1115

At the request of Mr. KENNEDY, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 1115, a bill to amend the Public Health Service Act with respect to making progress toward the goal of eliminating tuberculosis, and for other purposes.

S. 1135

At the request of Mr. GRAHAM, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 1135, a bill to amend title XVIII of the Social Security Act to provide comprehensive reform of the medicare program, including the provision of coverage of outpatient prescription drugs under such program.

S. 1167

At the request of Mrs. FEINSTEIN, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1167, a bill to amend the Immigration and Nationality Act to permit the substitution of an alternative close family sponsor in the case of the death of the person petitioning for an alien's admission to the United States.

S. RES. 121

At the request of Mr. KERRY, the names of the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Rhode Island (Mr. REED), the Senator from Hawaii (Mr. AKAKA), and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. Res. 121, a resolution expressing the sense of the Senate regarding the policy of the United States at the 53rd Annual Meeting of the International Whaling Commission.

S. RES. 128

At the request of Mr. TORRICELLI, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. Res. 128, a resolution calling on the Government of the People's Republic of China to immediately and unconditionally release Li Shaomin and all other American scholars of Chinese ancestry being held in detention, calling on the President of the United States to continue working on behalf of Li Shaomin and the other detained scholars for their release, and for other purposes.

At the request of Mr. BIDEN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. Res. 128, supra.

S. CON. RES. 3

At the request of Mr. FEINGOLD, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. Con. Res. 3, a concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued in honor of the U.S.S. *Wisconsin* and all those who served aboard her.

S. CON. RES. 28

At the request of Mr. BIDEN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. Con. Res. 28, a concurrent resolution calling for a United States effort to end restrictions on the freedoms and human rights of the enclaved people in the occupied area of Cyprus.

S. CON. RES. 53

At the request of Mr. HAGEL, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. Con. Res. 53, concurrent resolution encouraging the development of strategies to reduce hunger and poverty, and to promote free market economies and democratic institutions, in sub-Saharan Africa.

AMENDMENT NO. 907

At the request of Ms. LANDRIEU, the names of the Senator from Ohio (Mr. VOINOVICH), the Senator from South Dakota (Mr. DASCHLE), the Senator from Arkansas (Mrs. LINCOLN), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of amendment No. 907 intendent to be proposed to H.R. 2217, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes.

AMENDMENT NO. 921

At the request of Ms. COLLINS, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of amendment No. 921 intendent to be proposed to H.R. 2217, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes.

AMENDMENT NO. 922

At the request of Ms. COLLINS, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of amendment No. 922 intendent to be proposed to H.R. 2217, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FEINGOLD (for himself, Mr. MURKOWSKI, Ms. COLLINS, and Mr. KERRY):

S. 1169. A bill to streamline the regulatory processes applicable to home health agencies under the medicare program under title XVIII of the social Security Act and the medicaid program under title XIX of such Act, and for other purposes; to the Committee on Finance.

Mr. FEINGOLD. Mr. President, I rise today to introduce the Home Health Nurse and Patient Act of 2001. This legislation reduces administrative burdens, requires a focused analysis of crucial claims processing concerns, and provides the opportunity for constructive reforms of current inefficiencies.

I am especially pleased to be joined by a number of my colleagues, including Senator MURKOWSKI and Senator KERRY who have been leaders in the regulatory reform movement, and Senator COLLINS, who has truly been a champion for preserving access to home health care.

Without Senator COLLINS' leadership on this issue, including the 1999 hearing that she held on the issue of regulatory burdens facing the home health care industry, this legislation would not be where it is today.

Senator COLLINS' legislation to repeal the 15 percent reduction in payments to home health care providers is also of the utmost importance, and is the other piece to the puzzle in terms of preserving access to home health care. It is my hope that the Senate Finance Committee will report out her legislation this year.

Scope of the problem: As many of my colleagues know, home health care provides compassionate, at-home care to seniors and people with disabilities in cities and towns throughout America.

Without it, many patients have no choice but to go to a nursing home, or even an emergency room, to get the care they need. For too many home health patients in my home state of Wisconsin, that day has arrived.

Over the past few years, home health agencies around Wisconsin have closed their doors due to massive changes in Medicare, and seniors and the disabled have been forced to go elsewhere for care.

In Wisconsin, over 40 Medicare home health providers have shut down since the implementation of the Interim Payment System. Still more have shrunken their service areas, stopped accepting Medicare patients, or refused assignment for high cost patients because the payments are simply too low.

Over the past 3 years, nearly 30 of Wisconsin's 72 counties have lost between one and fifteen home health care agencies.

Quite frankly, in many parts of Wisconsin, beneficiaries in certain areas or with certain diagnoses simply don't have access to home health care.

While we have thankfully moved beyond the interim payment system, many home health agencies are facing another cloud in the horizon—an impending nursing shortage and a regulatory system that causes nurses to fill out paperwork instead of caring for patients.

Burdensome and excessive paperwork often causes nurses to leave the home health care profession, and that can mean that patients stay in the hospital longer than necessary.

A 2000 national survey by the Hospital and Healthcare Compensation Service reported a 21-percent turnover rate for home health registered nurses, a 24-percent turnover rate for home health licensed practicing nurses, and a 28-percent turnover for home health aides.

The actual amount of time that a nurse provides medical care during an average ''start of care'' home health visit is approximately 45 minutes, only 30 percent of the average 2.5 hours of a nurse's time during the admission visit. According to Price Waterhouse Cooper, every hour of patient care time requires 48 minutes of paperwork time for hospital-owned home health agencies.

I would like to share with my colleagues this advertisement from Nursing Spectrum magazine.

Let me read this line here in bold print: ''No OASIS.''

As you can see the main selling point in the advertisement is the fact that the job will not force nurses to collect OASIS data. This is just one simple example of how the administrative burden we have imposed on our nurses.

Our legislation takes a common sense approach to developing Medicare home health regulatory policies that are pro-consumer, provider-friendly, and efficient for the Center for Medicare and Medicaid Services, CMS, to administer.

It would also help to ensure that the policies are successful, fair and effective because all parties would collaborate on recommendations to the Secretary of Health and Human Services, HHS, through joint task forces.

This legislation would significantly alleviate the burdens that the Outcomes Assessment and Information Set (OASIS), the claims process for patients who are enrolled in both Medicare and Medicaid, and certain audit and medical review processes have had on home health providers.

More importantly, the changes to the OASIS and the claims review process also would reduce the stress often experienced by home health patients due to the complexity of both regulations.

It would also create a task force to analyze the appropriateness and efficacy of the OASIS patient assessment

instrument on Medicare, Medicaid and non-government financed patients.

During the study, the OASIS process would be optional for the non-Medicare and non-Medicaid patients and inapplicable to those patients receiving personal care services only.

Many beneficiaries are also concerned about arbitrary coverage decisions, that leaves beneficiaries in the lurch. That is why this legislation requires the Secretary to form a task force to develop an efficient process for the handling of Medicare claims related to individuals also eligible for Medicaid coverage where the claim may not be covered under Medicare.

Finally, the Home Health Nurse and Patient Act would create a task force that would engage in a wholesale evaluation of the process used by Medicare to select and review home health services' claims.

The task force would consider such changes as establishing time limits for claim determinations, the use of alternative dispute resolution processes, the development of formal claims sampling protocols, allowing re-submission of corrected claims, and permitting physician assistants and nurse practitioners to establish care plans.

I hope to continue to work with both providers and beneficiaries to take a serious look at what refinements need to occur to ensure the home bound elderly and disabled can receive the services they need.

Without that fine-tuning, I am quite certain that more home health agencies in Wisconsin and across our country will close, leaving some of our frailest Medicare beneficiaries without the choice to receive care at home.

By Mr. MURKOWSKI:

S. 1170. A bill to make the United States' energy policy toward Iraq consistent with the national security policies of the United States; to the Committee on Finance.

Mr. MURKOWSKI. Mr. President, I take the opportunity at this time to introduce S. 1170. It is my intention to introduce the following bill to make the United States energy policy towards Iraq consistent with the national security policies of the United States.

I anticipate that several colleagues will be cosponsoring the bill with me. I will enter into that at a later time.

Mr. MURKOWSKI. Mr. President, for some time I have been coming to the floor to speak of a major inconsistency in our foreign and energy policies. I am referring, of course, to our growing dependence on imported petroleum from Iraq.

We import somewhere between 500,000 to 750,000 barrels of oil from Iraq every day. About six billion dollars worth last year. Since the end of the gulf war, we have also flown some 250,000 sorties to prevent Saddam Hussein from threatening our allies in the region. We spend billions every year to keep him in check.

We fill up our planes with Iraqi oil, send our pilots to fly over and get shot at by Iraqi artillery, and return to fill up on Iraqi oil again.

Saddam heats our homes in winter, gets our kids to school each day, gets our food from farm to dinner table, and we pay him well to do that.

What does he do with the money he gets from oil?

He pays his Republican Guards to keep him safe.

He supports international terrorist activities; he funds his military campaign against American servicemen and women and those of our allies; and he builds an arsenal of weapons of mass destruction to threaten Israel and our allies in the Persian Gulf.

Am I missing something? Is this good policy? For a number of years the United States has worked closely with the United Nations on the ''Oil-for-Food'' Program.

This program allows Iraq to export petroleum in exchange for funds which can be used for food, medicine and other humanitarian products.

Despite more than $15 billion available for those purposes, Iraq has spent only a fraction of that amount on its people's needs.

Instead, the Iraqi government spends that money on items of questionable, and often highly suspicious purposes. Why, when billions are available to care for the Iraqi people, who are malnourished, sick, and have inadequate medical care, would Saddam Hussein withhold the money available, and choose instead to blame the United States for the plight of his people?

Why is Iraq reducing the amount it spends on nutrition and pre-natal care, when millions of dollars are available?

Why does $200 million of medicine from the UN sit undistributed in Iraqi warehouses?

Why, given the urgent state of humanitarian conditions in Iraq, does Saddam Hussein insist that the country's highest priority is the development of sophisticated telecommunications and transportation infrastructure?

Why, if there are billions available, and his people are starving, is Iraq only buying $8 million of food from American farmers each year?

I have no quarrel with the Oil-for-Food program. It is a well-intentioned effort.

I do, however, have a problem with the means in which Saddam Hussein has manipulated our growing dependency on Iraqi oil.

Three times since the beginning of the Oil-for-Food program, Saddam Hussein has threatened or actually halted oil production, disrupting energy markets and sending oil prices skyrocketing.

Why do this? Simply to send a message to the United States: ''I have leverage over you.''

Every time he has done this, he has had his way. We have proven ourselves addicted to Iraqi oil. Saddam has been proven right: he does have leverage over us.

We have placed our energy security in the hands of a madman.

The Administration has attempted valiantly to reconstruct a sensible multilateral policy toward Iraq. Those attempts have unfortunately not been successful.

I think that before we can construct a sensible US policy toward Iraq, we need to end the blatant inconsistency between our energy policy and our foreign policy.

We need to end our addiction to Iraqi oil. We need to go ''cold turkey.''

To that end I have introduced legislation today which would prohibit imports from Iraq, whether or not under the Oil for Food Program, until it is no longer inconsistent with our national security to resume those imports.

I hope that this will be an initial step towards a more rational and coherent policy toward Iraq.

By Mr. LEAHY (for himself, Mr. HATCH, and Mr. KENNEDY):

S. 1174. A bill to provide for safe incarceration of juvenile offenders; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I rise today to introduce with Senator HATCH legislation that addresses the problems caused by housing juveniles who are prosecuted in the criminal justice system in adult correctional facilities. In addition, this legislation reauthorizes the Juvenile Justice and Delinquency Prevention Act, to maintain the core protections afforded to juveniles who are adjudicated delinquent and detained in the juvenile court system. This two-pronged approach will help ensure that we treat juvenile offenders with appropriate severity, but also in a way that assists States in providing safe conditions for their confinement and appropriate access to educational, vocational, and health programs that address the needs of juveniles. Improving conditions for juveniles today will improve the public safety in the future, as juveniles who are not exposed to adult inmates have a lower likelihood of committing future crimes.

The Justice Department reported last fall that of the 50 States and the District of Columbia, 44 house juveniles in adult jails and prisons, and 26 of those do not maintain designated youthful offender housing units. As a nation, we are relying increasingly on adult facilities to house juveniles; for example, according to the Bureau of Justice Statistics' survey of jails, there was a 35 percent increase in the number of juveniles held in adult jails between 1994 and 1997. I believe that there is a will in the States to improve conditions for these juveniles, but resources are often lacking. The Federal Government can play a useful role by providing funding to States that want to take account of the differences between juveniles and adults.

Although many juvenile offenders serving time in adult prisons have committed extraordinarily serious offenses, others are there because of relatively minor crimes and will be released at a young age. According to the

1999 report of the Office of Juvenile Justice and Delinquency Prevention, 22 percent of juveniles committed to State prisons were there because they had committed property crimes, 11 percent because they committed drug-related crimes, and only 25 percent because they had committed murder, kidnaping, sexual assault or assault. Certainly, many of those juveniles can be convinced not to commit further crimes. The social and moral cost of not making that attempt is simply incalculable.

There is stunning statistical evidence that something is deeply wrong with our current approach to incarcerating juveniles. According to the Justice Department, the suicide rate for juveniles held in adult jails is five times the rate in the general youth population and eight times the rate for adolescents in juvenile detention facilities. Juveniles in adult facilities are also more likely to be violently victimized. Sexual assault was five times more likely than in juvenile facilities, beatings by staff nearly twice as likely, and attacks with weapons almost 50 percent more common.

Moreover, many scholars have questioned whether housing juvenile offenders with adult inmates serves our long-term interest in public safety. Multiple studies have shown that youth transferred to the adult system recidivate at higher rates and with more serious offenses than youth who have committed similar offenses but are retained in the juvenile justice system. Some would suggest that we should not be transferring youth to the adult system at all, and I am sympathetic to that view. But that is a decision our States must make, and for now most of our States have taken the contrary position. At the very least, then, we must ensure that juveniles are treated humanely in the criminal justice system to reduce the risks that upon release they will commit additional and more serious crimes. One of the ways we can do that is by helping States improve confinement conditions.

The problem this bill is intended to address cannot be described simply through statistics or academic studies. The compelling stories of young people who have been part of the corrections system should command our attention. For example, United Press International and numerous newspapers have reported the story of 15-year-old Robert, who was held in a Kentucky adult jail for the minor infraction of truancy and petty theft. One night during his time there, Robert wrapped one end of his shirt around his neck, and one around the cell bars, and hanged himself. The county has now agreed not to house juveniles and adults together.

The New York Times magazine last year told the story of Jessica, who at 14 was the youngest female in the Florida correctional system and, within her first few weeks in prison, tried to commit suicide. Jessica was then transferred to a rougher Miami prison where she does not receive psychological counseling or attend class to get her GED. Jessica has found an extensive surrogate prison family whom she turns to for advice. The woman she refers to as ''Mommy'' is serving a life sentence for murder. Jessica will be released at age 22 with no education beyond the sixth grade, no job skills, and no life experience outside of prison after age 13. Now some will point out that Jessica committed a serious criminal offense she and two older teenagers robbed her grandparents and she deserves harsh punishment. And I agree that we must deal severely with such crimes. But the fact remains that when Jessica is released from prison she will be 22, with an entire adult life ahead of her. I believe it is critical for the public safety for her and others like her to have options besides a life of crime.

The Miami Herald reported the stories of Joseph Tejera and Rebekah Homerston. Tejera was sentenced as an adult for a burglary offense, and was placed in an adult prison instead of an intensive juvenile program where he would have received 24-hour supervision, had access to educational and other programs, and been surrounded by other juveniles. Instead, at the age of 16 and weighing 135 pounds, he was surrounded by adult inmates who constantly tried to beat him up. Despite a sterling disciplinary record, he was involved in five fights because of the aggressiveness of adult inmates. Homerston was the daughter of a father serving life in prison for sex crimes against minors and a mother arrested for theft and drunk driving. At the age of 13, she ran away from home, and lived on the streets of Fort Lauderdale. At 15, she too was prosecuted and sentenced to a two-year term as an adult after vandalizing the city's recreation center. Upon her release from that prison term, she was arrested at age 16 for shoplifting a shirt, and is now serving three and a half years in an adult facility for that offense. While in prison, she has witnessed numerous suicide attempts.

Housing juveniles with adult inmates creates problems not just for the juveniles involved. Such policies also create difficulties for corrections administrators, whose prisons and jails often lack the physical structure, programs, and trained personnel to manage a mixed juvenile-adult population. John Gorsik, the head of the Department of Corrections in my State of Vermont, has advised that corrections officials from around the nation dislike having juveniles in their facilities. These officials often become responsible for delivering those services to which juveniles are entitled, including special education services. As one report on Youth in the Criminal Justice System recently recommended: ''Administrative staff and people in policy making positions dealing with youth in the adult system should have education, training, and experience regarding the distinctive characteristics of children and adolescents.'' This bill would provide for such education and training to make the jobs of corrections officials around the nation easier. In addition, the presence of juveniles among adult inmates can lead to increased disciplinary problems and the inculcation of a criminal mentality in young, highly impressionable offenders like Jessica. Our prisons and jails are too often becoming schools for young lawbreakers.

I would like to explain how this bill addresses confinement conditions for juveniles.

Title I: The first title of this bill creates a new incentive grant program for State and local governments and Indian tribes. These grants can be used for the following purposes related to juveniles under the jurisdiction of an adult criminal court: (a) alter existing correctional facilities, or develop separate facilities, to provide segregated facilities for them, (b) provide orientation and ongoing training for correctional staff supervising them, (c) provide monitors who will report on their treatment, and (d) provide them with access to educational programs, vocational training, mental and physical health assessment and treatment, and drug treatment. Grants can also be used to seek alternatives to housing juveniles with adult inmates, including the expansion of juvenile facilities.

It is important to note that States that choose not to house juveniles who are convicted as adults with adult inmates are still eligible for grants under this bill. For example, they could use the money to train staff, or to provide educational or other programs for juveniles, or to improve juvenile facilities.

Applicants for these grants must provide a detailed plan explaining how they will improve conditions for juveniles in their adult corrections system. Let me be clear: the purpose of this grant program is not to fuel a prison-building boom, or to make it easier for States to prosecute juveniles as adults, but to improve conditions for juveniles. States will need to take this purpose into account in making their grant proposals. Moreover, to be eligible for a grant, States must have developed guidelines on the appropriate use of force against incarcerated juveniles, and must also have prohibited the use of electroshock devices, chemical restraints and punishment, and 4-point restraints. The use of such punishment is inconsistent with our commitments to treating juveniles humanely, and is at variance with the very purpose of this grant program. Every State that can meet the requirements of the grant program will receive funding under this title, and rural representation is guaranteed.

Title II: The second title of the bill authorizes States to use their Violent Offender Incarceration/Truth in Sentencing (VOI/TIS) grant money to improve the treatment of juveniles under

the jurisdiction of the adult criminal justice system. It also offers States an incentive to use a substantial percentage of their VOI/TIS money for that purpose. States that use 10 percent of their grant money to improve juvenile conditions will receive a bonus of 5 percent above the amount to which they are otherwise entitled under that program. The money can be used to alter existing facilities to provide separate space for juveniles under the jurisdiction of an adult criminal court, or to provide training and supervision of corrections officials and reporting on juvenile conditions. This title, in conjunction with Title I, allows us to make improving conditions for juveniles a national priority by working through the States. No State will be forced to use their money for this purpose or see their funding reduced if they choose not to. But those States that do make a serious effort in this regard will be rewarded.

Title III: The third title of this bill reauthorizes the Juvenile Justice and Delinquency Prevention Act. Under the JJDPA, States receiving federal funds must maintain core protections for detained juveniles. These protections include ''sight'' and ''sound'' separation between those in the juvenile detention system and adult offenders. Children cannot be put in adjoining cells with adults, or placed in circumstances that allow them to be subject to threats and verbal abuse from adults in dining halls, recreation areas, and other common spaces. In addition to establishing sight and sound separation, the JJDPA provides three additional core protections: (1) removal of juveniles from adult jails or lockups, with a 24-hour exception for rural areas and other exceptions for travel and weather-related conditions; (2) deinstitutionalization of status offenders; and (3) efforts toward reducing the disproportionate confinement of minority youth in the juvenile justice system.

I am very pleased that Senator HATCH has agreed with me that we need a straightforward reauthorization of the JJDPA. He and I both worked very hard in the last Congress to reauthorize that law, and our efforts were sidetracked by numerous factors.

Title IV: Finally, the fourth title of this bill contains a number of provisions that I would like to highlight today. First, it authorizes funding for rural States and economically distressed communities that lack the resources to provide secure custody for juvenile offenders. Second, this title calls for a study on the effect of sentencing juvenile drug offenders as adults. Many have raised concerns about the toll taken on some of our communities, especially those in poorer areas, by lengthy drug sentences. There is no question that the proliferation of illegal drugs over the last 20 years has presented a social crisis with particularly serious effects on poor and urban communities. But we need to take a systematic look at whether our approach to that crisis has been effective and fair, and the study in this bill should be part of that effort. Third, this bill instructs the General Accounting Office to prepare a report on the prevalence and effects of the use of electroshock weapons, 4-point restraints, chemical restraints, restraint chairs, and solitary confinement against juvenile offenders in both the Federal and State corrections systems. I am deeply concerned about the disciplinary methods being used against juvenile offenders in the U.S., and I believe it is important for Congress to receive an accounting of the problem so we can consider whether further legislation in this area is appropriate. Fourth, this title reauthorizes the Family Unity Demonstration Project, which provides funding for projects allowing eligible prisoners who are parents to live in structured, community-based centers with their young children. A study by the Bureau of Justice Statistics found that about two-thirds of incarcerated women were parents of children under 18 years old. According to the White House, on any given day, America is home to 1.5 million children of prisoners. And according to Prison Fellowship Industries, more than half of the juveniles in custody in the United States had an immediate family member behind bars. This is a serious problem, and reauthorizing the Family Unity Demonstration Project will help us address it.

I would like to thank numerous people who have worked with me and my staff on this proposal: Ken Schatz of the Vermont Children and Family Council, Marc Schindler and Mark Soler of the Youth Law Center, David Doi of the Coalition for Juvenile Justice, Jill Ward from the Children's Defense Fund, and John Gorsik and John Perry at the Vermont Department of Corrections. Without their help, I would not be able to introduce this bill today.

In conclusion, let me say that Congress must act to ensure that minimum standards are created in as many States as possible to ameliorate the problems resulting from sentencing juveniles as adults. I think this bipartisan bill accomplishes that goal, and I urge the Senate to give its full consideration, and its approval, to this proposal.

By Ms. SNOWE (for herself, Ms. COLLINS, Mr. JEFFORDS, and Mr. LEAHY):

S. 1177. A bill to amend title XI of the Social Security Act to clarify that the Secretary of Health and Human Services has the authority to treat certain State payments made in an approved demonstration project as medical assistance under the Medicaid program for purposes of a rebate agreement under section 1927 of the Social Security Act, and for other purposes; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to introduce a bill along with Senator COLLINS, JEFFORDS and LEAHY to provide the states of Maine and Vermont continued authority to expand access to discounted prescription drugs under Medicaid.

Maine has instituted an innovative demonstration program called the ''Healthy Maine Prescriptions'' program that is leading the way in providing affordable prescription drugs for qualifying Maine residents. This was made possible because Maine is one of two States, along with Vermont, to have received approval from the Secretary of the Department of Health and Human Services for demonstration projects to expand access to prescription drugs under Medicaid. Thousands of individuals with no other prescription drug insurance benefits are enrolled in those programs.

The sad truth is, many low-income individuals cannot afford to purchase the drugs prescribed by their doctors. The result is that these individuals either split the doses to make them last longer—in violation of doctors' orders; they cut back on other necessities like food or clothing; or they simply decide not to fill the prescription at all—surely a prescription for medical disaster.

Not only does the inability to pay for medications have an adverse and potentially dangerous effect on individuals, it is also a detriment to the health care system in general when you consider the number and expense of ailments that could have been prevented with the proper prescription drug.

The reason why we are introducing this legislation is that, unfortunately, last month, a three-judge panel of the U.S. Court of Appeals for the District of Columbia ruled against the Vermont program, finding that Vermont ''lacked the authority to offer the same prescription rebates offered under federal Medicaid insurance'' because Congress ''imposed rebate requirements to reduce the cost of Medicaid.'' More recently, because of that ruling, a complaint has been brought by PHARMA against the Secretary of Health and Human Services to provide injunctive relief in the case of Maine's program.

This bill sets forth findings that support the need and legitimacy of the Maine and Vermont programs and provides, in statute, specific authority for these prescription drug discounts for states whose waivers were approved before January 31, 2001.

Specifically, the bill amends Section 1115 of the Social Security Act—the portion of the act granting the Secretary of Health and Human Services the authority to approve demonstration projections. It makes clear that any expenditures the state may make under the demonstration project will be treated as payments made under the state plan under Medicaid for covered outpatient drugs for purposes of a rebate agreement, regardless of whether these expenditures by the state are offset or reimbursed, in whole or in part, by rebates received under such an agreement.

It also makes clear that these projects are entirely consistent with the objectives of the Medicaid program. Finally, it states that the regular cost-sharing requirements under Medicaid do not have to apply in the instance of these programs.

One of the objectives of the Medicaid program is ''to enable each State, as far as practicable under the conditions in such State, to provide medical assistance on behalf of families with dependent children and of aged, blind, or disabled individuals, whose income and resources are insufficient to meet the costs of necessary medical services.'' As part of carrying out this objective, every state has elected the option of providing prescription drugs as a benefit under the Medicaid program, thereby providing an important means of increasing the access of low-income individuals to drugs prescribed by their doctors.

Furthermore, Section 1115 of the Social Security Act provides the Secretary of Health and Human Services with broad authority to approve demonstration projects that are likely to assist in promoting the objectives of the Medicaid program, and waive compliance with any of the state plan requirements of the Medicaid program. The fact of the matter is, Medicaid demonstration projects help promote the objectives of the Medicaid program, including obtaining information about options for increasing access to prescription drugs for low-income individuals.

If indeed the States are truly laboratories of democracy—and I believe they are—these demonstration projects deserve the chance to work, to be examined, and to assist those that they are designed to assist. And there is no question of the need—in Maine, 50,000 people signed up within the first three weeks of the program.

Under the ''Healthy Maine Prescriptions Program,'' Maine provides prescription drug discounts of up to 25 percent for all adults with incomes of up to 300 percent of the Federal Poverty Level. A second benefit offering discounts of 80 percent of the cost of prescription drugs is available for disabled citizens, and low-income adults over the age of 62 who have an income of up to 185 percent of the Federal Poverty Level.

During this time when virtually everyone agrees that something must be done to increase access to affordable prescription drugs, we ought to be encouraging innovative programs like those in Maine and Vermont. Terminating Medicaid demonstration projects prior to their planned expiration dates may result in significant waste of public funds and may be detrimental to those who have come to rely on such projects.

We ought to be doing all we can to provide relief to low-income Americans, and at the same time give ourselves the opportunity to evaluate what works and what doesn't. Maine and Vermont are to be commended for their efforts, not punished—they are entirely in keeping with the spirit and intent of Medicaid and I hope my colleagues will recognize the value of these demonstration projects.

Ms. COLLINS. Mr. President, I am pleased to join with my colleague from Maine, Senator SNOWE, and my colleagues from Vermont, Senators JEFFORDS and LEAHY, in introducing legislation to ensure that States like Maine and Vermont, which have taken the initiative in developing innovative programs to make prescription drugs more affordable for their citizens, can proceed with these efforts.

The last 20 years have witnessed dramatic pharmaceutical breakthroughs that have helped reduce deaths and disability from heart disease, cancer, diabetes, and many other diseases. As a consequence, millions of people around the world are leading longer, healthier, and more productive lives. These new medical miracles, however, often come with hefty price tags, and many people—particularly lower Americans without prescription drug coverage—are simply priced our of the market.

As so often happens, the States have been the laboratories for reform in this area and have come up with some creative ways to address this problem. In January of this year, the Department of Health and Human Services granted Maine a waiver under the Medicaid program through which States can offer drug discounts of up to 25 percent for individuals with incomes up to three times the Federal poverty level. Our new Healthy Maine Prescriptions Program includes both this new discount prescription drug benefit and a separate benefit, financed entirely with State funds, that offers discounts of up to 80 percent for low-income elderly and the disabled. Maine began providing benefits under the Healthy Maine Prescription Program on June 1st of this year, and by June 26th the Department of Human Services had enrolled 50,460 individuals into the program. Ultimately, it is estimated that 225,000 Mainers qualify for the program.

Unfortunately, however, this important new program has run into a stumbling block. Last month, in a case brought by the Pharmaceutical Research and Manufacturers of America (PhRMA), a three-judge appeals panel ruled that a similar program developed by Vermont ''lacked the authority to offer the same prescription rebates offered under federal Medicaid insurance'' because Congress ''imposed rebate requirements to reduce the cost of Medicaid.'' The pharmaceutical trade group has subsequently sued the Department of Health and Human Services to block the Maine waiver, and the State of Maine has become a party to that case.

The Maine program is different enough from Vermont's to provide a different result in court. However, we believe that innovative programs like these, which meet such a clear human need, should be able to proceed without having to fight endless legal battles. That is why we are introducing legislation today to give the Department of Health and Human Services clear authority to grant States these kinds of waivers, which will allow them to pursue innovative uses of Medicaid, such as the Health Maine Prescription program. Secretary of Health and Human Services Tommy Thompson made creative use of these kinds of Medicaid waivers when he was Governor of Wisconsin. We believe that he should be able to continue to do so in his new role as Secretary without the chilling effect brought by lawsuits like PhRMA's.

The legislation we are introducing today will allow States like Maine to proceed with the innovative programs they have developed to meet the prescription drug needs of their citizens, and I urge all of my colleagues to join us in cosponsoring the legislation.

SENATE RESOLUTION 129—ELECTING JERI THOMSON AS SECRETARY OF THE SENATE

Mr. DASCHLE (for himself and Mr. LOTT) submitted the following resolution; which was considered and agreed to:

S. RES. 129

Resolved, That Jeri Thomson be, and she is hereby, elected Secretary of the Senate, effective July 12, 2001.

SENATE RESOLUTION 130—NOTIFYING THE HOUSE OF REPRESENTATIVES OF THE ELECTION OF A SECRETARY OF THE SENATE

Mr. DASCHLE (for himself and Mr. LOTT) submitted the following resolution; which was considered and agreed to:

S. RES. 130

Resolved, That the House of Representatives be notified of the election of the Honorable Jeri Thomson as Secretary of the Senate.

SENATE RESOLUTION 131—NOTIFYING THE PRESIDENT OF THE UNITED STATES OF THE ELECTION OF A SECRETARY OF THE SENATE

Mr. DASCHLE (for himself and Mr. LOTT) submitted the following resolution; which was considered and agreed to:

S. RES. 131

Resolved, That the President of the United States be notified of the election of the Honorable Jeri Thomson as Secretary of the Senate.

SENATE RESOLUTION 132—RECOGNIZING THE SOCIAL PROBLEM OF CHILD ABUSE AND NEGLECT, AND SUPPORTING EFFORTS TO ENHANCE PUBLIC AWARENESS OF IT

Mr. CAMPBELL (for himself, Mr. KOHL, Mr. INHOFE, Mr. COCHRAN, Mrs. LINCOLN, Mr. WARNER, Mr. ENSIGN, Mr. DORGAN, Mr. DEWINE, Mr. AKAKA, Ms. LANDRIEU, Ms. STABENOW, Mr. DODD, Mr. SMITH of Oregon, Mr. ENZI, Mr. LOTT, Mr. HELMS, Mr. HAGEL, Mr. DOMENICI, and Mr. MILLER) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 132

Whereas more than 3,000,000 American children are reported as suspected victims of child abuse and neglect annually;

Whereas more than 500,000 American children are unable to live safely with their families and are placed in foster homes and institutions;

Whereas it is estimated that more than 1,000 children, 78 percent under the age of 5 and 38 percent under the age of 1, lose their lives as a direct result of abuse and neglect every year in America;

Whereas this tragic social problem results in human and economic costs due to its relationship to crime and delinquency, drug and alcohol abuse, domestic violence, and welfare dependency; and

Whereas Childhelp USA has initiated a ''Day of Hope'' to be observed on Wednesday, April 3, 2002, during Child Abuse Prevention Month, to focus public awareness on this social ill: Now, therefore, be it

Resolved, That—

(1) it is the sense of the Senate that—

(A) all Americans should keep these victimized children in their thoughts and prayers;

(B) all Americans should seek to break this cycle of abuse and neglect and to give these children hope for the future; and

(C) the faith community, nonprofit organizations, and volunteers across America should recommit themselves and mobilize their resources to assist these children; and

(2) the Senate—

(A) supports the goals and ideas of the ''Day of Hope''; and

(B) commends Childhelp USA for its efforts on behalf of abused and neglected children everywhere.

Mr. CAMPBELL. Mr. President, today I am introducing a Senate resolution declaring April 3, 2002, as a National Day of Hope dedicated to remembering the victims of child abuse and neglect and recognizing Childhelp USA for initiating such a day. I am pleased to be joined in this effort by my friend Senator HERB KOHL and 18 of our colleagues who are interested in enhancing public awareness of child abuse and neglect.

For far too long, our Nation has been almost silent about the needs of some of its most vulnerable families and children—those caught in the vicious cycle of child abuse. I believe we must bring all elements of society together to address this problem—the faith community, non-profit organizations and volunteers, as well as government—if our efforts are to be successful.

Though I am encouraged by the statistics that show a continuing decline in the number of children who are maltreated, I believe we must do more to make sure that all children live in safe and loving homes.

I urge my colleagues to act quickly on this resolution so we can move closer to erasing the horror of child abuse from our Nation's history.

SENATE RESOLUTION 133—EXPRESSING THE SENSE OF THE SENATE THAT INFORMATION PERTAINING TO NAZI WAR CRIMINALS SHOULD BE BROUGHT TO LIGHT SO THAT FUTURE GENERATIONS CAN LEARN FROM HOLOCAUST, AND FOR OTHER PURPOSES

Mr. CORZINE submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 133

Whereas in the 1930s and 1940s, the German National Socialist Party, the Nazi Party, methodically orchestrated acts of genocide resulting in the deaths of 6,000,000 Jews and 5,000,000 Gypsies, Poles, Jehovah's Witnesses, political dissidents, physically and mentally disabled people, and homosexuals;

Whereas the term Holocaust is used to describe the systematic extermination of Jews and others by the Nazis during the period beginning on March 23, 1933, and ending on May 8, 1945;

Whereas in 1946, the International Military Tribunal at Nuremberg declared the Shutzstaffel or SS, the elite corps of the Nazi Party, to be a criminal organization guilty of persecuting and exterminating Jews; of brutalities and killings in the concentration camps; of excesses in the administration of the slave labor program; and of mistreatment and murder of prisoners of war;

Whereas Nazi war criminals include any person who ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion, during the Holocaust, under the direction of, or in association with, the Nazi government of Germany;

Whereas not all of these Nazi war criminals were brought to justice as required by the Nuremberg Tribunal;

Whereas in the 1970s, information began to surface that the United States intelligence community harbored Nazi war criminals, including Klaus Barbie, a Nazi war criminal later found responsible for the torture and death of more than 26,000 people, in order to spy on the former Soviet Union and for other purposes;

Whereas in 1998, the 105th Congress passed and President Bill Clinton signed into law the ''Nazi War Crimes Disclosure Act'', which provided for the declassification of records relating to Nazi war criminals, Nazi persecution, Nazi war crimes, and Nazi looted assets, including those held by the Central Intelligence Agency;

Whereas the Nazi War Criminal Interagency Working Group was convened by Executive Order on January 11, 1999, to (1) locate, identify, inventory, recommend for declassification, and make available all classified Nazi war criminal records, subject to certain specified restrictions; (2) coordinate with Federal agencies and expedite the release of such classified records to the public; and (3) complete work to the greatest extent possible and report to Congress one year after passage of legislation;

Whereas the Interagency Working Group recently declassified and analyzed documents of the Office of Strategic Services (OSS), forerunner of the Central Intelligence Agency, revealing that the United States used Nazi war criminals for intelligence operations against the former Soviet Union;

Whereas the declassified documents reveal further that the OSS assisted Nazi war criminals in evading capture and prosecution and, in a few cases, facilitated their immigration and assimilation in the United States; and

Whereas it is unknown to what extent the former Soviet Union and other nations used Nazi war criminals for spy operations: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Nazi War Criminal Interagency Working Group served the public interest by investigating and publicizing the extent to which the United States used Nazi war criminals for intelligence purposes following the Second World War;

(2) the Administration should work with the international intelligence community to expedite the release of information regarding the use of Nazi war criminals as intelligence operatives in the aftermath of the Second World War, especially by the former Soviet Union; and

(3) information pertaining to Nazi war criminals should be brought to light so that future generations can learn from the Holocaust.

AMENDMENTS SUBMITTED AND PROPOSED

SA 924. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 925. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 926. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 927. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 928. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 929. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 930. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 931. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 932. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 933. Mr. BROWNBACK submitted an amendment intended to be proposed by him

to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 934. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 935. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 936. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 937. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 938. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 939. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 940. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 941. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 942. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 943. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 944. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 945. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 946. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 947. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 948. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 949. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 950. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 951. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 952. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 953. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 954. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

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SA 968. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

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SA 970. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 971. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 972. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 973. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 974. Mr. LEAHY (for himself, Mr. HATCH, and Mr. GRASSLEY) proposed an amendment to the bill H.R. 333, to amend title 11, United States Code, and for other purposes.

SA 975. Mrs. BOXER (for Mr. BYRD) proposed an amendment to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes.

SA 976. Mr. BYRD (for himself and Mr. BURNS) submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra.

TEXT OF AMENDMENTS

SA 924. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 1, strike ''cell''.

SA 925. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 1, strike ''generation''.

SA 926. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 1, strike ''and''.

SA 927. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 2, strike ''research.''.

SA 928. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 2, line 3, strike ''Part''.

SA 929. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 2, line 3, strike ''H''.

SA 930. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 2, line 3, strike ''of the Title''.

SA 931. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 2, line 3, strike ''IV''.

SA 932. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 2, line 3, strike ''of the Public''.

SA 933. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 2, line 3, strike ''Health''.

SA 934. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 2, line 3, strike ''Service''.

SA 935. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 2, line 4, strike ''Act''.

SA 936. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 2, line 4, strike ''is''.

SA 937. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 2, line 4, strike ''amended''.

SA 938. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 1, line 3, strike ''section''.

SA 939. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 1, line 3, strike ''1.''.

SA 940. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 1, line 3, strike ''short''.

SA 941. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 1, line 3, strike ''title''.

SA 942. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 1, line 4, strike ''this''.

SA 943. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 1, line 4, strike ''Act''.

SA 944. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 1, line 4, strike ''may''.

SA 945. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 1, line 4, strike ''be''.

SA 946. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research, which was referred to the Committee on Health, Education Labor, and Pensions; as follows:
On page 1, line 4, strike ''cited''.

SA 947. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research, which was referred to the Committee on Health, Education Labor, and Pensions; as follows:
On page 1, line 4, strike ''as''.

SA 948. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research, which was referred to the Committee on Health, Education Labor, and Pensions; as follows:
On page 1, line 4, strike ''the''.

SA 949. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research, which was referred to the Committee on Health, Education Labor, and Pensions; as follows:
On page 1, line 4, strike ''Stem''.

SA 950. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research, which was referred to the Committee on Health, Education Labor, and Pensions; as follows:
On page 1, line 4, strike ''cell''.

SA 951. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research, which was referred to the Committee on Health, Education Labor, and Pensions; as follows:

On page 1, line 4, strike ''Research''.

SA 952. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research, which was referred to the Committee on Health, Education Labor, and Pensions; as follows:

On page 1, line 5, strike ''Act''.

SA 953. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 1, line 5, strike ''of''.

SA 954. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 1, line 5, strike ''2001''. ''.

SA 955. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 1, strike ''sec''.

SA 956. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 1, strike ''2.''.

SA 957. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 1, strike ''Human''.

SA 958. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 1, strike ''embryonic''.

SA 959. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 1, strike ''stem''.

SA 960. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 4, strike ''by''.

SA 961. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 6, strike ''sec.''.

SA 962. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 6, strike ''498C.''.

SA 963. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 6, strike ''human''.

SA 964. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 6, strike ''embryonic''.

SA 965. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 6, strike ''stem''.

SA 966. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 6, strike ''cell''.

SA 967. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 5, strike '':''.

SA 968. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 5, strike ''following''.

SA 969. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 5, strike ''the''.

SA 970. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 5, strike ''498B''.

SA 971. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 5, strike ''section''.

SA 972. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 4, strike ''after''.

SA 973 Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 4, strike ''inserting''.

SA 974. Mr. LEAHY (for himself, Mr. HATCH, and Mr. GRASSLEY) proposed an amendment to the bill H.R. 333, to amend title 11, United States Code, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

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

TITLE I—NEEDS-BASED BANKRUPTCY

SEC. 101. CONVERSION.

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

SEC. 102. DISMISSAL OR CONVERSION.

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

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

''§ 707. Dismissal of a case or conversion to a case under chapter 11 or 13'';

and

(2) in subsection (b)—

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

(B) in paragraph (1), as redesignated by subparagraph (A) of this paragraph—

(i) in the first sentence—

(I) by striking ''but not at the request or suggestion of'' and inserting ''trustee, bankruptcy administrator, or'';

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

(III) by striking ''a substantial abuse'' and inserting ''an abuse''; and

(ii) by striking the next to last sentence; and

(C) by adding at the end the following:

''(2)(A)(i) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter, the court shall presume abuse exists if the debtor's current monthly income reduced by the amounts determined under clauses (ii), (iii), and (iv), and multiplied by 60 is not less than the lesser of—

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

''(II) $10,000.

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

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

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

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

''(V) In addition, if it is demonstrated that it is reasonable and necessary, the debtor's monthly expenses may also include an additional allowance for housing and utilities, in

excess of the allowance specified by the Local Standards for housing and utilities issued by the International Revenue Service, based on the actual expenses for home energy costs, if the debtor provides documentation of such expenses.

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

''(I) the sum of—

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

''(bb) any additional payments to secured creditors necessary for the debtor, in filing a plan under chapter 13 of this title, to maintain possession of the debtor's primary residence, motor vehicle, or other property necessary for the support of the debtor and the debtor's dependents, that serves as collateral for secured debts; divided by

''(II) 60.

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

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

''(II) 60.

''(B)(i) In any proceeding brought under this subsection, the presumption of abuse may only be rebutted by demonstrating special circumstances that justify additional expenses or adjustments of current monthly income for which there is no reasonable alternative.

''(ii) In order to establish special circumstances, the debtor shall be required to—

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

''(II) provide—

''(aa) documentation for such expense or adjustment to income; and

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

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

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

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

''(II) $10,000.

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

''(3) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter in a case in which the presumption in subparagraph (A)(i) of such paragraph does not apply or has been rebutted, the court shall consider—

''(A) whether the debtor filed the petition in bad faith; or

''(B) the totality of the circumstances (including whether the debtor seeks to reject a personal services contract and the financial need for such rejection as sought by the debtor) of the debtor's financial situation demonstrates abuse.

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

''(i) a trustee appointed under section 586(a)(1) of title 28 or from a panel of private trustees maintained by the bankruptcy administrator brings a motion for dismissal or conversion under this subsection; and

''(ii) the court—

''(I) grants that motion; and

''(II) finds that the action of the counsel for the debtor in filing under this chapter violated rule 9011 of the Federal Rules of Bankruptcy Procedure.

''(B) If the court finds that the attorney for the debtor violated rule 9011 of the Federal Rules of Bankruptcy Procedure, at a minimum, the court shall order—

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

''(ii) the payment of the civil penalty to the trustee, the United States trustee, or the bankruptcy administrator.

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

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

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

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

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

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

''(5)(A) Except as provided in subparagraph (B) and subject to paragraph (6), the court may award a debtor all reasonable costs (including reasonable attorneys' fees) in contesting a motion brought by a party in interest (other than a trustee, United States trustee, or bankruptcy administrator) under this subsection if—

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

''(ii) the court finds that—

''(I) the position of the party that brought the motion violated rule 9011 of the Federal Rules of Bankruptcy Procedure; or

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

''(B) A small business that has a claim of an aggregate amount less than $1,000 shall not be subject to subparagraph (A)(ii)(I).

''(C) For purposes of this paragraph—

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

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

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

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

''(I) a parent corporation; and

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

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

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

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

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

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

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

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

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

(b) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (10) the following:

''(10A) 'current monthly income'—

''(A) means the average monthly income from all sources which the debtor, or in a joint case, the debtor and the debtor's spouse, receive without regard to whether the income is taxable income, derived during the 6-month period preceding the date of determination, which shall be the date which is the last day of the calendar month immediately preceding the date of the bankruptcy filing. If the debtor is providing the debtor's current monthly income at the time of the filing and otherwise the date of determination shall be such date on which the debtor's current monthly income is determined by the court for the purposes of this Act; and

''(B) includes any amount paid by any entity other than the debtor (or, in a joint case, the debtor and the debtor's spouse), on a regular basis to the household expenses of the debtor or the debtor's dependents (and, in a joint case, the debtor's spouse if not otherwise a dependent), but excludes benefits received under the Social Security Act and payments to victims of war crimes or crimes against humanity on account of their status as victims of such crimes;''.

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

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

(2) by adding at the end the following:

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

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

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

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

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

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

''(3) In any case in which a motion to dismiss or convert, or a statement is required to be filed by this subsection, the United States trustee or bankruptcy administrator may decline to file a motion to dismiss or convert pursuant to section 704(b)(2) if the product of the debtor's current monthly income multiplied by 12 exceeds 100 percent, but does not exceed 150 percent of—

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

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

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

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

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

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

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

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

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

''(c)(1) In this subsection—

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

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

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

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

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

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

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

(3) by adding at the end the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(j) CLERICAL AMENDMENT.—The table of sections for chapter 7 of title 11, United States Code, is amended by striking the item relating to section 707 and inserting the following:

''707. Dismissal of a case or conversion to a case under chapter 11 or 13.''.

SEC. 103. SENSE OF CONGRESS AND STUDY.

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

(b) STUDY.—

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

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

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

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

SEC. 104. NOTICE OF ALTERNATIVES.

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

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

''(1) a brief description of—

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

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

''(2) statements specifying that—

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

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

SEC. 105. DEBTOR FINANCIAL MANAGEMENT TRAINING TEST PROGRAM.

(a) DEVELOPMENT OF FINANCIAL MANAGEMENT AND TRAINING CURRICULUM AND MATERIALS.—The Director of the Executive Office

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

(b) TEST.—

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

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

(c) EVALUATION.—

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

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

(B) a sample of existing consumer education programs such as those described in the Report of the National Bankruptcy Review Commission (October 20, 1997) that are representative of consumer education programs carried out by the credit industry, by trustees serving under chapter 13 of title 11, United States Code, and by consumer counseling groups.

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

SEC. 106. CREDIT COUNSELING.

(a) WHO MAY BE A DEBTOR.—Section 109 of title 11, United States Code, is amended by adding at the end the following:

''(h)(1) Subject to paragraphs (2) and (3), and notwithstanding any other provision of this section, an individual may not be a debtor under this title unless that individual has, during the 180-day period preceding the date of filing of the petition of that individual, received from an approved nonprofit budget and credit counseling agency described in section 111(a) an individual or group briefing (including a briefing conducted by telephone or on the Internet) that outlined the opportunities for available credit counseling and assisted that individual in performing a related budget analysis.

''(2)(A) Paragraph (1) shall not apply with respect to a debtor who resides in a district for which the United States trustee or bankruptcy administrator of the bankruptcy court of that district determines that the approved nonprofit budget and credit counseling agencies for that district are not reasonably able to provide adequate services to the additional individuals who would otherwise seek credit counseling from that agency by reason of the requirements of paragraph (1).

''(B) Each United States trustee or bankruptcy administrator that makes a determination described in subparagraph (A) shall review that determination not later than 1 year after the date of that determination, and not less frequently than every year thereafter. Notwithstanding the preceding sentence, a nonprofit budget and credit counseling service may be disapproved by the United States trustee or bankruptcy administrator at any time.

''(3)(A) Subject to subparagraph (B), the requirements of paragraph (1) shall not apply with respect to a debtor who submits to the court a certification that—

''(i) describes exigent circumstances that merit a waiver of the requirements of paragraph (1);

''(ii) states that the debtor requested credit counseling services from an approved nonprofit budget and credit counseling agency, but was unable to obtain the services referred to in paragraph (1) during the 5-day period beginning on the date on which the debtor made that request; and

''(iii) is satisfactory to the court.

''(B) With respect to a debtor, an exemption under subparagraph (A) shall cease to apply to that debtor on the date on which the debtor meets the requirements of paragraph (1), but in no case may the exemption apply to that debtor after the date that is 30 days after the debtor files a petition, except that the court, for cause, may order an additional 15 days.''.

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

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

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

(3) by adding at the end the following:

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

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

''(B) Each United States trustee or bankruptcy administrator that makes a determination described in subparagraph (A) shall review that determination not later than 1 year after the date of that determination, and not less frequently than every year thereafter.''.

(c) CHAPTER 13 DISCHARGE.—Section 1328 of title 11, United States Code, is amended by adding at the end the following:

''(g) The court shall not grant a discharge under this section to a debtor, unless after filing a petition the debtor has completed an instructional course concerning personal financial management described in section 111.

''(h) Subsection (g) shall not apply with respect to a debtor who resides in a district for which the United States trustee or bankruptcy administrator of the bankruptcy court of that district determines that the approved instructional courses are not adequate to service the additional individuals who would be required to complete the instructional course by reason of the requirements of this section.

''(i) Each United States trustee or bankruptcy administrator that makes a determination described in subsection (h) shall review that determination not later than 1 year after the date of that determination, and not less frequently than every year thereafter.''.

(d) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, is amended—

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

(2) by adding at the end the following:

''(b) In addition to the requirements under subsection (a), an individual debtor shall file with the court—

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

''(2) a copy of the debt repayment plan, if any, developed under section 109(h) through the approved nonprofit budget and credit counseling agency referred to in paragraph (1).''.

(e) GENERAL PROVISIONS.—

(1) IN GENERAL.—Chapter 1 of title 11, United States Code, is amended by adding at the end the following:

''§ 111. Credit counseling services; financial management instructional courses

''(a) The clerk of each district shall maintain a publicly available list of—

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

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

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

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

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

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

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

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

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

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

''(c)(1) The United States trustee or bankruptcy administrator shall only approve a credit counseling agency that demonstrates that it will provide qualified counselors, maintain adequate provision for safekeeping

and payment of client funds, provide adequate counseling with respect to client credit problems, and deal responsibly and effectively with other matters as relate to the quality, effectiveness, and financial security of such programs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) CLERICAL AMENDMENT.—The table of sections for chapter 1 of title 11, United States Code, is amended by adding at the end the following:

''111. Credit counseling services; financial management instructional courses.''.

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

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

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

SEC. 107. SCHEDULES OF REASONABLE AND NECESSARY EXPENSES.

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

TITLE II—ENHANCED CONSUMER PROTECTION

Subtitle A—Penalties for Abusive Creditor Practices

SEC. 201. PROMOTION OF ALTERNATIVE DISPUTE RESOLUTION.

(a) REDUCTION OF CLAIM.—Section 502 of title 11, United States Code, is amended by adding at the end the following:

''(k)(1) The court, on the motion of the debtor and after a hearing, may reduce a claim filed under this section based in whole on unsecured consumer debts by not more than 20 percent of the claim, if—

''(A) the claim was filed by a creditor who unreasonably refused to negotiate a reasonable alternative repayment schedule proposed by an approved credit counseling agency described in section 111 acting on behalf of the debtor;

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

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

''(ii) provided for payment of at least 60 percent of the amount of the debt over a period not to exceed the repayment period of the loan, or a reasonable extension thereof; and

''(C) no part of the debt under the alternative repayment schedule is nondischargeable.

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

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

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

(b) LIMITATION ON AVOIDABILITY.—Section 547 of title 11, United States Code, is amended by adding at the end the following:

''(h) The trustee may not avoid a transfer if such transfer was made as a part of an alternative repayment plan between the debtor and any creditor of the debtor created by an approved credit counseling agency.''.

SEC. 202. EFFECT OF DISCHARGE.

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

''(i) The willful failure of a creditor to credit payments received under a plan confirmed under this title (including a plan of reorganization confirmed under chapter 11 of this title), unless the plan is dismissed, in default, or the creditor has not received payments required to be made under the plan in the manner required by the plan (including crediting the amounts required under the plan), shall constitute a violation of an injunction under subsection (a)(2) if the act of the creditor to collect and failure to credit payments in the manner required by the plan caused material injury to the debtor.

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

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

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

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

SEC. 203. DISCOURAGING ABUSE OF REAFFIRMATION PRACTICES.

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

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

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

(2) by adding at the end the following:

''(k)(1) The disclosures required under subsection (c)(2) shall consist of the disclosure

statement described in paragraph (3), completed as required in that paragraph, together with the agreement, statement, declaration, motion and order described, respectively, in paragraphs (4) through (8), and shall be the only disclosures required in connection with the reaffirmation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

property, as agreed by the parties or determined by the court.'.

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

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

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

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

'' 'Brief description of credit agreement:

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

'' 'Signature: Date:

'' 'Borrower:

'' 'Co-borrower, if also reaffirming:

'' 'Accepted by creditor:

'' 'Date of creditor acceptance:'.

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

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

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

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

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

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

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

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

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

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

''(B) Where the debtor is represented by counsel and is reaffirming a debt owed to a creditor defined in section 19(b)(1)(A)(iv) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)(iv)), the statement of support of the reaffirmation agreement, which the debtor shall sign and date prior to filing with the court, shall consist of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

''(1) A creditor may accept payments from a debtor before and after the filing of a reaffirmation agreement with the court.

''(2) A creditor may accept payments from a debtor under a reaffirmation agreement which the creditor believes in good faith to be effective.

''(3) The requirements of subsections (c)(2) and (k) shall be satisfied if disclosures required under those subsections are given in good faith.

''(m)(1) Until 60 days after a reaffirmation agreement is filed with the court (or such additional period as the court, after notice and hearing and for cause, orders before the expiration of such period), it shall be presumed that the reaffirmation agreement is an undue hardship on the debtor if the debtor's monthly income less the debtor's monthly expenses as shown on the debtor's completed and signed statement in support of the reaffirmation agreement required under subsection (k)(6)(A) is less than the scheduled payments on the reaffirmed debt. This presumption shall be reviewed by the court. The presumption may be rebutted in writing by the debtor if the statement includes an explanation which identifies additional sources of funds to make the payments as agreed upon under the terms of the reaffirmation agreement. If the presumption is not rebutted to the satisfaction of the court, the court may disapprove the agreement. No agreement shall be disapproved without notice and hearing to the debtor and creditor and such hearing shall be concluded before the entry of the debtor's discharge.

''(2) This subsection does not apply to reaffirmation agreements where the creditor is a credit union, as defined in section 19(b)(1)(A)(iv) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)(iv)).''.

(b) LAW ENFORCEMENT.—

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

''§ 158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt and materially fraudulent statements in bankruptcy schedules

''(a) IN GENERAL.—The Attorney General of the United States shall designate the individuals described in subsection (b) to have primary responsibility in carrying out enforcement activities in addressing violations of section 152 or 157 relating to abusive reaffirmations of debt. In addition to addressing the violations referred to in the preceding sentence, the individuals described under subsection (b) shall address violations of section 152 or 157 relating to materially fraudulent statements in bankruptcy schedules that are intentionally false or intentionally misleading.

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

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

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

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

''(d) BANKRUPTCY PROCEDURES.—The bankruptcy courts shall establish procedures for referring any case which may contain a materially fraudulent statement in a bankruptcy schedule to the individuals designated under this section.''.

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

''158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt and materially fraudulent statements in bankruptcy schedules.''.

SEC. 204. PRESERVATION OF CLAIMS AND DEFENSES UPON SALE OF PREDATORY LOANS.

Section 363 of title 11, United States Code, is amended by adding at the end the following:

''(p) Notwithstanding subsection (f), if a person purchases any interest in a consumer credit transaction that is subject to the Truth in Lending Act (15 U.S.C. 1601 et seq.), or any interest in a consumer credit contract as defined by the Federal Trade Commission Preservation of Claims Trade Regulation, and that interest is purchased through a sale under this section, then that person shall remain subject to all claims and defenses that are related to the consumer credit transaction or contract, to the same extent as that person would be subject to such claims and defenses of the consumer had the sale taken place other than under title 11.

SEC. 205. GAO STUDY ON REAFFIRMATION PROCESS.

(a) STUDY.—The General Accounting Office (in this section referred to as the ''GAO'') shall conduct a study of the reaffirmation process under title 11, United States Code, to determine the overall treatment of consumers within the context of that process, including consideration of—

(1) the policies and activities of creditors with respect to reaffirmation; and

(2) whether consumers are fully, fairly and consistently informed of their rights pursuant to this title.

(b) REPORT TO CONGRESS.—Not later than 1½ years after the date of enactment of this

Act, the GAO shall submit a report to the Congress on the results of the study conducted under subsection (a), together with any recommendations for legislation to address any abusive or coercive tactics found within the reaffirmation process.

Subtitle B—Priority Child Support

SEC. 211. DEFINITION OF DOMESTIC SUPPORT OBLIGATION.

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

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

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

''(14A) 'domestic support obligation' means a debt that accrues before or after the entry of an order for relief under this title, including interest that accrues on that debt as provided under applicable nonbankruptcy law notwithstanding any other provision of this title, that is—

''(A) owed to or recoverable by—

''(i) a spouse, former spouse, or child of the debtor or such child's parent, legal guardian, or responsible relative; or

''(ii) a governmental unit;

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

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

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

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

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

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

SEC. 212. PRIORITIES FOR CLAIMS FOR DOMESTIC SUPPORT OBLIGATIONS.

Section 507(a) of title 11, United States Code, is amended—

(1) by striking paragraph (7);

(2) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively;

(3) in paragraph (2), as redesignated, by striking ''First'' and inserting ''Second'';

(4) in paragraph (3), as redesignated, by striking ''Second'' and inserting ''Third'';

(5) in paragraph (4), as redesignated—

(A) by striking ''Third'' and inserting ''Fourth''; and

(B) by striking the semicolon at the end and inserting a period;

(6) in paragraph (5), as redesignated, by striking ''Fourth'' and inserting ''Fifth'';

(7) in paragraph (6), as redesignated, by striking ''Fifth'' and inserting ''Sixth'';

(8) in paragraph (7), as redesignated, by striking ''Sixth'' and inserting ''Seventh''; and

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

''(1) First:

''(A) Allowed unsecured claims for domestic support obligations that, as of the date of the filing of the petition, are owed to or recoverable by a spouse, former spouse, or child of the debtor, or the parent, legal guardian, or responsible relative of such child, without regard to whether the claim is filed by such person or is filed by a governmental unit on behalf of that person, on the condition that funds received under this paragraph by a governmental unit under this title after the date of filing of the petition shall be applied and distributed in accordance with applicable nonbankruptcy law.

''(B) Subject to claims under subparagraph (A), allowed unsecured claims for domestic support obligations that, as of the date the petition was filed are assigned by a spouse, former spouse, child of the debtor, or such child's parent, legal guardian, or responsible relative to a governmental unit (unless such obligation is assigned voluntarily by the spouse, former spouse, child, parent, legal guardian, or responsible relative of the child for the purpose of collecting the debt) or are owed directly to or recoverable by a government unit under applicable nonbankruptcy law, on the condition that funds received under this paragraph by a governmental unit under this title after the date of filing of the petition be applied and distributed in accordance with applicable nonbankruptcy law.''.

SEC. 213. REQUIREMENTS TO OBTAIN CONFIRMATION AND DISCHARGE IN CASES INVOLVING DOMESTIC SUPPORT OBLIGATIONS.

Title 11, United States Code, is amended—

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

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

(2) in section 1208(c)—

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

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

(C) by adding at the end the following:

''(10) failure of the debtor to pay any domestic support obligation that first becomes payable after the date on which the petition is filed.'';

(3) in section 1222(a)—

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

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

(C) by adding at the end the following:

''(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor's projected disposable income for a 5-year period, beginning on the date that the first payment is due under the plan, will be applied to make payments under the plan.'';

(4) in section 1222(b)—

(A) by redesignating paragraph (11) as paragraph (12); and

(B) by inserting after paragraph (10) the following:

''(11) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are nondischargeable under section 1328(a), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims;'';

(5) in section 1225(a)—

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

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

(C) by adding at the end the following:

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

(6) in section 1228(a), in the matter preceding paragraph (1), by inserting '', and in the case of a debtor who is required by a judicial or administrative order to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or statute that are due on or before the date of the certification (including amounts due before the petition was filed, but only to the extent provided for in the plan) have been paid'' after ''completion by the debtor of all payments under the plan'';

(7) in section 1307(c)—

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

(B) in paragraph (10), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(11) failure of the debtor to pay any domestic support obligation that first becomes payable after the date on which the petition is filed.'';

(8) in section 1322(a)—

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

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

(C) by adding at the end the following:

''(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor's projected disposable income for a 5-year period beginning on the date that the first payment is due under the plan will be applied to make payments under the plan.'';

(9) in section 1322(b)—

(A) in paragraph (9), by striking ''; and'' and inserting a semicolon;

(B) by redesignating paragraph (10) as paragraph (11); and

(C) inserting after paragraph (9) the following:

''(10) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are nondischargeable under section 1328(a), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims; and'';

(10) in section 1325(a) (as amended by this Act), by adding at the end the following:

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

(11) in section 1328(a), in the matter preceding paragraph (1), by inserting '', and in the case of a debtor who is required by a judicial or administrative order to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or statute that are due on or before the date of the certification (including amounts due before the petition was filed, but only to the extent provided for in the plan) have been paid'' after ''completion by the debtor of all payments under the plan''.

SEC. 214. EXCEPTIONS TO AUTOMATIC STAY IN DOMESTIC SUPPORT OBLIGATION PROCEEDINGS.

Section 362(b) of title 11, United States Code, is amended by striking paragraph (2) and inserting the following:

''(2) under subsection (a)—

''(A) of the commencement or continuation of a civil action or proceeding—

''(i) for the establishment of paternity;

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

''(iii) concerning child custody or visitation;

''(iv) for the dissolution of a marriage, except to the extent that such proceeding seeks to determine the division of property that is property of the estate; or

''(v) regarding domestic violence;

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

''(C) with respect to the withholding of income that is property of the estate or property of the debtor for payment of a domestic support obligation under a judicial or administrative order;

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

''(E) the reporting of overdue support owed by a parent to any consumer reporting agency as specified in section 466(a)(7) of the Social Security Act (42 U.S.C. 666(a)(7));

''(F) the interception of tax refunds, as specified in sections 464 and 466(a)(3) of the Social Security Act (42 U.S.C. 664 and 666(a)(3)) or under an analogous State law; or

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

SEC. 215. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.

Section 523 of title 11, United States Code, is amended—

(1) in subsection (a)—

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

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

(B) in paragraph (15)—

(i) by inserting ''to a spouse, former spouse, or child of the debtor and'' before ''not of the kind'';

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

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

(C) by striking paragraph (18); and

(2) in subsection (c), by striking ''(6), or (15)'' each place it appears and inserting ''or (6)''.

SEC. 216. CONTINUED LIABILITY OF PROPERTY.

Section 522 of title 11, United States Code, is amended—

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

''(1) a debt of a kind specified in paragraph (1) or (5) of section 523(a) (in which case, notwithstanding any provision of applicable nonbankruptcy law to the contrary, such property shall be liable for a debt of a kind specified in section 523(a)(5));'';

(2) in subsection (f)(1)(A), by striking the dash and all that follows through the end of the subparagraph and inserting ''of a kind that is specified in section 523(a)(5); or''; and

(3) in subsection (g)(2), by striking ''subsection (f)(2)'' and inserting ''subsection (f)(1)(B)''.

SEC. 217. PROTECTION OF DOMESTIC SUPPORT CLAIMS AGAINST PREFERENTIAL TRANSFER MOTIONS.

Section 547(c)(7) of title 11, United States Code, is amended to read as follows:

''(7) to the extent such transfer was a bona fide payment of a debt for a domestic support obligation;''.

SEC. 218. DISPOSABLE INCOME DEFINED.

(a) CONFIRMATION OF PLAN UNDER CHAPTER 12.—Section 1225(b)(2)(A) of title 11, United States Code, is amended by inserting ''or for a domestic support obligation that first becomes payable after the date on which the petition is filed'' after ''dependent of the debtor''.

(b) CONFIRMATION OF PLAN UNDER CHAPTER 13.—Section 1325(b)(2)(A) of title 11, United States Code, is amended by inserting ''or for a domestic support obligation that first becomes payable after the date on which the petition is filed'' after ''dependent of the debtor''.

SEC. 219. COLLECTION OF CHILD SUPPORT.

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

(1) in subsection (a)—

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

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

(C) by adding at the end the following:

''(10) if, with respect to an individual debtor, there is a claim for a domestic support obligation, provide the applicable notification specified in subsection (c); and''; and

(2) by adding at the end the following:

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

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

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

''(iii) include in the notice an explanation of the rights of the holder of the claim to payment of the claim under this chapter; and

''(B)(i) notify in writing the State child support agency of the State in which the holder of the claim resides of the claim;

''(ii) include in the notice under this paragraph the name, address, and telephone number of the holder of the claim; and

''(iii) at such time as the debtor is granted a discharge under section 727, notify the holder of that claim and the State child support agency of the State in which that holder resides of—

''(I) the granting of the discharge;

''(II) the last recent known address of the debtor;

''(III) the last recent known name and address of the debtor's employer; and

''(IV) with respect to the debtor's case, the name of each creditor that holds a claim that—

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

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

''(2)(A) A holder of a claim or a State child support agency may request from a creditor described in paragraph (1)(B)(iii)(IV) the last known address of the debtor.

''(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making that disclosure.''.

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

(1) in subsection (a)—

(A) in paragraph (6), by striking ''and'' at the end;

(B) in paragraph (7), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(8) if, with respect to an individual debtor, there is a claim for a domestic support obligation, provide the applicable notification specified in subsection (c).''; and

(2) by adding at the end the following:

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

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

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

''(B)(i) notify, in writing, the State child support agency (of the State in which the holder of the claim resides) of the claim;

''(ii) include in the notice under this paragraph the name, address, and telephone number of the holder of the claim; and

''(iii) at such time as the debtor is granted a discharge under section 1141, notify the holder of the claim and the State child support agency of the State in which that holder resides of—

''(I) the granting of the discharge;

''(II) the last recent known address of the debtor;

''(III) the last recent known name and address of the debtor's employer; and

''(IV) with respect to the debtor's case, the name of each creditor that holds a claim that—

''(aa) is not discharged under paragraph (2), (3), or (14) of section 523(a); or

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

''(2)(A) A holder of a claim or a State child support agency may request from a creditor described in paragraph (1)(B)(iii)(IV) the last known address of the debtor.

''(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making that disclosure.''.

(c) DUTIES OF TRUSTEE UNDER CHAPTER 12.—Section 1202 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking ''and'' at the end;

(B) in paragraph (5), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(6) if, with respect to an individual debtor, there is a claim for a domestic support obligation, provide the applicable notification specified in subsection (c).''; and

(2) by adding at the end the following:

''(c)(1) In any case described in subsection (b)(6), the trustee shall—

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

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

''(B)(i) notify, in writing, the State child support agency (of the State in which the holder of the claim resides), and the holder of the claim, of the claim;

''(ii) include in the notice under this paragraph the name, address, and telephone number of the holder of the claim; and

''(iii) at such time as the debtor is granted a discharge under section 1228, notify the holder of the claim and the State child support agency of the State in which that holder resides of—

''(I) the granting of the discharge;

''(II) the last recent known address of the debtor;

''(III) the last recent known name and address of the debtor's employer; and

''(IV) with respect to the debtor's case, the name of each creditor that holds a claim that—

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

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

''(2)(A) A holder of a claim or a State child support agency may request from a creditor described in paragraph (1)(B)(iii)(IV) the last known address of the debtor.

''(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making that disclosure.''.

(d) DUTIES OF TRUSTEE UNDER CHAPTER 13.—Section 1302 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking ''and'' at the end;

(B) in paragraph (5), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(6) if, with respect to an individual debtor, there is a claim for a domestic support obligation, provide the applicable notification specified in subsection (d).''; and

(2) by adding at the end the following:

''(d)(1) In any case described in subsection (b)(6), the trustee shall—

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

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

''(B)(i) notify in writing the State child support agency of the State in which the holder of the claim resides of the claim;

''(ii) include in the notice under this paragraph the name, address, and telephone number of the holder of the claim; and

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

''(I) the granting of the discharge;

''(II) the last recent known address of the debtor;

''(III) the last recent known name and address of the debtor's employer; and

''(IV) with respect to the debtor's case, the name of each creditor that holds a claim that—

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

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

''(2)(A) A holder of a claim or a State child support agency may request from a creditor described in paragraph (1)(B)(iii)(IV) the last known address of the debtor.

''(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making that disclosure.''.

SEC. 220. NONDISCHARGEABILITY OF CERTAIN EDUCATIONAL BENEFITS AND LOANS.

Section 523(a) of title 11, United States Code, is amended by striking paragraph (8) and inserting the following:

''(8) unless excepting such debt from discharge under this paragraph would impose an undue hardship on the debtor and the debtor's dependents, for—

''(A)(i) an educational benefit overpayment or loan made, insured, or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution; or

''(ii) an obligation to repay funds received as an educational benefit, scholarship, or stipend; or

''(B) any other educational loan that is a qualified education loan, as that term is defined in section 221(e)(1) of the Internal Revenue Code of 1986, incurred by an individual debtor;''.

Subtitle C—Other Consumer Protections

SEC. 221. AMENDMENTS TO DISCOURAGE ABUSIVE BANKRUPTCY FILINGS.

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

(1) in subsection (a)(1), by striking ''an attorney or an employee of an attorney'' and inserting ''the attorney for the debtor or an employee of such attorney under the direct supervision of such attorney'';

(2) in subsection (b)—

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

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

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

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

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

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

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

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

''(iii) shall—

''(I) be signed by—

''(aa) the debtor; and

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

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

(3) in subsection (c)—

(A) in paragraph (2)—

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

(ii) by adding at the end the following:

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

(B) by striking paragraph (3);

(4) in subsection (d)—

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

(B) by striking paragraph (2);

(5) in subsection (e)—

(A) by striking paragraph (2); and

(B) by adding at the end the following:

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

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

''(i) whether—

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

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

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

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

''(iv) concerning—

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

''(II) the dischargeability of tax claims;

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

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

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

(6) in subsection (f)—

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

(B) by striking paragraph (2);

(7) in subsection (g)—

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

(B) by striking paragraph (2);

(8) in subsection (h)—

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

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

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

(C) in paragraph (2), as redesignated—

(i) by striking ''Within 10 days after the date of filing a petition, a bankruptcy petition preparer shall file a'' and inserting ''A'';

(ii) by inserting ''by the bankruptcy petition preparer shall be filed together with the petition,'' after ''perjury''; and

(iii) by adding at the end the following: ''If rules or guidelines setting a maximum fee for services have been promulgated or prescribed under paragraph (1), the declaration under this paragraph shall include a certification that the bankruptcy petition preparer complied with the notification requirement under paragraph (1).'';

(D) by striking paragraph (3), as redesignated, and inserting the following:

''(3)(A) The court shall disallow and order the immediate turnover to the bankruptcy trustee any fee referred to in paragraph (2) found to be in excess of the value of any services—

''(i) rendered by the preparer during the 12-month period immediately preceding the date of filing of the petition; or

''(ii) found to be in violation of any rule or guideline promulgated or prescribed under paragraph (1).

''(B) All fees charged by a bankruptcy petition preparer may be forfeited in any case in which the bankruptcy petition preparer fails to comply with this subsection or subsection (b), (c), (d), (e), (f), or (g).

''(C) An individual may exempt any funds recovered under this paragraph under section 522(b).''; and

(E) in paragraph (4), as redesignated, by striking ''or the United States trustee'' and inserting ''the United States trustee, the bankruptcy administrator, or the court, on the initiative of the court,'';

(9) in subsection (i)(1), by striking the matter preceding subparagraph (A) and inserting the following:

''(i)(1) If a bankruptcy petition preparer violates this section or commits any act that the court finds to be fraudulent, unfair, or

deceptive, on motion of the debtor, trustee, United States trustee, or bankruptcy administrator, and after the court holds a hearing with respect to that violation or act, the court shall order the bankruptcy petition preparer to pay to the debtor—'';

(10) in subsection (j)—

(A) in paragraph (2)—

(i) in subparagraph (A)(i)(I), by striking ''a violation of which subjects a person to criminal penalty'';

(ii) in subparagraph (B)—

(I) by striking ''or has not paid a penalty'' and inserting ''has not paid a penalty''; and

(II) by inserting ''or failed to disgorge all fees ordered by the court'' after ''a penalty imposed under this section,'';

(B) by redesignating paragraph (3) as paragraph (4); and

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

''(3) The court, as part of its contempt power, may enjoin a bankruptcy petition preparer that has failed to comply with a previous order issued under this section. The injunction under this paragraph may be issued upon motion of the court, the trustee, the United States trustee, or the bankruptcy administrator.''; and

(11) by adding at the end the following:

''(l)(1) A bankruptcy petition preparer who fails to comply with any provision of subsection (b), (c), (d), (e), (f), (g), or (h) may be fined not more than $500 for each such failure.

''(2) The court shall triple the amount of a fine assessed under paragraph (1) in any case in which the court finds that a bankruptcy petition preparer—

''(A) advised the debtor to exclude assets or income that should have been included on applicable schedules;

''(B) advised the debtor to use a false Social Security account number;

''(C) failed to inform the debtor that the debtor was filing for relief under this title; or

''(D) prepared a document for filing in a manner that failed to disclose the identity of the preparer.

''(3) The debtor, the trustee, a creditor, the United States trustee, or the bankruptcy administrator may file a motion for an order imposing a fine on the bankruptcy petition preparer for each violation of this section.

''(4)(A) Fines imposed under this subsection in judicial districts served by United States trustees shall be paid to the United States trustee, who shall deposit an amount equal to such fines in a special account of the United States Trustee System Fund referred to in section 586(e)(2) of title 28. Amounts deposited under this subparagraph shall be available to fund the enforcement of this section on a national basis.

''(B) Fines imposed under this subsection in judicial districts served by bankruptcy administrators shall be deposited as offsetting receipts to the fund established under section 1931 of title 28, and shall remain available until expended to reimburse any appropriation for the amount paid out of such appropriation for expenses of the operation and maintenance of the courts of the United States.''.

SEC. 222. SENSE OF CONGRESS.

It is the sense of Congress that States should develop curricula relating to the subject of personal finance, designed for use in elementary and secondary schools.

SEC. 223. ADDITIONAL AMENDMENTS TO TITLE 11, UNITED STATES CODE.

Section 507(a) of title 11, United States Code, is amended by inserting after paragraph (9) the following:

''(10) Tenth, allowed claims for death or personal injuries resulting from the operation of a motor vehicle or vessel if such operation was unlawful because the debtor was intoxicated from using alcohol, a drug, or another substance.''.

SEC. 224. PROTECTION OF RETIREMENT SAVINGS IN BANKRUPTCY.

(a) IN GENERAL.—Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (2)—

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

(ii) in subparagraph (B), by striking the period at the end and inserting ''; and'';

(iii) by adding at the end the following:

''(C) retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.''; and

(iv) by striking ''(2)(A) any property'' and inserting:

''(3) Property listed in this paragraph is—

''(A) any property'';

(B) by striking paragraph (1) and inserting:

''(2) Property listed in this paragraph is property that is specified under subsection (d), unless the State law that is applicable to the debtor under paragraph (3)(A) specifically does not so authorize.'';

(C) by striking ''(b) Notwithstanding'' and inserting ''(b)(1) Notwithstanding'';

(D) by striking ''paragraph (2)'' each place it appears and inserting ''paragraph (3)'';

(E) by striking ''paragraph (1)'' each place it appears and inserting ''paragraph (2)'';

(F) by striking ''Such property is—''; and

(G) by adding at the end the following:

''(4) For purposes of paragraph (3)(C) and subsection (d)(12), the following shall apply:

''(A) If the retirement funds are in a retirement fund that has received a favorable determination under section 7805 of the Internal Revenue Code of 1986, and that determination is in effect as of the date of the commencement of the case under section 301, 302, or 303 of this title, those funds shall be presumed to be exempt from the estate.

''(B) If the retirement funds are in a retirement fund that has not received a favorable determination under such section 7805, those funds are exempt from the estate if the debtor demonstrates that—

''(i) no prior determination to the contrary has been made by a court or the Internal Revenue Service; and

''(ii)(I) the retirement fund is in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986; or

''(II) the retirement fund fails to be in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986 and the debtor is not materially responsible for that failure.

''(C) A direct transfer of retirement funds from 1 fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986, under section 401(a)(31) of the Internal Revenue Code of 1986, or otherwise, shall not cease to qualify for exemption under paragraph (3)(C) or subsection (d)(12) by reason of that direct transfer.

''(D)(i) Any distribution that qualifies as an eligible rollover distribution within the meaning of section 402(c) of the Internal Revenue Code of 1986 or that is described in clause (ii) shall not cease to qualify for exemption under paragraph (3)(C) or subsection (d)(12) by reason of that distribution.

''(ii) A distribution described in this clause is an amount that—

''(I) has been distributed from a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986; and

''(II) to the extent allowed by law, is deposited in such a fund or account not later than 60 days after the distribution of that amount.''; and

(2) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking ''subsection (b)(1)'' and inserting ''subsection (b)(2)''; and

(B) by adding at the end the following:

''(12) Retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.''.

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

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

(2) in paragraph (18), by striking the period and inserting a semicolon;

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

''(19) under subsection (a), of withholding of income from a debtor's wages and collection of amounts withheld, under the debtor's agreement authorizing that withholding and collection for the benefit of a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986, that is sponsored by the employer of the debtor, or an affiliate, successor, or predecessor of such employer—

''(A) to the extent that the amounts withheld and collected are used solely for payments relating to a loan from a plan that satisfies the requirements of section 408(b)(1) of the Employee Retirement Income Security Act of 1974 or is subject to section 72(p) of the Internal Revenue Code of 1986; or

''(B) in the case of a loan from a thrift savings plan described in subchapter III of chapter 84 of title 5, that satisfies the requirements of section 8433(g) of such title;''; and

(4) by adding at the end of the flush material at the end of the subsection, the following: ''Nothing in paragraph (19) may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b) of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title.''.

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

''(18) owed to a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(c) of the Internal Revenue Code of 1986, under—

''(A) a loan permitted under section 408(b)(1) of the Employee Retirement Income Security Act of 1974, or subject to section 72(p) of the Internal Revenue Code of 1986; or

''(B) a loan from the thrift savings plan described in subchapter III of chapter 84 of title 5, that satisfies the requirements of section 8433(g) of such title.

Nothing in paragraph (18) may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title.''.

(d) PLAN CONTENTS.—Section 1322 of title 11, United States Code, is amended by adding at the end the following:

''(f) A plan may not materially alter the terms of a loan described in section 362(b)(19) and any amounts required to repay such loan shall not constitute 'disposable income' under section 1325.''.

(e) ASSET LIMITATION.—Section 522 of title 11, United States Code, is amended by adding at the end the following:

''(n) For assets in individual retirement accounts described in section 408 or 408A of the

Internal Revenue Code of 1986, other than a simplified employee pension under section 408(k) of that Code or a simple retirement account under section 408(p) of that Code, the aggregate value of such assets exempted under this section, without regard to amounts attributable to rollover contributions under section 402(c), 402(e)(6), 403(a)(4), 403(a)(5), and 403(b)(8) of the Internal Revenue Code of 1986, and earnings thereon, shall not exceed $1,000,000 (which amount shall be adjusted as provided in section 104 of this title) in a case filed by an individual debtor, except that such amount may be increased if the interests of justice so require.''.

SEC. 225. PROTECTION OF EDUCATION SAVINGS IN BANKRUPTCY.

(a) EXCLUSIONS.—Section 541 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking ''or'' at the end;

(B) by redesignating paragraph (5) as paragraph (10); and

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

''(5) funds placed in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) not later than 365 days before the date of filing of the petition, but—

''(A) only if the designated beneficiary of such account was a son, daughter, stepson, stepdaughter, grandchild, or step-grandchild of the debtor for the taxable year for which funds were placed in such account;

''(B) only to the extent that such funds—

''(i) are not pledged or promised to any entity in connection with any extension of credit; and

''(ii) are not excess contributions (as described in section 4973(e) of the Internal Revenue Code of 1986); and

''(C) in the case of funds placed in all such accounts having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000;

''(6) funds used to purchase a tuition credit or certificate or contributed to an account in accordance with section 529(b)(1)(A) of the Internal Revenue Code of 1986 under a qualified State tuition program (as defined in section 529(b)(1) of such Code) not later than 365 days before the date of filing of the petition, but—

''(A) only if the designated beneficiary of the amounts paid or contributed to such tuition program was a son, daughter, stepson, stepdaughter, grandchild, or step-grandchild of the debtor for the taxable year for which funds were paid or contributed;

''(B) with respect to the aggregate amount paid or contributed to such program having the same designated beneficiary, only so much of such amount as does not exceed the total contributions permitted under section 529(b)(7) of such Code with respect to such beneficiary, as adjusted beginning on the date of the filing of the petition by the annual increase or decrease (rounded to the nearest tenth of 1 percent) in the education expenditure category of the Consumer Price Index prepared by the Department of Labor; and

''(C) in the case of funds paid or contributed to such program having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000;''; and

(2) by adding at the end the following:

''(e) In determining whether any of the relationships specified in paragraph (5)(A) or (6)(A) of subsection (b) exists, a legally adopted child of an individual (and a child who is a member of an individual's household, if placed with such individual by an authorized placement agency for legal adoption by such individual), or a foster child of an individual (if such child has as the child's principal place of abode the home of the debtor and is a member of the debtor's household) shall be treated as a child of such individual by blood.''.

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

''(c) In addition to meeting the requirements under subsection (a), a debtor shall file with the court a record of any interest that a debtor has in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) or under a qualified State tuition program (as defined in section 529(b)(1) of such Code).''.

SEC. 226. DEFINITIONS.

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

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

''(3) 'assisted person' means any person whose debts consist primarily of consumer debts and whose non-exempt assets are less than $150,000;'';

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

''(4A) 'bankruptcy assistance' means any goods or services sold or otherwise provided to an assisted person with the express or implied purpose of providing information, advice, counsel, document preparation, or filing, or attendance at a creditors' meeting or appearing in a proceeding on behalf of another or providing legal representation with respect to a case or proceeding under this title;''; and

(3) by inserting after paragraph (12) the following:

''(12A) 'debt relief agency' means any person who provides any bankruptcy assistance to an assisted person in return for the payment of money or other valuable consideration, or who is a bankruptcy petition preparer under section 110, but does not include—

''(A) any person that is an officer, director, employee or agent of that person;

''(B) a nonprofit organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

''(C) a creditor of the person, to the extent that the creditor is assisting the person to restructure any debt owed by the person to the creditor;

''(D) a depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or any Federal credit union or State credit union (as those terms are defined in section 101 of the Federal Credit Union Act), or any affiliate or subsidiary of such a depository institution or credit union; or

''(E) an author, publisher, distributor, or seller of works subject to copyright protection under title 17, when acting in such capacity.''.

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

SEC. 227. RESTRICTIONS ON DEBT RELIEF AGENCIES.

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

''§ 526. Restrictions on debt relief agencies

''(a) A debt relief agency shall not—

''(1) fail to perform any service that such agency informed an assisted person or prospective assisted person it would provide in connection with a case or proceeding under this title;

''(2) make any statement, or counsel or advise any assisted person or prospective assisted person to make a statement in a document filed in a case or proceeding under this title, that is untrue and misleading, or that upon the exercise of reasonable care, should have been known by such agency to be untrue or misleading;

''(3) misrepresent to any assisted person or prospective assisted person, directly or indirectly, affirmatively or by material omission, with respect to—

''(i) the services that such agency will provide to such person; or

''(ii) the benefits and risks that may result if such person becomes a debtor in a case under this title; or

''(4) advise an assisted person or prospective assisted person to incur more debt in contemplation of such person filing a case under this title or to pay an attorney or bankruptcy petition preparer fee or charge for services performed as part of preparing for or representing a debtor in a case under this title.

''(b) Any waiver by any assisted person of any protection or right provided under this section shall not be enforceable against the debtor by any Federal or State court or any other person, but may be enforced against a debt relief agency.

''(c)(1) Any contract for bankruptcy assistance between a debt relief agency and an assisted person that does not comply with the material requirements of this section, section 527, or section 528 shall be void and may not be enforced by any Federal or State court or by any other person, other than such assisted person.

''(2) Any debt relief agency shall be liable to an assisted person in the amount of any fees or charges in connection with providing bankruptcy assistance to such person that such debt relief agency has received, for actual damages, and for reasonable attorneys' fees and costs if such agency is found, after notice and hearing, to have—

''(A) intentionally or negligently failed to comply with any provision of this section, section 527, or section 528 with respect to a case or proceeding under this title for such assisted person;

''(B) provided bankruptcy assistance to an assisted person in a case or proceeding under this title that is dismissed or converted to a case under another chapter of this title because of such agency's intentional or negligent failure to file any required document including those specified in section 521; or

''(C) intentionally or negligently disregarded the material requirements of this title or the Federal Rules of Bankruptcy Procedure applicable to such agency.

''(3) In addition to such other remedies as are provided under State law, whenever the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this section, the State—

''(A) may bring an action to enjoin such violation;

''(B) may bring an action on behalf of its residents to recover the actual damages of assisted persons arising from such violation, including any liability under paragraph (2); and

''(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorney fees as determined by the court.

''(4) The United States District Court for any district located in the State shall have concurrent jurisdiction of any action under subparagraph (A) or (B) of paragraph (3).

''(5) Notwithstanding any other provision of Federal law and in addition to any other

remedy provided under Federal or State law, if the court, on its own motion or on motion of the United States trustee or the debtor, finds that a person intentionally violated this section, or engaged in a clear and consistent pattern or practice of violating this section, the court may—

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

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

''(d) No provision of this section, section 527, or section 528 shall—

''(1) annul, alter, affect, or exempt any person subject to such sections from complying with any law of any State except to the extent that such law is inconsistent with those sections, and then only to the extent of the inconsistency; or

''(2) be deemed to limit or curtail the authority or ability—

''(A) of a State or subdivision or instrumentality thereof, to determine and enforce qualifications for the practice of law under the laws of that State; or

''(B) of a Federal court to determine and enforce the qualifications for the practice of law before that court.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting before the item relating to section 527, the following:

''526. Debt relief enforcement.''.

SEC. 228. DISCLOSURES.

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

''§ 527. Disclosures

''(a) A debt relief agency providing bankruptcy assistance to an assisted person shall provide—

''(1) the written notice required under section 342(b)(1) of this title; and

''(2) to the extent not covered in the written notice described in paragraph (1), and not later than 3 business days after the first date on which a debt relief agency first offers to provide any bankruptcy assistance services to an assisted person, a clear and conspicuous written notice advising assisted persons that—

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

''(B) all assets and all liabilities are required to be completely and accurately disclosed in the documents filed to commence the case, and the replacement value of each asset as defined in section 506 of this title must be stated in those documents where requested after reasonable inquiry to establish such value;

''(C) current monthly income, the amounts specified in section 707(b)(2), and, in a case under chapter 13, disposable income (determined in accordance with section 707(b)(2)), are required to be stated after reasonable inquiry; and

''(D) information that an assisted person provides during their case may be audited pursuant to this title, and that failure to provide such information may result in dismissal of the proceeding under this title or other sanction including, in some instances, criminal sanctions.

''(b) A debt relief agency providing bankruptcy assistance to an assisted person shall provide each assisted person at the same time as the notices required under subsection (a)(1) with the following statement, to the extent applicable, or one substantially similar. The statement shall be clear and conspicuous and shall be in a single document separate from other documents or notices provided to the assisted person:

''''IMPORTANT INFORMATION ABOUT BANKRUPTCY ASSISTANCE SERVICES FROM AN ATTORNEY OR BANKRUPTCY PETITION PREPARER.

''''If you decide to seek bankruptcy relief, you can represent yourself, you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer who is not an attorney. THE LAW REQUIRES AN ATTORNEY OR BANKRUPTCY PETITION PREPARER TO GIVE YOU A WRITTEN CONTRACT SPECIFYING WHAT THE ATTORNEY OR BANKRUPTCY PETITION PREPARER WILL DO FOR YOU AND HOW MUCH IT WILL COST. Ask to see the contract before you hire anyone.

''''The following information helps you understand what must be done in a routine bankruptcy case to help you evaluate how much service you need. Although bankruptcy can be complex, many cases are routine.

''''Before filing a bankruptcy case, either you or your attorney should analyze your eligibility for different forms of debt relief made available by the Bankruptcy Code and which form of relief is most likely to be beneficial for you. Be sure you understand the relief you can obtain and its limitations. To file a bankruptcy case, documents called a Petition, Schedules and Statement of Financial Affairs, as well as in some cases a Statement of Intention need to be prepared correctly and filed with the bankruptcy court. You will have to pay a filing fee to the bankruptcy court. Once your case starts, you will have to attend the required first meeting of creditors where you may be questioned by a court official called a ''trustee'' and by creditors.

''''If you choose to file a chapter 7 case, you may be asked by a creditor to reaffirm a debt. You may want help deciding whether to do so and a creditor is not permitted to coerce you into reaffirming your debts.

''''If you choose to file a chapter 13 case in which you repay your creditors what you can afford over 3 to 5 years, you may also want help with preparing your chapter 13 plan and with the confirmation hearing on your plan which will be before a bankruptcy judge.

''''If you select another type of relief under the Bankruptcy Code other than chapter 7 or chapter 13, you will want to find out what needs to be done from someone familiar with that type of relief.

''''Your bankruptcy case may also involve litigation. You are generally permitted to represent yourself in litigation in bankruptcy court, but only attorneys, not bankruptcy petition preparers, can give you legal advice.'.

''(c) Except to the extent the debt relief agency provides the required information itself after reasonably diligent inquiry of the assisted person or others so as to obtain such information reasonably accurately for inclusion on the petition, schedules or statement of financial affairs, a debt relief agency providing bankruptcy assistance to an assisted person, to the extent permitted by nonbankruptcy law, shall provide each assisted person at the time required for the notice required under subsection (a)(1) reasonably sufficient information (which shall be provided in a clear and conspicuous writing) to the assisted person on how to provide all the information the assisted person is required to provide under this title pursuant to section 521, including—

''(1) how to value assets at replacement value, determine current monthly income, the amounts specified in section 707(b)(2) and, in a chapter 13 case, how to determine disposable income in accordance with section 707(b)(2) and related calculations;

''(2) how to complete the list of creditors, including how to determine what amount is owed and what address for the creditor should be shown; and

''(3) how to determine what property is exempt and how to value exempt property at replacement value as defined in section 506 of this title.

''(d) A debt relief agency shall maintain a copy of the notices required under subsection (a) of this section for 2 years after the date on which the notice is given the assisted person.''.

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

''527. Disclosures.''.

SEC. 229. REQUIREMENTS FOR DEBT RELIEF AGENCIES.

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

''§ 528. Requirements for debt relief agencies

''(a) A debt relief agency shall—

''(1) not later than 5 business days after the first date such agency provides any bankruptcy assistance services to an assisted person, but prior to such assisted person's petition under this title being filed, execute a written contract with such assisted person that explains clearly and conspicuously—

''(A) the services such agency will provide to such assisted person; and

''(B) the fees or charges for such services, and the terms of payment;

''(2) provide the assisted person with a copy of the fully executed and completed contract;

''(3) clearly and conspicuously disclose in any advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public (whether in general media, seminars or specific mailings, telephonic or electronic messages, or otherwise) that the services or benefits are with respect to bankruptcy relief under this title; and

''(4) clearly and conspicuously using the following statement: 'We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code.' or a substantially similar statement.

''(b)(1) An advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public includes—

''(A) descriptions of bankruptcy assistance in connection with a chapter 13 plan whether or not chapter 13 is specifically mentioned in such advertisement; and

''(B) statements such as 'federally supervised repayment plan' or 'Federal debt restructuring help' or other similar statements that could lead a reasonable consumer to believe that debt counseling was being offered when in fact the services were directed to providing bankruptcy assistance with a chapter 13 plan or other form of bankruptcy relief under this title.

''(2) An advertisement, directed to the general public, indicating that the debt relief agency provides assistance with respect to credit defaults, mortgage foreclosures, eviction proceedings, excessive debt, debt collection pressure, or inability to pay any consumer debt shall—

''(A) disclose clearly and conspicuously in such advertisement that the assistance may involve bankruptcy relief under this title; and

''(B) include the following statement: 'We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code.' or a substantially similar statement.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, as amended by this Act, is amended by inserting after the item relating to section 527, the following:

''528. Debtor's bill of rights.''.

SEC. 230. GAO STUDY.

(a) STUDY.—Not later than 270 days after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study of the feasibility, effectiveness, and cost of requiring trustees appointed under title 11, United States Code, or the bankruptcy courts, to provide to the Office of Child Support Enforcement promptly after the commencement of cases by individual debtors under such title, the names and social security numbers of such debtors for the purposes of allowing such Office to determine whether such debtors have outstanding obligations for child support (as determined on the basis of information in the Federal Case Registry or other national database).

(b) REPORT.—Not later than 300 days after the date of enactment of this Act, the Comptroller General shall submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report containing the results of the study required by subsection (a).

SEC. 231. PROTECTION OF NONPUBLIC PERSONAL INFORMATION.

(a) IN GENERAL.—Section 363(b)(1) of title 11, United States Code, is amended by striking the period at the end and inserting the following:'', except that if the debtor has disclosed a policy to an individual prohibiting the transfer of personally identifiable information about the individual to unaffiliated third persons, and the policy remains in effect at the time of the bankruptcy filing, the trustee may not sell or lease such personally identifiable information to any person, unless—

''(A) the sale is consistent with such prohibition; or

''(B) the court, after notice and hearing and due consideration of the facts, circumstances, and conditions of the sale or lease, approves the sale or lease.''.

(b) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (41) the following:

''(41A) 'personally identifiable information', if provided by the individual to the debtor in connection with obtaining a product or service from the debtor primarily for personal, family, or household purposes—

''(A) means—

''(i) the individual's first name (or initials) and last name, whether given at birth or adoption or legally changed;

''(ii) the physical address for the individual's home;

''(iii) the individual's e-mail address;

''(iv) the individual's home telephone number;

''(v) the individual's social security number; or

''(vi) the individual's credit card account number; and

''(B) means, when identified in connection with one or more of the items of information listed in subparagraph (A)—

''(i) an individual's birth date, birth certificate number, or place of birth; or

''(ii) any other information concerning an identified individual that, if disclosed, will result in the physical or electronic contacting or identification of that person;''.

SEC. 232. CONSUMER PRIVACY OMBUDSMAN.

(a) IN GENERAL.—

(1) APPOINTMENT ON REQUEST.—If the trustee intends to sell or lease personally identifiable information in a manner which requires a hearing described in section 363(b)(1)(B), the trustee shall request, and the court shall appoint, an individual to serve as ombudsman during the case not later than—

(A) on or before the expiration of 30 days after the date of the order for relief; or

(B) 5 days prior to any hearing described in section 363(b)(1)(B) of title 11, United States Code, as amended by this Act.

(2) DUTIES OF OMBUDSMAN.—It shall be the duty of the ombudsman to provide the court information to assist the court in its consideration of the facts, circumstances, and conditions of the sale or lease under section 363(b)(1)(B) of title 11, United States Code, as amended by this Act. Such information may include a presentation of the debtor's privacy policy in effect, potential losses or gains of privacy to consumers if the sale or lease is approved, potential costs or benefits to consumers if the sale or lease is approved, and potential alternatives which mitigate potential privacy losses or potential costs to consumers.

(3) NOTICE TO OMBUDSMAN.—The ombudsman shall receive notice of, and shall have a right to appear and be heard, at any hearing described in section 363b(1)(B) of title 11, United States Code, as amended by this Act.

(4) CONFIDENTIALITY.—The ombudsman shall maintain any personally identifiable information obtained by the ombudsman under this title as confidential information.

(b) APPOINTMENT.—If the court orders the appointment of an ombudsman under this section, the United States Trustee shall appoint 1 disinterested person, other than the United States trustee, to serve as the ombudsman.

(c) COMPENSATION OF CONSUMER PRIVACY OMBUDSMAN.—Section 330(a)(1) of title 11, United States Code, is amended in the matter preceding subparagraph (A), by inserting ''an ombudsman appointed under section 332,'' before ''an examiner''.

SEC. 233. PROHIBITION ON DISCLOSURE OF IDENTITY OF MINOR CHILDREN.

(a) PROHIBITION.—Chapter 1 of title 11, United States Code, is amended by adding after section 111, as added by this Act, the following:

''§ 112. Prohibition on disclosure of identity of minor children

''In a case under this title, the debtor may be required to provide information regarding a minor child involved in matters under this title, but may not be required to disclose in the public records in the case the name of such minor child. Notwithstanding section 107(a), the debtor may be required to disclose the name of such minor child in a nonpublic record maintained by the court. Such nonpublic record shall be available for inspection by the judge, United States Trustee, the trustee, or an auditor under section 603 of the Bankruptcy Reform Act of 2001. Each such judge, United States Trustee, trustee, or auditor shall maintain the confidentiality of the identity of such minor child in the nonpublic record.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 1 of title 11, United States Code, is amended by adding at the end the following:

''112. Prohibition on disclosure of identity of minor children.''.

TITLE III—DISCOURAGING BANKRUPTCY ABUSE

SEC. 301. REINFORCEMENT OF THE FRESH START.

Section 523(a)(17) of title 11, United States Code, is amended—

(1) by striking ''by a court'' and inserting ''on a prisoner by any court'',

(2) by striking ''section 1915(b) or (f)'' and inserting ''subsection (b) or (f)(2) of section 1915'', and

(3) by inserting ''(or a similar non-Federal law)'' after ''title 28'' each place it appears.

SEC. 302. DISCOURAGING BAD FAITH REPEAT FILINGS.

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

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

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

(3) by adding at the end the following:

''(3) if a single or joint case is filed by or against an individual debtor under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding 1-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b)—

''(A) the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the later case;

''(B) upon motion by a party in interest for continuation of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any or all creditors (subject to such conditions or limitations as the court may then impose) after notice and a hearing completed before the expiration of the 30-day period only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed; and

''(C) for purposes of subparagraph (B), a case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

''(i) as to all creditors, if—

''(I) more than 1 previous case under any of chapter 7, 11, or 13 in which the individual was a debtor was pending within the preceding 1-year period;

''(II) a previous case under any of chapter 7, 11, or 13 in which the individual was a debtor was dismissed within such 1-year period, after the debtor failed to—

''(aa) file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be a substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney);

''(bb) provide adequate protection as ordered by the court; or

''(cc) perform the terms of a plan confirmed by the court; or

''(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under chapter 7, 11, or 13 or any other reason to conclude that the later case will be concluded—

''(aa) if a case under chapter 7, with a discharge; or

''(bb) if a case under chapter 11 or 13, with a confirmed plan which will be fully performed; and

''(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to actions of such creditor; and

''(4)(A)(i) if a single or joint case is filed by or against an individual debtor under this title, and if 2 or more single or joint cases of the debtor were pending within the previous year but were dismissed, other than a case refiled under section 707(b), the stay under subsection (a) shall not go into effect upon the filing of the later case; and

''(ii) on request of a party in interest, the court shall promptly enter an order confirming that no stay is in effect;

''(B) if, within 30 days after the filing of the later case, a party in interest requests the court may order the stay to take effect in the case as to any or all creditors (subject to such conditions or limitations as the court may impose), after notice and hearing, only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed;

''(C) a stay imposed under subparagraph (B) shall be effective on the date of entry of the order allowing the stay to go into effect; and

''(D) for purposes of subparagraph (B), a case is presumptively not filed in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

''(i) as to all creditors if—

''(I) 2 or more previous cases under this title in which the individual was a debtor were pending within the 1-year period;

''(II) a previous case under this title in which the individual was a debtor was dismissed within the time period stated in this paragraph after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to pay adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

''(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under this title, or any other reason to conclude that the later case will not be concluded, if a case under chapter 7, with a discharge, and if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; or

''(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, such action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to action of such creditor.''.

SEC. 303. CURBING ABUSIVE FILINGS.

(a) IN GENERAL.—Section 362(d) of title 11, United States Code, is amended—

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

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

(3) by adding at the end the following:

''(4) with respect to a stay of an act against real property under subsection (a), by a creditor whose claim is secured by an interest in such real estate, if the court finds that the filing of the bankruptcy petition was part of a scheme to delay, hinder, and defraud creditors that involved either—

''(A) transfer of all or part ownership of, or other interest in, the real property without the consent of the secured creditor or court approval; or

''(B) multiple bankruptcy filings affecting the real property.

If recorded in compliance with applicable State laws governing notices of interests or liens in real property, an order entered under this subsection shall be binding in any other case under this title purporting to affect the real property filed not later than 2 years after the date of entry of such order by the court, except that a debtor in a subsequent case may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing. Any Federal, State, or local governmental unit that accepts notices of interests or liens in real property shall accept any certified copy of an order described in this subsection for indexing and recording.''.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (19), as added by this Act, the following:

''(20) under subsection (a), of any act to enforce any lien against or security interest in real property following the entry of an order under section 362(d)(4) as to that property in any prior bankruptcy case for a period of 2 years after entry of such an order, except that the debtor, in a subsequent case, may move the court for relief from such order based upon changed circumstances or for other good cause shown, after notice and a hearing;

''(21) under subsection (a), of any act to enforce any lien against or security interest in real property—

''(A) if the debtor is ineligible under section 109(g) to be a debtor in a bankruptcy case; or

''(B) if the bankruptcy case was filed in violation of a bankruptcy court order in a prior bankruptcy case prohibiting the debtor from being a debtor in another bankruptcy case;''.

SEC. 304. DEBTOR RETENTION OF PERSONAL PROPERTY SECURITY.

Title 11, United States Code, is amended—

(1) in section 521(a) (as so designated by this Act)—

(A) in paragraph (4), by striking '', and'' at the end and inserting a semicolon;

(B) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(6) in an individual case under chapter 7 of this title, not retain possession of personal property as to which a creditor has an allowed claim for the purchase price secured in whole or in part by an interest in that personal property unless, in the case of an individual debtor, the debtor, not later than 45 days after the first meeting of creditors under section 341(a), either—

''(A) enters into an agreement with the creditor pursuant to section 524(c) of this title with respect to the claim secured by such property; or

''(B) redeems such property from the security interest pursuant to section 722 of this title.

If the debtor fails to so act within the 45-day period referred to in paragraph (6), the stay under section 362(a) of this title is terminated with respect to the personal property of the estate or of the debtor which is affected, such property shall no longer be property of the estate, and the creditor may take whatever action as to such property as is permitted by applicable nonbankruptcy law, unless the court determines on the motion of the trustee brought before the expiration of such 45-day period, and after notice and a hearing, that such property is of consequential value or benefit to the estate, orders appropriate adequate protection of the creditor's interest, and orders the debtor to deliver any collateral in the debtor's possession to the trustee.''; and

(2) in section 722, by inserting ''in full at the time of redemption'' before the period at the end.

SEC. 305. RELIEF FROM THE AUTOMATIC STAY WHEN THE DEBTOR DOES NOT COMPLETE INTENDED SURRENDER OF CONSUMER DEBT COLLATERAL.

Title 11, United States Code, is amended—

(1) in section 362—

(A) in subsection (c), by striking ''(e), and (f)'' and inserting ''(e), (f), and (h)'';

(B) by redesignating subsection (h) as subsection (k); and

(C) by inserting after subsection (g) the following:

''(h)(1) In an individual case under chapter 7, 11, or 13, the stay provided by subsection (a) is terminated with respect to personal property of the estate or of the debtor securing in whole or in part a claim, or subject to an unexpired lease, and such personal property shall no longer be property of the estate if the debtor fails within the applicable time set by section 521(a)(2) of this title—

''(A) to file timely any statement of intention required under section 521(a)(2) of this title with respect to that property or to indicate in that statement that the debtor will either surrender the property or retain it and, if retaining it, either redeem the property pursuant to section 722 of this title, reaffirm the debt it secures pursuant to section 524(c) of this title, or assume the unexpired lease pursuant to section 365(p) of this title if the trustee does not do so, as applicable; and

''(B) to take timely the action specified in that statement of intention, as it may be amended before expiration of the period for taking action, unless the statement of intention specifies reaffirmation and the creditor refuses to reaffirm on the original contract terms.

''(2) Paragraph (1) does not apply if the court determines, on the motion of the trustee filed before the expiration of the applicable time set by section 521(a)(2), after notice and a hearing, that such property is of consequential value or benefit to the estate, and orders appropriate adequate protection of the creditor's interest, and orders the debtor to deliver any collateral in the debtor's possession to the trustee. If the court does not so determine, the stay provided by subsection (a) shall terminate upon the conclusion of the proceeding on the motion.''; and

(2) in section 521—

(A) in subsection (a)(2), as so designated by this Act, by striking ''consumer'';

(B) in subsection (a)(2)(B), as so designated by this Act—

(i) by striking ''forty-five days after the filing of a notice of intent under this section'' and inserting ''30 days after the first date set for the meeting of creditors under section 341(a) of this title''; and

(ii) by striking ''forty-five day'' and inserting ''30-day'';

(C) in subsection (a)(2)(C), as so designated by this Act, by inserting '', except as provided in section 362(h) of this title'' before the semicolon; and

(D) by adding at the end the following:

''(d) If the debtor fails timely to take the action specified in subsection (a)(6) of this section, or in paragraphs (1) and (2) of section 362(h) of this title, with respect to property which a lessor or bailor owns and has leased, rented, or bailed to the debtor or as to which a creditor holds a security interest not otherwise voidable under section 522(f), 544, 545, 547, 548, or 549 of this title, nothing in this title shall prevent or limit the operation of a provision in the underlying lease or agreement which has the effect of placing the debtor in default under such lease or agreement by reason of the occurrence, pendency, or existence of a proceeding under this title or the insolvency of the debtor. Nothing in this subsection shall be deemed to justify limiting such a provision in any other circumstance.''.

SEC. 306. GIVING SECURED CREDITORS FAIR TREATMENT IN CHAPTER 13.

(a) IN GENERAL.—Section 1325(a)(5)(B)(i) of title 11, United States Code, is amended to read as follows:

''(i) the plan provides that—

''(I) the holder of such claim retain the lien securing such claim until the earlier of—

''(aa) the payment of the underlying debt determined under nonbankruptcy law; or

''(bb) discharge under section 1328; and

''(II) if the case under this chapter is dismissed or converted without completion of the plan, such lien shall also be retained by such holder to the extent recognized by applicable nonbankruptcy law; and''.

(b) RESTORING THE FOUNDATION FOR SECURED CREDIT.—Section 1325(a) of title 11, United States Code, is amended by adding at the end the following flush sentence:

''For purposes of paragraph (5), section 506 shall not apply to a claim described in that paragraph if the creditor has a purchase money security interest securing the debt that is the subject of the claim, the debt was incurred within the 3-year period preceding the filing of the petition, and the collateral for that debt consists of a motor vehicle (as defined in section 30102 of title 49) acquired for the personal use of the debtor, or if collateral for that debt consists of any other thing of value, if the debt was incurred during the 1-year period preceding that filing.''.

(c) DEFINITIONS.—Section 101 of title 11, United States Code, as amended by this Act, is amended—

(1) by inserting after paragraph (13) the following:

''(13A) 'debtor's principal residence'—

''(A) means a residential structure, including incidental property, without regard to whether that structure is attached to real property; and

''(B) includes an individual condominium or cooperative unit, a mobile or manufactured home, or trailer;''; and

(2) by inserting after paragraph (27), the following:

''(27A) 'incidental property' means, with respect to a debtor's principal residence—

''(A) property commonly conveyed with a principal residence in the area where the real estate is located;

''(B) all easements, rights, appurtenances, fixtures, rents, royalties, mineral rights, oil or gas rights or profits, water rights, escrow funds, or insurance proceeds; and

''(C) all replacements or additions;''.

SEC. 307. DOMICILIARY REQUIREMENTS FOR EXEMPTIONS.

Section 522(b)(3)(A) of title 11, United States Code, as so designated by this Act, is amended—

(1) by striking ''180 days'' and inserting ''730 days''; and

(2) by striking '', or for a longer portion of such 180-day period than in any other place'' and inserting ''or if the debtor's domicile has not been located at a single State for such 730-day period, the place in which the debtor's domicile was located for 180 days immediately preceding the 730-day period or for a longer portion of such 180-day period than in any other place''.

SEC. 308. LIMITATION.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)(3)(A), as so designated by this Act, by inserting ''subject to subsection (o),'' before ''any property''; and

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

''(o)(1) As a result of electing under subsection (b)(3)(A) to exempt property under State or local law, a debtor may not exempt any amount of interest that exceeds, in the aggregate, $125,000 in value in—

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

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

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

''(2) The limitation under paragraph (1) shall not apply to an exemption claimed under subsection (b)(3)(A) by a family farmer for the principal residence of that farmer.''.

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

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

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

(2) in subparagraph (B)—

(A) by striking ''in the converted case, with allowed secured claims'' and inserting ''only in a case converted to a case under chapter 11 or 12, but not in a case converted to a case under chapter 7, with allowed secured claims in cases under chapters 11 and 12''; and

(B) by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(C) with respect to cases converted from chapter 13—

''(i) the claim of any creditor holding security as of the date of the petition shall continue to be secured by that security unless the full amount of such claim determined under applicable nonbankruptcy law has been paid in full as of the date of conversion, notwithstanding any valuation or determination of the amount of an allowed secured claim made for the purposes of the chapter 13 proceeding; and

''(ii) unless a prebankruptcy default has been fully cured under the plan at the time of conversion, in any proceeding under this title or otherwise, the default shall have the effect given under applicable nonbankruptcy law.''.

(b) GIVING DEBTORS THE ABILITY TO KEEP LEASED PERSONAL PROPERTY BY ASSUMPTION.—Section 365 of title 11, United States Code, is amended by adding at the end the following:

''(p)(1) If a lease of personal property is rejected or not timely assumed by the trustee under subsection (d), the leased property is no longer property of the estate and the stay under section 362(a) is automatically terminated.

''(2)(A) In the case of an individual under chapter 7, the debtor may notify the creditor in writing that the debtor desires to assume the lease. Upon being so notified, the creditor may, at its option, notify the debtor that it is willing to have the lease assumed by the debtor and may condition such assumption on cure of any outstanding default on terms set by the contract.

''(B) If, not later than 30 days after notice is provided under subparagraph (A), the debtor notifies the lessor in writing that the lease is assumed, the liability under the lease will be assumed by the debtor and not by the estate.

''(C) The stay under section 362 and the injunction under section 524(a)(2) shall not be violated by notification of the debtor and negotiation of cure under this subsection.

''(3) In a case under chapter 11 in which the debtor is an individual and in a case under chapter 13, if the debtor is the lessee with respect to personal property and the lease is not assumed in the plan confirmed by the court, the lease is deemed rejected as of the conclusion of the hearing on confirmation. If the lease is rejected, the stay under section 362 and any stay under section 1301 is automatically terminated with respect to the property subject to the lease.''.

(c) ADEQUATE PROTECTION OF LESSORS AND PURCHASE MONEY SECURED CREDITORS.—

(1) CONFIRMATION OF PLAN.—Section 1325(a)(5)(B) of title 11, United States Code, is amended—

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

(B) in clause (ii), by striking ''or'' at the end and inserting ''and''; and

(C) by adding at the end the following:

''(iii) if—

''(I) property to be distributed pursuant to this subsection is in the form of periodic payments, such payments shall be in equal monthly amounts; and

''(II) the holder of the claim is secured by personal property, the amount of such payments shall not be less than an amount sufficient to provide to the holder of such claim adequate protection during the period of the plan; or''.

(2) PAYMENTS.—Section 1326(a) of title 11, United States Code, is amended to read as follows:

''(a)(1) Unless the court orders otherwise, the debtor shall commence making payments not later than 30 days after the date of the filing of the plan or the order for relief, whichever is earlier, in the amount—

''(A) proposed by the plan to the trustee;

''(B) scheduled in a lease of personal property directly to the lessor for that portion of the obligation that becomes due after the order for relief, reducing the payments under subparagraph (A) by the amount so paid and providing the trustee with evidence of such payment, including the amount and date of payment; and

''(C) that provides adequate protection directly to a creditor holding an allowed claim secured by personal property to the extent the claim is attributable to the purchase of such property by the debtor for that portion of the obligation that becomes due after the order for relief, reducing the payments under subparagraph (A) by the amount so paid and providing the trustee with evidence of such payment, including the amount and date of payment.

''(2) A payment made under paragraph (1)(A) shall be retained by the trustee until confirmation or denial of confirmation. If a plan is confirmed, the trustee shall distribute any such payment in accordance with the plan as soon as is practicable. If a plan is not confirmed, the trustee shall return any such payments not previously paid and not yet due and owing to creditors pursuant to paragraph (3) to the debtor, after deducting any unpaid claim allowed under section 503(b).

''(3) Subject to section 363, the court may, upon notice and a hearing, modify, increase, or reduce the payments required under this subsection pending confirmation of a plan.

''(4) Not later than 60 days after the date of filing of a case under this chapter, a debtor retaining possession of personal property subject to a lease or securing a claim attributable in whole or in part to the purchase price of such property shall provide the lessor or secured creditor reasonable evidence of the maintenance of any required insurance coverage with respect to the use or ownership of such property and continue to do so for so long as the debtor retains possession of such property.''.

SEC. 310. LIMITATION ON LUXURY GOODS.

Section 523(a)(2)(C) of title 11, United States Code, is amended to read as follows:

''(C)(i) for purposes of subparagraph (A)—

''(I) consumer debts owed to a single creditor and aggregating more than $750 for luxury goods or services incurred by an individual debtor on or within 90 days before the order for relief under this title are presumed to be nondischargeable; and

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

''(ii) for purposes of this subparagraph—

''(I) the term 'extension of credit under an open end credit plan' means an extension of

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

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

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

SEC. 311. AUTOMATIC STAY.

(a) IN GENERAL.—Section 362(b) of title 11, United States Code, is amended—

(1) by inserting after paragraph (21), as added by this Act, the following:

''(23) under subsection (a)(3), of the commencement or continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor seeking possession of residential property—

''(A) on which the debtor resides as a tenant; and

''(B) with respect to which—

''(i) the debtor fails to make a rental payment that first becomes due under the unexpired specific term of a rental agreement or lease or under a tenancy under applicable State or local rent control law, after the date of filing of the petition or during the 10-day period preceding the date of filing of the petition, if the lessor files with the court a certification that the debtor has not made a payment for rent and serves a copy of the certification upon the debtor; or

''(ii) the debtor has a month to month tenancy (or one of shorter term) other than under applicable State or local rent control law where timely payments are made pursuant to clause (i) if the lessor files with the court a certification that the requirements of this clause have been met and serves a copy of the certification upon the debtor.

''(24) under subsection (a)(3), of the commencement or continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor seeking possession of residential property, if during the 2-year period preceding the date of filing of the petition, the debtor or another occupant of the leased premises—

''(A) commenced another case under this title; and

''(B) failed to make any rental payment that first became due under applicable nonbankruptcy law after the date of filing of the petition for that other case;

''(25) under subsection (a)(3), of an eviction action, to the extent that it seeks possession based on endangerment of property or the illegal use of controlled substances on the property, if the lessor files with the court a certification that such an eviction has been filed or the debtor has endangered property or illegally used or allowed to be used a controlled substance on the property during the 30-day period preceding the date of filing of the certification, and serves a copy of the certification upon the debtor;'';

(2) by adding at the end of the flush material at the end of the subsection the following: ''With respect to the applicability of paragraph (23) or (25) to a debtor with respect to the commencement or continuation of a proceeding described in any such paragraph, the exception to the automatic stay shall become effective on the 15th day after the lessor meets the filing and notification requirements under any such paragraph, unless—

''(A) the debtor files a certification with the court and serves a copy of that certification upon the lessor on or before that 15th day, that—

''(i) contests the truth or legal sufficiency of the lessor's certification; or

''(ii) states that the tenant has taken such action as may be necessary to remedy the subject of the certification under paragraph (23)(B)(i), except that no tenant may take advantage of such remedy more than once under this title; or

''(B) the court orders that the exception to the automatic stay shall not become effective, or provides for a later date of applicability.''; and

(3) by adding at the end of the flush material added by paragraph (2), the following:

''Where a debtor makes a certification under subparagraph (A), the clerk of the court shall set a hearing on a date no later than 10 days after the date of the filing of the certification of the debtor and provide written notice thereof. If the debtor can demonstrate to the satisfaction of the court that the rent payment due post-petition or 10 days prior to the petition was made prior to the filing of the debtor's certification under subparagraph (A), or that the situation giving rise to the exception in paragraph (25) does not exist or has been remedied to the court's satisfaction, then a stay under subsection (a) shall be in effect until the termination of the stay under this section. If the debtor cannot make this demonstration to the satisfaction of the court, the court shall order the stay under subsection (a) lifted forthwith. Where a debtor does not file a certification under subparagraph (A), the stay under subsection (a) shall be lifted by operation of law and the clerk of the court shall certify a copy of the bankruptcy docket as sufficient evidence that the automatic stay of subsection (a) is lifted.''.

SEC. 312. EXTENSION OF PERIOD BETWEEN BANKRUPTCY DISCHARGES.

Title 11, United States Code, is amended—

(1) in section 727(a)(8), by striking ''six'' and inserting ''8''; and

(2) in section 1328, by inserting after subsection (e) the following:

''(f) Notwithstanding subsections (a) and (b), the court shall not grant a discharge of all debts provided for by the plan or disallowed under section 502, if the debtor has received a discharge—

''(1) in a case filed under chapter 7, 11, or 12 of this title during the three-year period preceding the date of the order for relief under this chapter, or

''(2) in a case filed under chapter 13 of this title during the two-year period preceding the date of such order, except that if the debtor demonstrates extreme hardship requiring that a chapter 13 case be filed, the court may shorten the two-year period.''.

SEC. 313. DEFINITION OF HOUSEHOLD GOODS AND ANTIQUES.

(a) DEFINITION.—Section 522(f) of title 11, United States Code, is amended by adding at the end the following:

''(4)(A) Subject to subparagraph (B), for purposes of paragraph (1)(B), the term 'household goods' means—

''(i) clothing;

''(ii) furniture;

''(iii) appliances;

''(iv) 1 radio;

''(v) 1 television;

''(vi) 1 VCR;

''(vii) linens;

''(viii) china;

''(ix) crockery;

''(x) kitchenware;

''(xi) educational materials and educational equipment primarily for the use of minor dependent children of the debtor, but only 1 personal computer only if used primarily for the education or entertainment of such minor children;

''(xii) medical equipment and supplies;

''(xiii) furniture exclusively for the use of minor children, or elderly or disabled dependents of the debtor; and

''(xiv) personal effects (including the toys and hobby equipment of minor dependent children and wedding rings) of the debtor and the dependents of the debtor.

''(B) The term 'household goods' does not include—

''(i) works of art (unless by or of the debtor or the dependents of the debtor);

''(ii) electronic entertainment equipment (except 1 television, 1 radio, and 1 VCR);

''(iii) items acquired as antiques;

''(iv) jewelry (except wedding rings); and

''(v) a computer (except as otherwise provided for in this section), motor vehicle (including a tractor or lawn tractor), boat, or a motorized recreational device, conveyance, vehicle, watercraft, or aircraft.''.

(b) STUDY.—Not later than 2 years after the date of enactment of this Act, the Director of the Executive Office for United States Trustees shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives containing its findings regarding utilization of the definition of household goods, as defined in section 522(f)(4) of title 11, United States Code, as added by this section, with respect to the avoidance of nonpossessory, nonpurchase money security interests in household goods under section 522(f)(1)(B) of title 11, United States Code, and the impact that section 522(f)(4) of that title, as added by this section, has had on debtors and on the bankruptcy courts. Such report may include recommendations for amendments to section 522(f)(4) of title 11, United States Code, consistent with the Director's findings.

SEC. 314. DEBT INCURRED TO PAY NONDISCHARGEABLE DEBTS.

(a) IN GENERAL.—Section 523(a) of title 11, United States Code, is amended by inserting after paragraph (14) the following:

''(14A) incurred to pay a tax to a governmental unit, other than the United States, that would be nondischargeable under paragraph (1);''.

(b) DISCHARGE UNDER CHAPTER 13.—Section 1328(a) of title 11, United States Code, is amended by striking paragraphs (1) through (3) and inserting the following:

''(1) provided for under section 1322(b)(5);

''(2) of the kind specified in paragraph (2), (3), (4), (5), (8), or (9) of section 523(a);

''(3) for restitution, or a criminal fine, included in a sentence on the debtor's conviction of a crime; or

''(4) for restitution, or damages, awarded in a civil action against the debtor as a result of willful or malicious injury by the debtor that caused personal injury to an individual or the death of an individual.''.

SEC. 315. GIVING CREDITORS FAIR NOTICE IN CHAPTERS 7 AND 13 CASES.

(a) NOTICE.—Section 342 of title 11, United States Code, as amended by this Act, is amended—

(1) in subsection (c)—

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

(B) by striking '', but the failure of such notice to contain such information shall not invalidate the legal effect of such notice''; and

(C) by adding at the end the following:

''(2) If, within the 90 days prior to the date of the filing of a petition in a voluntary case, the creditor supplied the debtor in at least 2 communications sent to the debtor with the current account number of the debtor and the address at which the creditor wishes to receive correspondence, then the debtor shall send any notice required under this title to the address provided by the creditor and such notice shall include the account number. In the event the creditor would be in violation of applicable nonbankruptcy law by sending any such communication within such 90-day period and if the creditor supplied the debtor in the last 2 communications with the current account number of

the debtor and the address at which the creditor wishes to receive correspondence, then the debtor shall send any notice required under this title to the address provided by the creditor and such notice shall include the account number.''; and

(2) by adding at the end the following:

''(e) At any time, a creditor, in a case of an individual debtor under chapter 7 or 13, may file with the court and serve on the debtor a notice of the address to be used to notify the creditor in that case. Five days after receipt of such notice, if the court or the debtor is required to give the creditor notice, such notice shall be given at that address.

''(f) An entity may file with the court a notice stating its address for notice in cases under chapters 7 and 13. After 30 days following the filing of such notice, any notice in any case filed under chapter 7 or 13 given by the court shall be to that address unless specific notice is given under subsection (e) with respect to a particular case.

''(g)(1) Notice given to a creditor other than as provided in this section shall not be effective notice until that notice has been brought to the attention of the creditor. If the creditor designates a person or department to be responsible for receiving notices concerning bankruptcy cases and establishes reasonable procedures so that bankruptcy notices received by the creditor are to be delivered to such department or person, notice shall not be considered to have been brought to the attention of the creditor until received by such person or department.

''(2) No sanction under section 362(k) or any other sanction that a court may impose on account of violations of the stay under section 362(a) or failure to comply with section 542 or 543 may be imposed on any action of the creditor unless the action takes place after the creditor has received notice of the commencement of the case effective under this section.''.

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by this Act, is amended—

(1) in subsection (a), as so designated by this Act, by striking paragraph (1) and inserting the following:

''(1) file—

''(A) a list of creditors; and

''(B) unless the court orders otherwise—

''(i) a schedule of assets and liabilities;

''(ii) a schedule of current income and current expenditures;

''(iii) a statement of the debtor's financial affairs and, if applicable, a certificate—

''(I) of an attorney whose name is on the petition as the attorney for the debtor or any bankruptcy petition preparer signing the petition under section 110(b)(1) indicating that such attorney or bankruptcy petition preparer delivered to the debtor any notice required by section 342(b); or

''(II) if no attorney for the debtor is indicated and no bankruptcy petition preparer signed the petition, of the debtor that such notice was obtained and read by the debtor;

''(iv) copies of all payment advices or other evidence of payment, if any, received by the debtor from any employer of the debtor in the period 60 days before the filing of the petition;

''(v) a statement of the amount of monthly net income, itemized to show how the amount is calculated; and

''(vi) a statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of filing;''; and

(2) by adding at the end the following:

''(e)(1) At any time, a creditor, in the case of an individual under chapter 7 or 13, may file with the court notice that the creditor requests the petition, schedules, and a statement of affairs filed by the debtor in the case, and the court shall make those documents available to the creditor who requests those documents.

''(2)(A) The debtor shall provide either a tax return or transcript at the election of the debtor, for the latest taxable period prior to filing for which a tax return has been or should have been filed, to the trustee, not later than 7 days before the date first set for the first meeting of creditors, or the case shall be dismissed, unless the debtor demonstrates that the failure to file a return as required is due to circumstances beyond the control of the debtor.

''(B) If a creditor has requested a tax return or transcript referred to in subparagraph (A), the debtor shall provide such tax return or transcript to the requesting creditor at the time the debtor provides the tax return or transcript to the trustee, or the case shall be dismissed, unless the debtor demonstrates that the debtor is unable to provide such information due to circumstances beyond the control of the debtor.

''(3)(A) At any time, a creditor in a case under chapter 13 may file with the court notice that the creditor requests the plan filed by the debtor in the case.

''(B) The court shall make such plan available to the creditor who requests such plan—

''(i) at a reasonable cost; and

''(ii) not later than 5 days after such request.

''(f) An individual debtor in a case under chapter 7, 11, or 13 shall file with the court at the request of the judge, United States trustee, or any party in interest—

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

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

''(3) any amendments to any of the Federal tax returns or transcripts thereof, described in paragraph (1) or (2); and

''(4) in a case under chapter 13, a statement subject to the penalties of perjury by the debtor of the debtor's income and expenditures in the preceding tax year and monthly income, that shows how the amounts are calculated—

''(A) beginning on the date that is the later of 90 days after the close of the debtor's tax year or 1 year after the order for relief, unless a plan has been confirmed; and

''(B) thereafter, on or before the date that is 45 days before each anniversary of the confirmation of the plan until the case is closed.

''(g)(1) A statement referred to in subsection (f)(4) shall disclose—

''(A) the amount and sources of income of the debtor;

''(B) the identity of any person responsible with the debtor for the support of any dependent of the debtor; and

''(C) the identity of any person who contributed, and the amount contributed, to the household in which the debtor resides.

''(2) The tax returns, amendments, and statement of income and expenditures described in subsection (e)(2)(A) and subsection (f) shall be available to the United States trustee, any bankruptcy administrator, any trustee, and any party in interest for inspection and copying, subject to the requirements of subsection (h).

''(h)(1) Not later than 180 days after the date of enactment of the Bankruptcy Reform Act of 2001, the Director of the Administrative Office of the United States Courts shall establish procedures for safeguarding the confidentiality of any tax information required to be provided under this section.

''(2) The procedures under paragraph (1) shall include restrictions on creditor access to tax information that is required to be provided under this section.

''(3) Not later than 1 year and 180 days after the date of enactment of the Bankruptcy Reform Act of 2001, the Director of the Administrative Office of the United States Courts shall prepare and submit to Congress a report that—

''(A) assesses the effectiveness of the procedures under paragraph (1); and

''(B) if appropriate, includes proposed legislation to—

''(i) further protect the confidentiality of tax information; and

''(ii) provide penalties for the improper use by any person of the tax information required to be provided under this section.

''(i) If requested by the United States trustee or a trustee serving in the case, the debtor shall provide—

''(1) a document that establishes the identity of the debtor, including a driver's license, passport, or other document that contains a photograph of the debtor; and

''(2) such other personal identifying information relating to the debtor that establishes the identity of the debtor.''.

SEC. 316. DISMISSAL FOR FAILURE TO TIMELY FILE SCHEDULES OR PROVIDE REQUIRED INFORMATION.

Section 521 of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

''(j)(1) Notwithstanding section 707(a), and subject to paragraph (2), if an individual debtor in a voluntary case under chapter 7 or 13 fails to file all of the information required under subsection (a)(1) within 45 days after the filing of the petition commencing the case, the case shall be automatically dismissed effective on the 46th day after the filing of the petition.

''(2) With respect to a case described in paragraph (1), any party in interest may request the court to enter an order dismissing the case. If requested, the court shall enter an order of dismissal not later than 5 days after such request.

''(3) Upon request of the debtor made within 45 days after the filing of the petition commencing a case described in paragraph (1), the court may allow the debtor an additional period of not to exceed 45 days to file the information required under subsection (a)(1) if the court finds justification for extending the period for the filing.''.

SEC. 317. ADEQUATE TIME TO PREPARE FOR HEARING ON CONFIRMATION OF THE PLAN.

Section 1324 of title 11, United States Code, is amended—

(1) by striking ''After'' and inserting the following:

''(a) Except as provided in subsection (b) and after''; and

(2) by adding at the end the following:

''(b) The hearing on confirmation of the plan may be held not earlier than 20 days and not later than 45 days after the date of the meeting of creditors under section 341(a).''.

SEC. 318. CHAPTER 13 PLANS TO HAVE A 5-YEAR DURATION IN CERTAIN CASES.

Title 11, United States Code, is amended—

(1) by amending section 1322(d) to read as follows:

''(d)(1) If the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is not less than—

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

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

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

the plan may not provide for payments over a period that is longer than 5 years.

''(2) If the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is less than—

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

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

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

the plan may not provide for payments over a period that is longer than 3 years, unless the court, for cause, approves a longer period, but the court may not approve a period that is longer than 5 years.'';

(2) in section 1325(b)(1)(B), by striking ''three-year period'' and inserting ''applicable commitment period''; and

(3) in section 1325(b), as amended by this Act, by adding at the end the following:

''(4) For purposes of this subsection, the 'applicable commitment period'—

''(A) subject to subparagraph (B), shall be—

''(i) 3 years; or

''(ii) not less than 5 years, if the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is not less than—

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

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

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

''(B) may be less than 3 or 5 years, whichever is applicable under subparagraph (A), but only if the plan provides for payment in full of all allowed unsecured claims over a shorter period.''; and

(4) in section 1329(c), by striking ''three years'' and inserting ''the applicable commitment period under section 1325(b)(1)(B)''.

SEC. 319. SENSE OF CONGRESS REGARDING EXPANSION OF RULE 9011 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE.

It is the sense of Congress that rule 9011 of the Federal Rules of Bankruptcy Procedure (11 U.S.C. App.) should be modified to include a requirement that all documents (including schedules), signed and unsigned, submitted to the court or to a trustee by debtors who represent themselves and debtors who are represented by an attorney be submitted only after the debtor or the debtor's attorney has made reasonable inquiry to verify that the information contained in such documents is—

(1) well grounded in fact; and

(2) warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law.

SEC. 320. PROMPT RELIEF FROM STAY IN INDIVIDUAL CASES.

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

(1) by inserting ''(1)'' after ''(e)''; and

(2) by adding at the end the following:

''(2) Notwithstanding paragraph (1), in the case of an individual filing under chapter 7, 11, or 13, the stay under subsection (a) shall terminate on the date that is 60 days after a request is made by a party in interest under subsection (d), unless—

''(A) a final decision is rendered by the court during the 60-day period beginning on the date of the request; or

''(B) that 60-day period is extended—

''(i) by agreement of all parties in interest; or

''(ii) by the court for such specific period of time as the court finds is required for good cause, as described in findings made by the court.''.

SEC. 321. CHAPTER 11 CASES FILED BY INDIVIDUALS.

(a) PROPERTY OF THE ESTATE.—

(1) IN GENERAL.—Subchapter I of chapter 11 of title 11, United States Code, is amended by adding at the end the following:

''§ 1115. Property of the estate

''(a) In a case concerning an individual debtor, property of the estate includes, in addition to the property specified in section 541—

''(1) all property of the kind specified in section 541 that the debtor acquires after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 12, or 13, whichever occurs first; and

''(2) earnings from services performed by the debtor after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 12, or 13, whichever occurs first.''.

''(b) Except as provided in section 1104 or a confirmed plan or order confirming a plan, the debtor shall remain in possession of all property of the estate.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 11 of title 11, United States Code, is amended by adding at the end of the matter relating to subchapter I the following:

''1115. Property of the estate.''.

(b) CONTENTS OF PLAN.—Section 1123(a) of title 11, United States Code, is amended—

(1) in paragraph (6), by striking ''and'' at the end;

(2) in paragraph (7), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(8) in a case concerning an individual, provide for the payment to creditors through the plan of all or such portion of earnings from personal services performed by the debtor after the commencement of the case or other future income of the debtor as is necessary for the execution of the plan.''.

(c) CONFIRMATION OF PLAN.—

(1) REQUIREMENTS RELATING TO VALUE OF PROPERTY.—Section 1129(a) of title 11, United States Code, is amended by adding at the end the following:

''(15) In a case concerning an individual in which the holder of an allowed unsecured claim objects to the confirmation of the plan—

''(A) the value of the property to be distributed under the plan on account of such claim is, as of the effective date of the plan, not less than the amount of such claim; or

''(B) the value of the property to be distributed under the plan is not less than the debtor's projected disposable income (as that term is defined in section 1325(b)(2)) to be received during the 5-year period beginning on the date that the first payment is due under the plan, or during the term of the plan, whichever is longer.''.

(2) REQUIREMENT RELATING TO INTERESTS IN PROPERTY.—Section 1129(b)(2)(B)(ii) of title 11, United States Code, is amended by inserting before the period at the end the following: '', except that in a case concerning an individual, the debtor may retain property included in the estate under section 1115, subject to the requirements of subsection (a)(14)''.

(d) EFFECT OF CONFIRMATION.—Section 1141(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking ''The confirmation of a plan does not discharge an individual debtor'' and inserting ''A discharge under this chapter does not discharge an individual debtor''; and

(2) by adding at the end the following:

''(5) In a case concerning an individual—

''(A) except as otherwise ordered for cause shown, the discharge is not effective until completion of all payments under the plan; and

''(B) at any time after the confirmation of the plan and after notice and a hearing, the court may grant a discharge to a debtor that has not completed payments under the plan only if—

''(i) for each allowed unsecured claim, the value, as of the effective date of the plan, of property actually distributed under the plan on account of that claim is not less than the amount that would have been paid on such claim if the estate of the debtor had been liquidated under chapter 7 of this title on such date; and

''(ii) modification of the plan under 1127 of this title is not practicable.''.

(e) MODIFICATION OF PLAN.—Section 1127 of title 11, United States Code, is amended by adding at the end the following:

''(e) In a case concerning an individual, the plan may be modified at any time after confirmation of the plan but before the completion of payments under the plan, whether or not the plan has been substantially consummated, upon request of the debtor, the trustee, the United States trustee, or the holder of an allowed unsecured claim, to—

''(1) increase or reduce the amount of payments on claims of a particular class provided for by the plan;

''(2) extend or reduce the time period for such payments; or

''(3) alter the amount of the distribution to a creditor whose claim is provided for by the plan to the extent necessary to take account of any payment of such claim made other than under the plan.

''(f)(1) Sections 1121 through 1128 of this title and the requirements of section 1129 of this title apply to any modification under subsection (a).

''(2) The plan, as modified, shall become the plan only after there has been disclosure under section 1125, as the court may direct, notice and a hearing, and such modification is approved.''.

SEC. 322. EXCLUDING EMPLOYEE BENEFIT PLAN PARTICIPANT CONTRIBUTIONS AND OTHER PROPERTY FROM THE ESTATE.

(a) IN GENERAL.—Section 541(b) of title 11, United States Code, is amended by inserting after paragraph (6), as added by this Act, the following:

''(7) any amount—

''(A) withheld by an employer from the wages of employees for payment as contributions to—

''(i) an employee benefit plan subject to title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986, a deferred compensation plan under section 457 of the Internal Revenue Code of 1986, or a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986, except that amount shall not constitute disposable income, as defined in section 1325(b)(2) of this title; or

''(ii) a health insurance plan regulated by State law whether or not subject to such title; or

''(B) received by the employer from employees for payment as contributions to—

''(i) an employee benefit plan subject to title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986, a deferred compensation plan under section 457 of the Internal Revenue Code of 1986, or a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986, except that amount shall not constitute disposable income, as defined in section 1325(b)(2) of this title; or

''(ii) a health insurance plan regulated by State law whether or not subject to such title;''.

(b) APPLICATION OF AMENDMENT.—The amendments made by this section shall not apply to cases commenced under title 11, United States Code, before the expiration of the 180-day period beginning on the date of enactment of this Act.

SEC. 323. EXCLUSIVE JURISDICTION IN MATTERS INVOLVING BANKRUPTCY PROFESSIONALS.

(a) IN GENERAL.—Section 1334 of title 28, United States Code, is amended—

(1) in subsection (b), by striking ''Notwithstanding'' and inserting ''Except as provided in subsection (e)(2), and notwithstanding''; and

(2) by striking subsection (e) and inserting the following:

''(e) The district court in which a case under title 11 is commenced or is pending shall have exclusive jurisdiction—

''(1) of all the property, wherever located, of the debtor as of the date of commencement of such case, and of property of the estate; and

''(2) over all claims or causes of action that involve construction of section 327 of title 11, United States Code, or rules relating to disclosure requirements under section 327.''.

(b) APPLICABILITY.—This section shall only apply to cases filed after the date of enactment of this Act.

SEC. 324. UNITED STATES TRUSTEE PROGRAM FILING FEE INCREASE.

(a) ACTIONS UNDER CHAPTER 7 OR 13 OF TITLE 11, UNITED STATES CODE.—Section 1930(a) of title 28, United States Code, is amended by striking paragraph (1) and inserting the following:

''(1) For a case commenced—

''(A) under chapter 7 of title 11, $160; or

''(B) under chapter 13 of title 11, $150.''.

(b) UNITED STATES TRUSTEE SYSTEM FUND.—Section 589a(b) of title 28, United States Code, is amended—

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

''(1)(A) 40.63 percent of the fees collected under section 1930(a)(1)(A) of this title in cases commenced under chapter 7 of title 11; and

''(B) 70.00 percent of the fees collected under section 1930(a)(1)(B) of this title in cases commenced under chapter 13 of title 11;'';

(2) in paragraph (2), by striking ''one-half'' and inserting ''three-fourths''; and

(3) in paragraph (4), by striking ''one-half'' and inserting ''100 percent''.

(c) COLLECTION AND DEPOSIT OF MISCELLANEOUS BANKRUPTCY FEES.—Section 406(b) of the Judiciary Appropriations Act, 1990 (28 U.S.C. 1931 note) is amended by striking ''pursuant to 28 U.S.C. section 1930(b) and 30.76 per centum of the fees hereafter collected under 28 U.S.C. section 1930(a)(1) and 25 percent of the fees hereafter collected under 28 U.S.C. section 1930(a)(3) shall be deposited as offsetting receipts to the fund established under 28 U.S.C. section 1931'' and inserting ''under section 1930(b) of title 28, United States Code, and 31.25 percent of the fees collected under section 1930(a)(1)(A) of that title, 30.00 percent of the fees collected under section 1930(a)(1)(B) of that title, and 25 percent of the fees collected under section 1930(a)(3) of that title shall be deposited as offsetting receipts to the fund established under section 1931 of that title''.

SEC. 325. SHARING OF COMPENSATION.

Section 504 of title 11, United States Code, is amended by adding at the end the following:

''(c) This section shall not apply with respect to sharing, or agreeing to share, compensation with a bona fide public service attorney referral program that operates in accordance with non-Federal law regulating attorney referral services and with rules of professional responsibility applicable to attorney acceptance of referrals.''.

SEC. 326. FAIR VALUATION OF COLLATERAL.

Section 506(a) of title 11, United States Code, is amended by—

(1) inserting ''(1)'' after ''(a)''; and

(2) by adding at the end the following:

''(2) In the case of an individual debtor under chapters 7 and 13, such value with respect to personal property securing an allowed claim shall be determined based on the replacement value of such property as of the date of filing the petition without deduction for costs of sale or marketing. With respect to property acquired for personal, family, or household purpose, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined.''.

SEC. 327. DEFAULTS BASED ON NONMONETARY OBLIGATIONS.

(a) EXECUTORY CONTRACTS AND UNEXPIRED LEASES.—Section 365 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A), by striking the semicolon at the end and inserting the following: ''other than a default that is a breach of a provision relating to the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an unexpired lease of real property, if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption, except that if such default arises from a failure to operate in accordance with a nonresidential real property lease, then such default shall be cured by performance at and after the time of assumption in accordance with such lease, and pecuniary losses resulting from such default shall be compensated in accordance with the provisions of paragraph (b)(1);''; and

(B) in paragraph (2)(D), by striking ''penalty rate or provision'' and inserting ''penalty rate or penalty provision'';

(2) in subsection (c)—

(A) in paragraph (2), by inserting ''or'' at the end;

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

(C) by striking paragraph (4);

(3) in subsection (d)—

(A) by striking paragraphs (5) through (9); and

(B) by redesignating paragraph (10) as paragraph (5); and

(4) in subsection (f)(1) by striking ''; except that'' and all that follows through the end of the paragraph and inserting a period.

(b) IMPAIRMENT OF CLAIMS OR INTERESTS.—Section 1124(2) of title 11, United States Code, is amended—

(1) in subparagraph (A), by inserting ''or of a kind that section 365(b)(2) of this title expressly does not require to be cured'' before the semicolon at the end;

(2) in subparagraph (C), by striking ''and'' at the end;

(3) by redesignating subparagraph (D) as subparagraph (E); and

(4) by inserting after subparagraph (C) the following:

''(D) if such claim or such interest arises from any failure to perform a nonmonetary obligation, other than a default arising from failure to operate a non-residential real property lease subject to section 365(b)(1)(A), compensates the holder of such claim or such interest (other than the debtor or an insider) for any actual pecuniary loss incurred by such holder as a result of such failure; and''.

SEC. 328. NONDISCHARGEABILITY OF DEBTS INCURRED THROUGH VIOLATIONS OF LAWS RELATING TO THE PROVISION OF LAWFUL GOODS AND SERVICES.

Section 523(a) of title 11, United States Code, is amended—

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

(2) in paragraph (18), as added by section 224 of this Act, by striking the period at the end of subparagraph (B) and inserting ''; or'';

(3) by adding at the end of the flush material immediately following that paragraph (18), as added by section 224 of this Act, the following: ''Nothing in paragraph (19) shall be construed to affect any expressive conduct (including peaceful picketing or other peaceful demonstration) protected from legal prohibition by the first amendment to the Constitution of the United States.''; and

(4) by inserting before the flush material following that paragraph (18), the following:

''(19) that results from any judgment, order, consent order, or decree entered in any Federal or State court, or contained in any settlement agreement entered into by the debtor, including any court-ordered damages, fine, penalty, citation, or attorney fee or cost owed by the debtor, arising from—

''(A) an action alleging the violation of any Federal, State, or local statutory law, including but not limited to violations of sections 247 and 248 of title 18, that results from the debtor's—

''(i) harassment of, intimidation of, interference with, obstruction of, injury to, threat to, or violence against, any person—

''(I) because that person provides or has provided lawful goods or services;

''(II) because that person is or has been obtaining lawful goods or services; or

''(III) to deter that person, any other person, or a class of persons from obtaining or providing lawful goods or services; or

''(ii) damage or destruction of property of a facility providing lawful goods or services; or

''(B) a violation of a court order or injunction that protects access to a facility that provides lawful goods or services or the provision of lawful goods or services.''.

SEC. 329. CLARIFICATION OF POSTPETITION WAGES AND BENEFITS.

Section 503(b)(1)(A) of title 11, United States Code, is amended to read as follows:

''(A) the actual, necessary costs and expenses of preserving the estate, including wages, salaries, or commissions for services rendered after the commencement of the case, and wages and benefits awarded pursuant to an action brought in a court of law or the National Labor Relations Board as back pay attributable to any period of time after commencement of the case as a result of the debtor's violation of Federal or State law, without regard to when the original unlawful act occurred or to whether any services were rendered if the court determines that the award will not substantially increase the probability of layoff or termination of current employees or of nonpayment of domestic support obligations during the case;''.

TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Business Bankruptcy Provisions

SEC. 401. ADEQUATE PROTECTION FOR INVESTORS.

(a) DEFINITION.—Section 101 of title 11, United States Code, as amended by this Act, is amended by inserting after paragraph (48) the following:

''(48A) 'securities self regulatory organization' means either a securities association registered with the Securities and Exchange Commission under section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3) or a national securities exchange registered with the Securities and Exchange Commission under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f);''.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (24), as added by this Act, the following:

''(25) under subsection (a), of—

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

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

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

SEC. 402. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

Section 341 of title 11, United States Code, is amended by adding at the end the following:

''(e) Notwithstanding subsections (a) and (b), the court, on the request of a party in interest and after notice and a hearing, for cause may order that the United States trustee not convene a meeting of creditors or equity security holders if the debtor has filed a plan as to which the debtor solicited acceptances prior to the commencement of the case.''.

SEC. 403. PROTECTION OF REFINANCE OF SECURITY INTEREST.

Subparagraphs (A), (B), and (C) of section 547(e)(2) of title 11, United States Code, are each amended by striking ''10'' each place it appears and inserting ''30''.

SEC. 404. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.

(a) IN GENERAL.—Section 365(d)(4) of title 11, United States Code, is amended to read as follows:

''(4)(A) Subject to subparagraph (B), in any case under any chapter of this title, an unexpired lease of nonresidential real property under which the debtor is the lessee shall be deemed rejected, and the trustee shall immediately surrender that nonresidential real property to the lessor, if the trustee does not assume or reject the unexpired lease by the earlier of—

''(i) the date that is 120 days after the date of the order for relief; or

''(ii) the date of the entry of an order confirming a plan.

''(B)(i) The court may extend the period determined under subparagraph (A), prior to the expiration of the 120-day period, for 90 days upon motion of the trustee or lessor for cause.

''(ii) If the court grants an extension under clause (i), the court may grant a subsequent extension only upon prior written consent of the lessor in each instance.''.

(b) EXCEPTION.—Section 365(f)(1) of title 11, United States Code, is amended by striking ''subsection'' the first place it appears and inserting ''subsections (b) and''.

SEC. 405. CREDITORS AND EQUITY SECURITY HOLDERS COMMITTEES.

(a) APPOINTMENT.—Section 1102(a) of title 11, United States Code, is amended by adding at the end the following:

''(4) On request of a party in interest and after notice and a hearing, the court may order the United States trustee to change the membership of a committee appointed under this subsection, if the court determines that the change is necessary to ensure adequate representation of creditors or equity security holders. The court may order the United States trustee to increase the number of members of a committee to include a creditor that is a small business concern (as described in section 3(a)(1) of the Small Business Act (15 U.S.C. 632(a)(1))), if the court determines that the creditor holds claims (of the kind represented by the committee) the aggregate amount of which, in comparison to the annual gross revenue of that creditor, is disproportionately large.''.

(b) INFORMATION.—Section 1102(b) of title 11, United States Code, is amended by adding at the end the following:

''(3) A committee appointed under subsection (a) shall—

''(A) provide access to information for creditors who—

''(i) hold claims of the kind represented by that committee; and

''(ii) are not appointed to the committee;

''(B) solicit and receive comments from the creditors described in subparagraph (A); and

''(C) be subject to a court order that compels any additional report or disclosure to be made to the creditors described in subparagraph (A).''.

SEC. 406. AMENDMENT TO SECTION 546 OF TITLE 11, UNITED STATES CODE.

Section 546 of title 11, United States Code, is amended—

(1) by redesignating the second subsection designated as subsection (g) (as added by section 222(a) of Public Law 103–394) as subsection (i);

(2) in subsection (i), as so redesignated, by inserting ''and subject to the prior rights of holders of security interests in such goods or the proceeds thereof,'' after ''consent of a creditor,''; and

(3) by adding at the end the following:

''(j)(1) Notwithstanding paragraphs (2) and (3) of section 545, the trustee may not avoid a warehouseman's lien for storage, transportation, or other costs incidental to the storage and handling of goods.

''(2) The prohibition under paragraph (1) shall be applied in a manner consistent with any applicable State statute that is similar to section 7–209 of the Uniform Commercial Code, as in effect on the date of enactment of the Bankruptcy Reform Act of 2001, or any successor thereto.''.

SEC. 407. AMENDMENTS TO SECTION 330(a) OF TITLE 11, UNITED STATES CODE.

Section 330(a) of title 11, United States Code, is amended—

(1) in paragraph (3)—

(A) by striking ''(A) In'' and inserting ''In''; and

(B) by inserting ''to an examiner, trustee under chapter 11, or professional person'' after ''awarded''; and

(2) by adding at the end the following:

''(7) In determining the amount of reasonable compensation to be awarded to a trustee, the court shall treat such compensation as a commission, based on section 326 of this title.''.

SEC. 408. POSTPETITION DISCLOSURE AND SOLICITATION.

Section 1125 of title 11, United States Code, is amended by adding at the end the following:

''(g) Notwithstanding subsection (b), an acceptance or rejection of the plan may be solicited from a holder of a claim or interest if such solicitation complies with applicable nonbankruptcy law and if such holder was solicited before the commencement of the case in a manner complying with applicable nonbankruptcy law.''.

SEC. 409. PREFERENCES.

Section 547(c) of title 11, United States Code, is amended—

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

''(2) to the extent that such transfer was in payment of a debt incurred by the debtor in the ordinary course of business or financial affairs of the debtor and the transferee, and such transfer was—

''(A) made in the ordinary course of business or financial affairs of the debtor and the transferee; or

''(B) made according to ordinary business terms;'';

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

(3) by adding at the end the following:

''(9) if, in a case filed by a debtor whose debts are not primarily consumer debts, the aggregate value of all property that constitutes or is affected by such transfer is less than $5,000.''.

SEC. 410. VENUE OF CERTAIN PROCEEDINGS.

Section 1409(b) of title 28, United States Code, is amended by inserting '', or a nonconsumer debt against a noninsider of less than $10,000,'' after ''$5,000''.

SEC. 411. PERIOD FOR FILING PLAN UNDER CHAPTER 11.

Section 1121(d) of title 11, United States Code, is amended—

(1) by striking ''On'' and inserting ''(1) Subject to paragraph (2), on''; and

(2) by adding at the end the following:

''(2)(A) The 120-day period specified in paragraph (1) may not be extended beyond a date that is 18 months after the date of the order for relief under this chapter.

''(B) The 180-day period specified in paragraph (1) may not be extended beyond a date that is 20 months after the date of the order for relief under this chapter.''.

SEC. 412. FEES ARISING FROM CERTAIN OWNERSHIP INTERESTS.

Section 523(a)(16) of title 11, United States Code, is amended—

(1) by striking ''dwelling'' the first place it appears;

(2) by striking ''ownership or'' and inserting ''ownership,'';

(3) by striking ''housing'' the first place it appears; and

(4) by striking ''but only'' and all that follows through ''such period'' and inserting ''or a lot in a homeowners association, for as long as the debtor or the trustee has a legal, equitable, or possessory ownership interest in such unit, such corporation, or such lot,''.

SEC. 413. CREDITOR REPRESENTATION AT FIRST MEETING OF CREDITORS.

Section 341(c) of title 11, United States Code, is amended by inserting at the end the

following: ''Notwithstanding any local court rule, provision of a State constitution, any other Federal or State law that is not a bankruptcy law, or other requirement that representation at the meeting of creditors under subsection (a) be by an attorney, a creditor holding a consumer debt or any representative of the creditor (which may include an entity or an employee of an entity and may be a representative for more than 1 creditor) shall be permitted to appear at and participate in the meeting of creditors in a case under chapter 7 or 13, either alone or in conjunction with an attorney for the creditor. Nothing in this subsection shall be construed to require any creditor to be represented by an attorney at any meeting of creditors.''.

SEC. 414. DEFINITION OF DISINTERESTED PERSON.

Section 101(14) of title 11, United States Code, is amended to read as follows:

''(14) 'disinterested person' means a person that—

''(A) is not a creditor, an equity security holder, or an insider;

''(B) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the debtor; and

''(C) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason;''.

SEC. 415. FACTORS FOR COMPENSATION OF PROFESSIONAL PERSONS.

Section 330(a)(3) of title 11, United States Code, as amended by this Act, is amended—

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

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following:

''(E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and''.

SEC. 416. APPOINTMENT OF ELECTED TRUSTEE.

Section 1104(b) of title 11, United States Code, is amended—

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

(2) by adding at the end the following:

''(2)(A) If an eligible, disinterested trustee is elected at a meeting of creditors under paragraph (1), the United States trustee shall file a report certifying that election.

''(B) Upon the filing of a report under subparagraph (A)—

''(i) the trustee elected under paragraph (1) shall be considered to have been selected and appointed for purposes of this section; and

''(ii) the service of any trustee appointed under subsection (d) shall terminate.

''(C) In the case of any dispute arising out of an election described in subparagraph (A), the court shall resolve the dispute.''.

SEC. 417. UTILITY SERVICE.

Section 366 of title 11, United States Code, is amended—

(1) in subsection (a), by striking ''subsection (b)'' and inserting ''subsections (b) and (c)''; and

(2) by adding at the end the following:

''(c)(1)(A) For purposes of this subsection, the term 'assurance of payment' means—

''(i) a cash deposit;

''(ii) a letter of credit;

''(iii) a certificate of deposit;

''(iv) a surety bond;

''(v) a prepayment of utility consumption; or

''(vi) another form of security that is mutually agreed on between the utility and the debtor or the trustee.

''(B) For purposes of this subsection an administrative expense priority shall not constitute an assurance of payment.

''(2) Subject to paragraphs (3) and (4), with respect to a case filed under chapter 11, a utility referred to in subsection (a) may alter, refuse, or discontinue utility service, if during the 30-day period beginning on the date of filing of the petition, the utility does not receive from the debtor or the trustee adequate assurance of payment for utility service that is satisfactory to the utility.

''(3)(A) On request of a party in interest and after notice and a hearing, the court may order modification of the amount of an assurance of payment under paragraph (2).

''(B) In making a determination under this paragraph whether an assurance of payment is adequate, the court may not consider—

''(i) the absence of security before the date of filing of the petition;

''(ii) the payment by the debtor of charges for utility service in a timely manner before the date of filing of the petition; or

''(iii) the availability of an administrative expense priority.

''(4) Notwithstanding any other provision of law, with respect to a case subject to this subsection, a utility may recover or set off against a security deposit provided to the utility by the debtor before the date of filing of the petition without notice or order of the court.''.

SEC. 418. BANKRUPTCY FEES.

Section 1930 of title 28, United States Code, is amended—

(1) in subsection (a), by striking ''Notwithstanding section 1915 of this title, the'' and inserting ''The''; and

(2) by adding at the end the following:

''(f)(1) Under the procedures prescribed by the Judicial Conference of the United States, the district court or the bankruptcy court may waive the filing fee in a case under chapter 7 of title 11 for an individual if the court determines that such debtor has income less than 150 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved and is unable to pay that fee in installments. For purposes of this paragraph, the term ''filing fee'' means the filing required by subsection (a), or any other fee prescribed by the Judicial Conference under subsections (b) and (c) that is payable to the clerk upon the commencement of a case under chapter 7.

''(2) The district court or the bankruptcy court may waive for such debtors other fees prescribed under subsections (b) and (c).

''(3) This subsection does not restrict the district court or the bankruptcy court from waiving, in accordance with Judicial Conference policy, fees prescribed under this section for other debtors and creditors.''.

SEC. 419. MORE COMPLETE INFORMATION REGARDING ASSETS OF THE ESTATE.

(a) IN GENERAL.—

(1) DISCLOSURE.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States, after consideration of the views of the Director of the Executive Office for United States Trustees, shall propose for adoption amended Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms directing debtors under chapter 11 of title 11, United States Code, to disclose the information described in paragraph (2) by filing and serving periodic financial and other reports designed to provide such information.

(2) INFORMATION.—The information referred to in paragraph (1) is the value, operations, and profitability of any closely held corporation, partnership, or of any other entity in which the debtor holds a substantial or controlling interest.

(b) PURPOSE.—The purpose of the rules and reports under subsection (a) shall be to assist parties in interest taking steps to ensure that the debtor's interest in any entity referred to in subsection (a)(2) is used for the payment of allowed claims against debtor.

SEC. 420. DUTIES WITH RESPECT TO A DEBTOR WHO IS A PLAN ADMINISTRATOR OF AN EMPLOYEE BENEFIT PLAN.

(a) IN GENERAL.—Section 521(a) of title 11, United States Code, as so designated by section 106(d) of this Act, is amended-

(1) in paragraph (4), by striking ''and'' at the end;

(2) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(6) unless a trustee is serving in the case, if at the time of filing, the debtor, served as the administrator (as defined in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002)) of an employee benefit plan, continue to perform the obligations required of the administrator.''.

(b) DUTIES OF TRUSTEES.—Section 704(a) of title 11, United States Code, as so designated and otherwise amended by this Act, is amended—

(1) in paragraph (10), by striking ''and'' at the end;

(2) in paragraph (11), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(12) where, at the time of the time of the commencement of the case, the debtor served as the administrator (as defined in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002)) of an employee benefit plan, continue to perform the obligations required of the administrator;''.

(c) CONFORMING AMENDMENT.—Section 1106(a) of title 11, United States Code, is amended by striking paragraph (1) and inserting the following:

''(1) perform the duties of the trustee, as specified in paragraphs (2), (5), (7), (8), (9), (10), (11), and (12) of section 704;''.

Subtitle B—Small Business Bankruptcy Provisions

SEC. 431. FLEXIBLE RULES FOR DISCLOSURE STATEMENT AND PLAN.

Section 1125 of title 11, United States Code, is amended—

(1) in subsection (a)(1), by inserting before the semicolon ''and in determining whether a disclosure statement provides adequate information, the court shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information''; and

(2) by striking subsection (f), and inserting the following:

''(f) Notwithstanding subsection (b), in a small business case—

''(1) the court may determine that the plan itself provides adequate information and that a separate disclosure statement is not necessary;

''(2) the court may approve a disclosure statement submitted on standard forms approved by the court or adopted under section 2075 of title 28; and

''(3)(A) the court may conditionally approve a disclosure statement subject to final approval after notice and a hearing;

''(B) acceptances and rejections of a plan may be solicited based on a conditionally approved disclosure statement if the debtor provides adequate information to each holder of a claim or interest that is solicited, but a conditionally approved disclosure statement shall be mailed not later than 20 days

before the date of the hearing on confirmation of the plan; and

''(C) the hearing on the disclosure statement may be combined with the hearing on confirmation of a plan.''.

SEC. 432. DEFINITIONS.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, as amended by this Act, is amended by striking paragraph (51C) and inserting the following:

''(51C) 'small business case' means a case filed under chapter 11 of this title in which the debtor is a small business debtor;

''(51D) 'small business debtor'—

''(A) subject to subparagraph (B), means a person engaged in commercial or business activities (including any affiliate of such person that is also a debtor under this title and excluding a person whose primary activity is the business of owning or operating real property or activities incidental thereto) that has aggregate noncontingent, liquidated secured and unsecured debts as of the date of the petition or the order for relief in an amount not more than $3,000,000 (excluding debts owed to 1 or more affiliates or insiders) for a case in which the United States trustee has not appointed under section 1102(a)(1) a committee of unsecured creditors or where the court has determined that the committee of unsecured creditors is not sufficiently active and representative to provide effective oversight of the debtor; and

''(B) does not include any member of a group of affiliated debtors that has aggregate noncontingent liquidated secured and unsecured debts in an amount greater than $3,000,000 (excluding debt owed to 1 or more affiliates or insiders);''.

(b) CONFORMING AMENDMENT.—Section 1102(a)(3) of title 11, United States Code, is amended by inserting ''debtor'' after ''small business''.

SEC. 433. STANDARD FORM DISCLOSURE STATEMENT AND PLAN.

Within a reasonable period of time after the date of enactment of this Act, the Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall propose for adoption standard form disclosure statements and plans of reorganization for small business debtors (as defined in section 101 of title 11, United States Code, as amended by this Act), designed to achieve a practical balance between—

(1) the reasonable needs of the courts, the United States trustee, creditors, and other parties in interest for reasonably complete information; and

(2) economy and simplicity for debtors.

SEC. 434. UNIFORM NATIONAL REPORTING REQUIREMENTS.

(a) REPORTING REQUIRED.—

(1) IN GENERAL.—Chapter 3 of title 11, United States Code, is amended by inserting after section 307 the following:

''§ 308. Debtor reporting requirements

''(a) For purposes of this section, the term 'profitability' means, with respect to a debtor, the amount of money that the debtor has earned or lost during current and recent fiscal periods.

''(b) A small business debtor shall file periodic financial and other reports containing information including—

''(1) the debtor's profitability;

''(2) reasonable approximations of the debtor's projected cash receipts and cash disbursements over a reasonable period;

''(3) comparisons of actual cash receipts and disbursements with projections in prior reports;

''(4)(A) whether the debtor is—

''(i) in compliance in all material respects with postpetition requirements imposed by this title and the Federal Rules of Bankruptcy Procedure; and

''(ii) timely filing tax returns and other required government filings and paying taxes and other administrative claims when due;

''(B) if the debtor is not in compliance with the requirements referred to in subparagraph (A)(i) or filing tax returns and other required government filings and making the payments referred to in subparagraph (A)(ii), what the failures are and how, at what cost, and when the debtor intends to remedy such failures; and

''(C) such other matters as are in the best interests of the debtor and creditors, and in the public interest in fair and efficient procedures under chapter 11 of this title.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 307 the following:

''308. Debtor reporting requirements.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 60 days after the date on which rules are prescribed under section 2075 of title 28, United States Code, to establish forms to be used to comply with section 308 of title 11, United States Code, as added by subsection (a).

SEC. 435. UNIFORM REPORTING RULES AND FORMS FOR SMALL BUSINESS CASES.

(a) PROPOSAL OF RULES AND FORMS.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall propose for adoption amended Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms to be used by small business debtors to file periodic financial and other reports containing information, including information relating to—

(1) the debtor's profitability;

(2) the debtor's cash receipts and disbursements; and

(3) whether the debtor is timely filing tax returns and paying taxes and other administrative claims when due.

(b) PURPOSE.—The rules and forms proposed under subsection (a) shall be designed to achieve a practical balance among—

(1) the reasonable needs of the bankruptcy court, the United States trustee, creditors, and other parties in interest for reasonably complete information;

(2) the small business debtor's interest that required reports be easy and inexpensive to complete; and

(3) the interest of all parties that the required reports help the small business debtor to understand the small business debtor's financial condition and plan the small business debtor's future.

SEC. 436. DUTIES IN SMALL BUSINESS CASES.

(a) DUTIES IN CHAPTER 11 CASES.—Subchapter I of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

''§ 1116. Duties of trustee or debtor in possession in small business cases

''In a small business case, a trustee or the debtor in possession, in addition to the duties provided in this title and as otherwise required by law, shall—

''(1) append to the voluntary petition or, in an involuntary case, file not later than 7 days after the date of the order for relief—

''(A) its most recent balance sheet, statement of operations, cash-flow statement, Federal income tax return; or

''(B) a statement made under penalty of perjury that no balance sheet, statement of operations, or cash-flow statement has been prepared and no Federal tax return has been filed;

''(2) attend, through its senior management personnel and counsel, meetings scheduled by the court or the United States trustee, including initial debtor interviews, scheduling conferences, and meetings of creditors convened under section 341 unless the court waives that requirement after notice and hearing, upon a finding of extraordinary and compelling circumstances;

''(3) timely file all schedules and statements of financial affairs, unless the court, after notice and a hearing, grants an extension, which shall not extend such time period to a date later than 30 days after the date of the order for relief, absent extraordinary and compelling circumstances;

''(4) file all postpetition financial and other reports required by the Federal Rules of Bankruptcy Procedure or by local rule of the district court;

''(5) subject to section 363(c)(2), maintain insurance customary and appropriate to the industry;

''(6)(A) timely file tax returns and other required government filings; and

''(B) subject to section 363(c)(2), timely pay all administrative expense tax claims, except those being contested by appropriate proceedings being diligently prosecuted; and

''(7) allow the United States trustee, or a designated representative of the United States trustee, to inspect the debtor's business premises, books, and records at reasonable times, after reasonable prior written notice, unless notice is waived by the debtor.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 11 of title 11, United States Code, is amended by adding at the end of the matter relating to subchapter I the following:

''1116. Duties of trustee or debtor in possession in small business cases.''.

SEC. 437. PLAN FILING AND CONFIRMATION DEADLINES.

Section 1121 of title 11, United States Code, is amended by striking subsection (e) and inserting the following:

''(e) In a small business case—

''(1) only the debtor may file a plan until after 180 days after the date of the order for relief, unless that period is—

''(A) extended as provided by this subsection, after notice and hearing; or

''(B) the court, for cause, orders otherwise;

''(2) the plan, and any necessary disclosure statement, shall be filed not later than 300 days after the date of the order for relief; and

''(3) the time periods specified in paragraphs (1) and (2), and the time fixed in section 1129(e), within which the plan shall be confirmed, may be extended only if—

''(A) the debtor, after providing notice to parties in interest (including the United States trustee), demonstrates by a preponderance of the evidence that it is more likely than not that the court will confirm a plan within a reasonable period of time;

''(B) a new deadline is imposed at the time the extension is granted; and

''(C) the order extending time is signed before the existing deadline has expired.''.

SEC. 438. PLAN CONFIRMATION DEADLINE.

Section 1129 of title 11, United States Code, is amended by adding at the end the following:

''(e)(1) In a small business case, the plan shall be confirmed not later than 45 days after the date that a plan is filed with the court as provided in section 1121(e).

''(2) The 45-day period referred to in paragraph (1) may be extended only if—

''(A) the debtor, after notice and hearing, demonstrates that it is more likely than not that the court will confirm a plan within a reasonable period of time;

''(B) a new deadline is imposed at the time at which the extension is granted; and

''(C) the order extending time is signed before the existing deadline has expired.''.

SEC. 439. DUTIES OF THE UNITED STATES TRUSTEE.

Section 586(a) of title 28, United States Code, is amended—

(1) in paragraph (3)—

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

(B) by redesignating subparagraph (H) as subparagraph (I); and

(C) by inserting after subparagraph (G) the following:

''(H) in small business cases (as defined in section 101 of title 11), performing the additional duties specified in title 11 pertaining to such cases; and'';

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

(3) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

''(7) in each of such small business cases—

''(A) conduct an initial debtor interview as soon as practicable after the entry of order for relief but before the first meeting scheduled under section 341(a) of title 11, at which time the United States trustee shall—

''(i) begin to investigate the debtor's viability;

''(ii) inquire about the debtor's business plan;

''(iii) explain the debtor's obligations to file monthly operating reports and other required reports;

''(iv) attempt to develop an agreed scheduling order; and

''(v) inform the debtor of other obligations;

''(B) if determined to be appropriate and advisable, visit the appropriate business premises of the debtor and ascertain the state of the debtor's books and records and verify that the debtor has filed its tax returns; and

''(C) review and monitor diligently the debtor's activities, to identify as promptly as possible whether the debtor will be unable to confirm a plan; and

''(8) in any case in which the United States trustee finds material grounds for any relief under section 1112 of title 11, the United States trustee shall apply promptly after making that finding to the court for relief.''.

SEC. 440. SCHEDULING CONFERENCES.

Section 105(d) of title 11, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking '', may''; and

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

''(1) shall hold such status conferences as are necessary to further the expeditious and economical resolution of the case; and''.

SEC. 441. SERIAL FILER PROVISIONS.

Section 362 of title 11, United States Code, as amended by this Act is amended—

(1) in subsection (k), as redesignated by this Act—

(A) by striking ''An'' and inserting ''(1) Except as provided in paragraph (2), an''; and

(B) by adding at the end the following:

''(2) If such violation is based on an action taken by an entity in the good faith belief that subsection (h) applies to the debtor, the recovery under paragraph (1) of this subsection against such entity shall be limited to actual damages.''; and

(2) by adding at the end the following:

''(l)(1) Except as provided in paragraph (2) of this subsection, the provisions of subsection (a) do not apply in a case in which the debtor—

''(A) is a debtor in a small business case pending at the time the petition is filed;

''(B) was a debtor in a small business case that was dismissed for any reason by an order that became final in the 2-year period ending on the date of the order for relief entered with respect to the petition;

''(C) was a debtor in a small business case in which a plan was confirmed in the 2-year period ending on the date of the order for relief entered with respect to the petition; or

''(D) is an entity that has succeeded to substantially all of the assets or business of a small business debtor described in subparagraph (A), (B), or (C).

''(2) This subsection does not apply—

''(A) to an involuntary case involving no collusion by the debtor with creditors; or

''(B) to the filing of a petition if—

''(i) the debtor proves by a preponderance of the evidence that the filing of that petition resulted from circumstances beyond the control of the debtor not foreseeable at the time the case then pending was filed; and

''(ii) it is more likely than not that the court will confirm a feasible plan, but not a liquidating plan, within a reasonable period of time.''.

SEC. 442. EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION AND APPOINTMENT OF TRUSTEE.

(a) EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION.—Section 1112 of title 11, United States Code, is amended by striking subsection (b) and inserting the following:

''(b)(1) Except as provided in paragraph (2) of this subsection, subsection (c) of this section, and section 1104(a)(3), on request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interest of creditors and the estate, if the movant establishes cause.

''(2) The relief provided in paragraph (1) shall not be granted if the debtor or another party in interest objects and establishes that—

''(A) there is a reasonable likelihood that a plan will be confirmed within the timeframes established in sections 1121(e) and 1129(e) of this title, as amended, or in cases in which these sections do not apply, within a reasonable period of time; and

''(B) the grounds include an act or omission of the debtor—

''(i) for which there exists a reasonable justification for the act or omission; and

''(ii) that will be cured within a reasonable period of time fixed by the court.

''(3) The court shall commence the hearing on any motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion not later than 15 days after commencement of the hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.

''(4) For purposes of this subsection, the term 'cause' includes—

''(A) substantial or continuing loss to or diminution of the estate;

''(B) gross mismanagement of the estate;

''(C) failure to maintain appropriate insurance that poses a risk to the estate or to the public;

''(D) unauthorized use of cash collateral harmful to 1 or more creditors;

''(E) failure to comply with an order of the court;

''(F) repeated failure timely to satisfy any filing or reporting requirement established by this title or by any rule applicable to a case under this chapter;

''(G) failure to attend the meeting of creditors convened under section 341(a) or an examination ordered under rule 2004 of the Federal Rules of Bankruptcy Procedure;

''(H) failure timely to provide information or attend meetings reasonably requested by the United States trustee or the bankruptcy administrator;

''(I) failure timely to pay taxes due after the date of the order for relief or to file tax returns due after the order for relief;

''(J) failure to file a disclosure statement, or to file or confirm a plan, within the time fixed by this title or by order of the court;

''(K) failure to pay any fees or charges required under chapter 123 of title 28;

''(L) revocation of an order of confirmation under section 1144;

''(M) inability to effectuate substantial consummation of a confirmed plan;

''(N) material default by the debtor with respect to a confirmed plan;

''(O) termination of a confirmed plan by reason of the occurrence of a condition specified in the plan; and

''(P) failure of the debtor to pay any domestic support obligation that first becomes payable after the date on which the petition is filed.

''(5) The court shall commence the hearing on any motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion not later than 15 days after commencement of the hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.''.

(b) ADDITIONAL GROUNDS FOR APPOINTMENT OF TRUSTEE.—Section 1104(a) of title 11, United States Code, is amended—

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

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

(3) by adding at the end the following:

''(3) if grounds exist to convert or dismiss the case under section 1112, but the court determines that the appointment of a trustee or an examiner is in the best interests of creditors and the estate.''.

SEC. 443. STUDY OF OPERATION OF TITLE 11, UNITED STATES CODE, WITH RESPECT TO SMALL BUSINESSES.

Not later than 2 years after the date of enactment of this Act, the Administrator of the Small Business Administration, in consultation with the Attorney General, the Director of the Administrative Office of United States Trustees, and the Director of the Administrative Office of the United States Courts, shall—

(1) conduct a study to determine—

(A) the internal and external factors that cause small businesses, especially sole proprietorships, to become debtors in cases under title 11, United States Code, and that cause certain small businesses to successfully complete cases under chapter 11 of such title; and

(B) how Federal laws relating to bankruptcy may be made more effective and efficient in assisting small businesses to remain viable; and

(2) submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report summarizing that study.

SEC. 444. PAYMENT OF INTEREST.

Section 362(d)(3) of title 11, United States Code, is amended—

(1) by inserting ''or 30 days after the court determines that the debtor is subject to this paragraph, whichever is later'' after ''90-day period)''; and

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

''(B) the debtor has commenced monthly payments that—

''(i) may, in the debtor's sole discretion, notwithstanding section 363(c)(2), be made from rents or other income generated before or after the commencement of the case by or from the property to each creditor whose

claim is secured by such real estate (other than a claim secured by a judgment lien or by an unmatured statutory lien); and

''(ii) are in an amount equal to interest at the then applicable nondefault contract rate of interest on the value of the creditor's interest in the real estate; or''.

SEC. 445. PRIORITY FOR ADMINISTRATIVE EXPENSES.

Section 503(b) of title 11, United States Code, is amended—

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

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

(3) by adding at the end the following:

''(7) with respect to a nonresidential real property lease previously assumed under section 365, and subsequently rejected, a sum equal to all monetary obligations due, excluding those arising from or relating to a failure to operate or penalty provisions, for the period of 2 years following the later of the rejection date or the date of actual turnover of the premises, without reduction or setoff for any reason whatsoever except for sums actually received or to be received from a nondebtor, and the claim for remaining sums due for the balance of the term of the lease shall be a claim under section 502(b)(6);''.

TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

SEC. 501. PETITION AND PROCEEDINGS RELATED TO PETITION.

(a) TECHNICAL AMENDMENT RELATING TO MUNICIPALITIES.—Section 921(d) of title 11, United States Code, is amended by inserting ''notwithstanding section 301(b)'' before the period at the end.

(b) CONFORMING AMENDMENT.—Section 301 of title 11, United States Code, is amended—

(1) by inserting ''(a)'' before ''A voluntary''; and

(2) by striking the last sentence and inserting the following:

''(b) The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.''.

SEC. 502. APPLICABILITY OF OTHER SECTIONS TO CHAPTER 9.

Section 901(a) of title 11, United States Code, is amended—

(1) by inserting ''555, 556,'' after ''553,''; and

(2) by inserting ''559, 560, 561, 562'' after ''557,''.

TITLE VI—BANKRUPTCY DATA

SEC. 601. IMPROVED BANKRUPTCY STATISTICS.

(a) IN GENERAL.—Chapter 6 of title 28, United States Code, is amended by adding at the end the following:

''§ 159. Bankruptcy statistics

''(a) The clerk of each district shall collect statistics regarding individual debtors with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Those statistics shall be on a standardized form prescribed by the Director of the Administrative Office of the United States Courts (referred to in this section as the 'Director').

''(b) The Director shall—

''(1) compile the statistics referred to in subsection (a);

''(2) make the statistics available to the public; and

''(3) not later than October 31, 2002, and annually thereafter, prepare, and submit to Congress a report concerning the information collected under subsection (a) that contains an analysis of the information.

''(c) The compilation required under subsection (b) shall—

''(1) be itemized, by chapter, with respect to title 11;

''(2) be presented in the aggregate and for each district; and

''(3) include information concerning—

''(A) the total assets and total liabilities of the debtors described in subsection (a), and in each category of assets and liabilities, as reported in the schedules prescribed pursuant to section 2075 of this title and filed by those debtors;

''(B) the current monthly income, average income, and average expenses of those debtors as reported on the schedules and statements that each such debtor files under sections 521 and 1322 of title 11;

''(C) the aggregate amount of debt discharged in the reporting period, determined as the difference between the total amount of debt and obligations of a debtor reported on the schedules and the amount of such debt reported in categories which are predominantly nondischargeable;

''(D) the average period of time between the filing of the petition and the closing of the case;

''(E) for the reporting period—

''(i) the number of cases in which a reaffirmation was filed; and

''(ii)(I) the total number of reaffirmations filed;

''(II) of those cases in which a reaffirmation was filed, the number of cases in which the debtor was not represented by an attorney; and

''(III) of those cases in which a reaffirmation was filed, the number of cases in which the reaffirmation was approved by the court;

''(F) with respect to cases filed under chapter 13 of title 11, for the reporting period—

''(i)(I) the number of cases in which a final order was entered determining the value of property securing a claim in an amount less than the amount of the claim; and

''(II) the number of final orders determining the value of property securing a claim issued;

''(ii) the number of cases dismissed, the number of cases dismissed for failure to make payments under the plan, the number of cases refiled after dismissal, and the number of cases in which the plan was completed, separately itemized with respect to the number of modifications made before completion of the plan, if any; and

''(iii) the number of cases in which the debtor filed another case during the 6-year period preceding the filing;

''(G) the number of cases in which creditors were fined for misconduct and any amount of punitive damages awarded by the court for creditor misconduct; and

''(H) the number of cases in which sanctions under rule 9011 of the Federal Rules of Bankruptcy Procedure were imposed against debtor's counsel or damages awarded under such Rule.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 6 of title 28, United States Code, is amended by adding at the end the following:

''159. Bankruptcy statistics.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

SEC. 602. UNIFORM RULES FOR THE COLLECTION OF BANKRUPTCY DATA.

(a) AMENDMENT.—Chapter 39 of title 28, United States Code, is amended by adding at the end the following:

''§ 589b. Bankruptcy data

''(a) RULES.—The Attorney General shall, within a reasonable time after the effective date of this section, issue rules requiring uniform forms for (and from time to time thereafter to appropriately modify and approve)—

''(1) final reports by trustees in cases under chapters 7, 12, and 13 of title 11; and

''(2) periodic reports by debtors in possession or trustees, as the case may be, in cases under chapter 11 of title 11.

''(b) REPORTS.—Each report referred to in subsection (a) shall be designed (and the requirements as to place and manner of filing shall be established) so as to facilitate compilation of data and maximum possible access of the public, both by physical inspection at one or more central filing locations, and by electronic access through the Internet or other appropriate media.

''(c) REQUIRED INFORMATION.—The information required to be filed in the reports referred to in subsection (b) shall be that which is in the best interests of debtors and creditors, and in the public interest in reasonable and adequate information to evaluate the efficiency and practicality of the Federal bankruptcy system. In issuing rules proposing the forms referred to in subsection (a), the Attorney General shall strike the best achievable practical balance between—

''(1) the reasonable needs of the public for information about the operational results of the Federal bankruptcy system;

''(2) economy, simplicity, and lack of undue burden on persons with a duty to file reports; and

''(3) appropriate privacy concerns and safeguards.

''(d) FINAL REPORTS.—Final reports proposed for adoption by trustees under chapters 7, 12, and 13 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General, shall propose, include with respect to a case under such title—

''(1) information about the length of time the case was pending;

''(2) assets abandoned;

''(3) assets exempted;

''(4) receipts and disbursements of the estate;

''(5) expenses of administration, including for use under section 707(b), actual costs of administering cases under chapter 13 of title 11;

''(6) claims asserted;

''(7) claims allowed; and

''(8) distributions to claimants and claims discharged without payment,

in each case by appropriate category and, in cases under chapters 12 and 13 of title 11, date of confirmation of the plan, each modification thereto, and defaults by the debtor in performance under the plan.

''(e) PERIODIC REPORTS.—Periodic reports proposed for adoption by trustees or debtors in possession under chapter 11 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General, in the discretion of the Attorney General, shall propose, include—

''(1) information about the standard industry classification, published by the Department of Commerce, for the businesses conducted by the debtor;

''(2) length of time the case has been pending;

''(3) number of full-time employees as of the date of the order for relief and at the end of each reporting period since the case was filed;

''(4) cash receipts, cash disbursements and profitability of the debtor for the most recent period and cumulatively since the date of the order for relief;

''(5) compliance with title 11, whether or not tax returns and tax payments since the date of the order for relief have been timely filed and made;

''(6) all professional fees approved by the court in the case for the most recent period and cumulatively since the date of the order for relief (separately reported, for the professional fees incurred by or on behalf of the

debtor, between those that would have been incurred absent a bankruptcy case and those not); and

''(7) plans of reorganization filed and confirmed and, with respect thereto, by class, the recoveries of the holders, expressed in aggregate dollar values and, in the case of claims, as a percentage of total claims of the class allowed.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 39 of title 28, United States Code, is amended by adding at the end the following:

''589b. Bankruptcy data.''.

SEC. 603. AUDIT PROCEDURES.

(a) IN GENERAL.—

(1) ESTABLISHMENT OF PROCEDURES.—The Attorney General (in judicial districts served by United States trustees) and the Judicial Conference of the United States (in judicial districts served by bankruptcy administrators) shall establish procedures to determine the accuracy, veracity, and completeness of petitions, schedules, and other information which the debtor is required to provide under sections 521 and 1322 of title 11, and, if applicable, section 111 of title 11, in individual cases filed under chapter 7 or 13 of such title. Such audits shall be in accordance with generally accepted auditing standards and performed by independent certified public accountants or independent licensed public accountants, provided that the Attorney General and the Judicial Conference, as appropriate, may develop alternative auditing standards not later than 2 years after the date of enactment of this Act.

(2) PROCEDURES.—Those procedures required by paragraph (1) shall—

(A) establish a method of selecting appropriate qualified persons to contract to perform those audits;

(B) establish a method of randomly selecting cases to be audited, except that not less than 1 out of every 250 cases in each Federal judicial district shall be selected for audit;

(C) require audits for schedules of income and expenses which reflect greater than average variances from the statistical norm of the district in which the schedules were filed if those variances occur by reason of higher income or higher expenses than the statistical norm of the district in which the schedules were filed; and

(D) establish procedures for providing, not less frequently than annually, public information concerning the aggregate results of such audits including the percentage of cases, by district, in which a material misstatement of income or expenditures is reported.

(b) AMENDMENTS.—Section 586 of title 28, United States Code, is amended—

(1) in subsection (a), by striking paragraph (6) and inserting the following:

''(6) make such reports as the Attorney General directs, including the results of audits performed under section 603(a) of the Bankruptcy Reform Act of 2001; and''; and

(2) by adding at the end the following:

''(f)(1) The United States trustee for each district is authorized to contract with auditors to perform audits in cases designated by the United States trustee, in accordance with the procedures established under section 603(a) of the Bankruptcy Reform Act of 2001.

''(2)(A) The report of each audit referred to in paragraph (1) shall be filed with the court and transmitted to the United States trustee. Each report shall clearly and conspicuously specify any material misstatement of income or expenditures or of assets identified by the person performing the audit. In any case in which a material misstatement of income or expenditures or of assets has been reported, the clerk of the bankruptcy court shall give notice of the misstatement to the creditors in the case.

''(B) If a material misstatement of income or expenditures or of assets is reported, the United States trustee shall—

''(i) report the material misstatement, if appropriate, to the United States Attorney pursuant to section 3057 of title 18; and

''(ii) if advisable, take appropriate action, including but not limited to commencing an adversary proceeding to revoke the debtor's discharge pursuant to section 727(d) of title 11.''.

(c) AMENDMENTS TO SECTION 521 OF TITLE 11, U.S.C.—Section 521(a) of title 11, United States Code, as so designated by this Act, is amended in each of paragraphs (3) and (4) by inserting ''or an auditor appointed under section 586(f) of title 28'' after ''serving in the case''.

(d) AMENDMENTS TO SECTION 727 OF TITLE 11, U.S.C.—Section 727(d) of title 11, United States Code, is amended—

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

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

(3) by adding at the end the following:

''(4) the debtor has failed to explain satisfactorily—

''(A) a material misstatement in an audit referred to in section 586(f) of title 28; or

''(B) a failure to make available for inspection all necessary accounts, papers, documents, financial records, files, and all other papers, things, or property belonging to the debtor that are requested for an audit referred to in section 586(f) of title 28.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

SEC. 604. SENSE OF CONGRESS REGARDING AVAILABILITY OF BANKRUPTCY DATA.

It is the sense of Congress that—

(1) the national policy of the United States should be that all data held by bankruptcy clerks in electronic form, to the extent such data reflects only public records (as defined in section 107 of title 11, United States Code), should be released in a usable electronic form in bulk to the public, subject to such appropriate privacy concerns and safeguards as Congress and the Judicial Conference of the United States may determine; and

(2) there should be established a bankruptcy data system in which—

(A) a single set of data definitions and forms are used to collect data nationwide; and

(B) data for any particular bankruptcy case are aggregated in the same electronic record.

TITLE VII—BANKRUPTCY TAX PROVISIONS

SEC. 701. TREATMENT OF CERTAIN LIENS.

(a) TREATMENT OF CERTAIN LIENS.—Section 724 of title 11, United States Code, is amended—

(1) in subsection (b), in the matter preceding paragraph (1), by inserting ''(other than to the extent that there is a properly perfected unavoidable tax lien arising in connection with an ad valorem tax on real or personal property of the estate)'' after ''under this title'';

(2) in subsection (b)(2), by inserting ''(except that such expenses, other than claims for wages, salaries, or commissions which arise after the filing of a petition, shall be limited to expenses incurred under chapter 7 of this title and shall not include expenses incurred under chapter 11 of this title)'' after ''507(a)(1)''; and

(3) by adding at the end the following:

''(e) Before subordinating a tax lien on real or personal property of the estate, the trustee shall—

''(1) exhaust the unencumbered assets of the estate; and

''(2) in a manner consistent with section 506(c), recover from property securing an allowed secured claim the reasonable, necessary costs and expenses of preserving or disposing of that property.

''(f) Notwithstanding the exclusion of ad valorem tax liens under this section and subject to the requirements of subsection (e), the following may be paid from property of the estate which secures a tax lien, or the proceeds of such property:

''(1) Claims for wages, salaries, and commissions that are entitled to priority under section 507(a)(4).

''(2) Claims for contributions to an employee benefit plan entitled to priority under section 507(a)(5).''.

(b) DETERMINATION OF TAX LIABILITY.—Section 505(a)(2) of title 11, United States Code, is amended—

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

(2) in subparagraph (B), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(C) the amount or legality of any amount arising in connection with an ad valorem tax on real or personal property of the estate, if the applicable period for contesting or redetermining that amount under any law (other than a bankruptcy law) has expired.''.

SEC. 702. TREATMENT OF FUEL TAX CLAIMS.

Section 501 of title 11, United States Code, is amended by adding at the end the following:

''(e) A claim arising from the liability of a debtor for fuel use tax assessed consistent with the requirements of section 31705 of title 49 may be filed by the base jurisdiction designated pursuant to the International Fuel Tax Agreement and, if so filed, shall be allowed as a single claim.''.

SEC. 703. NOTICE OF REQUEST FOR A DETERMINATION OF TAXES.

Section 505(b) of title 11, United States Code, is amended—

(1) in the first sentence, by inserting ''at the address and in the manner designated in paragraph (1)'' after ''determination of such tax'';

(2) by striking ''(1) upon payment'' and inserting ''(A) upon payment'';

(3) by striking ''(A) such governmental unit'' and inserting ''(i) such governmental unit'';

(4) by striking ''(B) such governmental unit'' and inserting ''(ii) such governmental unit'';

(5) by striking ''(2) upon payment'' and inserting ''(B) upon payment'';

(6) by striking ''(3) upon payment'' and inserting ''(C) upon payment'';

(7) by striking ''(b)'' and inserting ''(2)''; and

(8) by inserting before paragraph (2), as so designated, the following:

''(b)(1)(A) The clerk of each district shall maintain a listing under which a Federal, State, or local governmental unit responsible for the collection of taxes within the district may—

''(i) designate an address for service of requests under this subsection; and

''(ii) describe where further information concerning additional requirements for filing such requests may be found.

''(B) If a governmental unit referred to in subparagraph (A) does not designate an address and provide that address to the clerk under that subparagraph, any request made under this subsection may be served at the address for the filing of a tax return or protest with the appropriate taxing authority of that governmental unit.''.

SEC. 704. RATE OF INTEREST ON TAX CLAIMS.

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

''§ 511. Rate of interest on tax claims

''(a) If any provision of this title requires the payment of interest on a tax claim or on an administrative expense tax, or the payment of interest to enable a creditor to receive the present value of the allowed amount of a tax claim, the rate of interest shall be the rate determined under applicable nonbankruptcy law.

''(b) In the case of taxes paid under a confirmed plan under this title, the rate of interest shall be determined as of the calendar month in which the plan is confirmed.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 510 the following:

''511. Rate of interest on tax claims.''.

SEC. 705. PRIORITY OF TAX CLAIMS.

Section 507(a)(8) of title 11, United States Code, is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by inserting ''for a taxable year ending on or before the date of filing of the petition'' after ''gross receipts'';

(B) in clause (i), by striking ''for a taxable year ending on or before the date of filing of the petition''; and

(C) by striking clause (ii) and inserting the following:

''(ii) assessed within 240 days before the date of the filing of the petition, exclusive of—

''(I) any time during which an offer in compromise with respect to that tax was pending or in effect during that 240-day period, plus 30 days; and

''(II) any time during which a stay of proceedings against collections was in effect in a prior case under this title during that 240-day period; plus 90 days.''; and

(2) by adding at the end the following:

''An otherwise applicable time period specified in this paragraph shall be suspended for (i) any period during which a governmental unit is prohibited under applicable nonbankruptcy law from collecting a tax as a result of a request by the debtor for a hearing and an appeal of any collection action taken or proposed against the debtor, plus 90 days; plus (ii) any time during which the stay of proceedings was in effect in a prior case under this title or during which collection was precluded by the existence of 1 or more confirmed plans under this title, plus 90 days.''.

SEC. 706. PRIORITY PROPERTY TAXES INCURRED.

Section 507(a)(8)(B) of title 11, United States Code, is amended by striking ''assessed'' and inserting ''incurred''.

SEC. 707. NO DISCHARGE OF FRAUDULENT TAXES IN CHAPTER 13.

Section 1328(a)(2) of title 11, United States Code, as amended by section 314 of this Act, is amended by striking ''paragraph'' and inserting ''section 507(a)(8)(C) or in paragraph (1)(B), (1)(C),''.

SEC. 708. NO DISCHARGE OF FRAUDULENT TAXES IN CHAPTER 11.

Section 1141(d) of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

''(6) Notwithstanding paragraph (1), the confirmation of a plan does not discharge a debtor that is a corporation from any debt described in subparagraph (A) or (B) of section 523(a)(2) that is owed to a domestic governmental unit or owed to a person as the result of an action filed under subchapter III of chapter 37 of title 31, United States Code, or any similar State statute, or for a tax or customs duty with respect to which the debtor—

''(A) made a fraudulent return; or

''(B) willfully attempted in any manner to evade or defeat that tax or duty.''.

SEC. 709. STAY OF TAX PROCEEDINGS LIMITED TO PREPETITION TAXES.

Section 362(a)(8) of title 11, United States Code, is amended by striking ''the debtor'' and inserting ''a corporate debtor's tax liability for a taxable period the bankruptcy court may determine or concerning an individual debtor's tax liability for a taxable period ending before the order for relief under this title''.

SEC. 710. PERIODIC PAYMENT OF TAXES IN CHAPTER 11 CASES.

Section 1129(a)(9) of title 11, United States Code, is amended—

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

(2) in subparagraph (C), by striking ''deferred cash payments,'' and all that follows through the end of the subparagraph, and inserting ''regular installment payments in cash—

''(i) of a total value, as of the effective date of the plan, equal to the allowed amount of such claim;

''(ii) over a period ending not later than 5 years after the date of the entry of the order for relief under section 301, 302, or 303; and

''(iii) in a manner not less favorable than the most favored nonpriority unsecured claim provided for in the plan (other than cash payments made to a class of creditors under section 1122(b)); and''; and

(3) by adding at the end the following:

''(D) with respect to a secured claim which would otherwise meet the description of an unsecured claim of a governmental unit under section 507(a)(8), but for the secured status of that claim, the holder of that claim will receive on account of that claim, cash payments, in the same manner and over the same period, as prescribed in subparagraph (C).''.

SEC. 711. AVOIDANCE OF STATUTORY TAX LIENS PROHIBITED.

Section 545(2) of title 11, United States Code, is amended by inserting before the semicolon at the end the following: '', except in any case in which a purchaser is a purchaser described in section 6323 of the Internal Revenue Code of 1986, or in any other similar provision of State or local law''.

SEC. 712. PAYMENT OF TAXES IN THE CONDUCT OF BUSINESS.

(a) PAYMENT OF TAXES REQUIRED.—Section 960 of title 28, United States Code, is amended—

(1) by inserting ''(a)'' before ''Any''; and

(2) by adding at the end the following:

''(b) A tax under subsection (a) shall be paid on or before the due date of the tax under applicable nonbankruptcy law, unless—

''(1) the tax is a property tax secured by a lien against property that is abandoned within a reasonable period of time after the lien attaches by the trustee of a bankruptcy estate under section 554 of title 11; or

''(2) payment of the tax is excused under a specific provision of title 11.

''(c) In a case pending under chapter 7 of title 11, payment of a tax may be deferred until final distribution is made under section 726 of title 11, if—

''(1) the tax was not incurred by a trustee duly appointed under chapter 7 of title 11; or

''(2) before the due date of the tax, an order of the court makes a finding of probable insufficiency of funds of the estate to pay in full the administrative expenses allowed under section 503(b) of title 11 that have the same priority in distribution under section 726(b) of title 11 as the priority of that tax.''.

(b) PAYMENT OF AD VALOREM TAXES REQUIRED.—Section 503(b)(1)(B)(i) of title 11, United States Code, is amended by inserting ''whether secured or unsecured, including property taxes for which liability is in rem, in personam, or both,'' before ''except''.

(c) REQUEST FOR PAYMENT OF ADMINISTRATIVE EXPENSE TAXES ELIMINATED.—Section 503(b)(1) of title 11, United States Code, is amended—

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

(2) in subparagraph (C), by adding ''and'' at the end; and

(3) by adding at the end the following:

''(D) notwithstanding the requirements of subsection (a), a governmental unit shall not be required to file a request for the payment of an expense described in subparagraph (B) or (C), as a condition of its being an allowed administrative expense;''.

(d) PAYMENT OF TAXES AND FEES AS SECURED CLAIMS.—Section 506 of title 11, United States Code, is amended—

(1) in subsection (b), by inserting ''or State statute'' after ''agreement''; and

(2) in subsection (c), by inserting '', including the payment of all ad valorem property taxes with respect to the property'' before the period at the end.

SEC. 713. TARDILY FILED PRIORITY TAX CLAIMS.

Section 726(a)(1) of title 11, United States Code, is amended by striking ''before the date on which the trustee commences distribution under this section;'' and inserting the following: ''on or before the earlier of—

''(A) the date that is 10 days after the mailing to creditors of the summary of the trustee's final report; or

''(B) the date on which the trustee commences final distribution under this section;''.

SEC. 714. INCOME TAX RETURNS PREPARED BY TAX AUTHORITIES.

Section 523(a) of title 11, United States Code, as amended by this Act, is amended—

(1) in paragraph (1)(B)—

(A) in the matter preceding clause (i), by inserting ''or equivalent report or notice,'' after ''a return,'';

(B) in clause (i), by inserting ''or given'' after ''filed''; and

(C) in clause (ii)—

(i) by inserting ''or given'' after ''filed''; and

(ii) by inserting '', report, or notice'' after ''return''; and

(2) by adding at the end the following:

''For purposes of this subsection, the term 'return' means a return that satisfies the requirements of applicable nonbankruptcy law (including applicable filing requirements). Such term includes a return prepared pursuant to section 6020(a) of the Internal Revenue Code of 1986, or similar State or local law, or a written stipulation to a judgment or a final order entered by a nonbankruptcy tribunal, but does not include a return made pursuant to section 6020(b) of the Internal Revenue Code of 1986, or a similar State or local law.''.

SEC. 715. DISCHARGE OF THE ESTATE'S LIABILITY FOR UNPAID TAXES.

Section 505(b)(2) of title 11, United States Code, as amended by this Act, is amended by inserting ''the estate,'' after ''misrepresentation,''.

SEC. 716. REQUIREMENT TO FILE TAX RETURNS TO CONFIRM CHAPTER 13 PLANS.

(a) FILING OF PREPETITION TAX RETURNS REQUIRED FOR PLAN CONFIRMATION.—Section 1325(a) of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

''(9) the debtor has filed all applicable Federal, State, and local tax returns as required by section 1308.''.

(b) ADDITIONAL TIME PERMITTED FOR FILING TAX RETURNS.—

(1) IN GENERAL.—Subchapter I of chapter 13 of title 11, United States Code, is amended by adding at the end the following:

"§ 1308. Filing of prepetition tax returns

''(a) Not later than the day before the date on which the meeting of the creditors is first scheduled to be held under section 341(a), if the debtor was required to file a tax return under applicable nonbankruptcy law, the debtor shall file with appropriate tax authorities all tax returns for all taxable periods ending during the 4-year period ending on the date of the filing of the petition.

''(b)(1) Subject to paragraph (2), if the tax returns required by subsection (a) have not been filed by the date on which the meeting of creditors is first scheduled to be held under section 341(a), the trustee may hold open that meeting for a reasonable period of time to allow the debtor an additional period of time to file any unfiled returns, but such additional period of time shall not extend beyond—

''(A) for any return that is past due as of the date of the filing of the petition, the date that is 120 days after the date of that meeting; or

''(B) for any return that is not past due as of the date of the filing of the petition, the later of—

''(i) the date that is 120 days after the date of that meeting; or

''(ii) the date on which the return is due under the last automatic extension of time for filing that return to which the debtor is entitled, and for which request is timely made, in accordance with applicable nonbankruptcy law.

''(2) Upon notice and hearing, and order entered before the tolling of any applicable filing period determined under this subsection, if the debtor demonstrates by a preponderance of the evidence that the failure to file a return as required under this subsection is attributable to circumstances beyond the control of the debtor, the court may extend the filing period established by the trustee under this subsection for—

''(A) a period of not more than 30 days for returns described in paragraph (1); and

''(B) a period not to extend after the applicable extended due date for a return described in paragraph (2).

''(c) For purposes of this section, the term 'return' includes a return prepared pursuant to subsection (a) or (b) of section 6020 of the Internal Revenue Code of 1986, or a similar State or local law, or a written stipulation to a judgment or a final order entered by a nonbankruptcy tribunal.''.

(2) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 13 of title 11, United States Code, is amended by inserting after the item relating to section 1307 the following:

''1308. Filing of prepetition tax returns.''.

(c) DISMISSAL OR CONVERSION ON FAILURE TO COMPLY.—Section 1307 of title 11, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following:

''(e) Upon the failure of the debtor to file a tax return under section 1308, on request of a party in interest or the United States trustee and after notice and a hearing, the court shall dismiss a case or convert a case under this chapter to a case under chapter 7 of this title, whichever is in the best interest of the creditors and the estate.''.

(d) TIMELY FILED CLAIMS.—Section 502(b)(9) of title 11, United States Code, is amended by inserting before the period at the end the following: '', and except that in a case under chapter 13, a claim of a governmental unit for a tax with respect to a return filed under section 1308 shall be timely if the claim is filed on or before the date that is 60 days after the date on which such return was filed as required''.

(e) RULES FOR OBJECTIONS TO CLAIMS AND TO CONFIRMATION.—It is the sense of Congress that the Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States should, as soon as practicable after the date of enactment of this Act, propose for adoption amended Federal Rules of Bankruptcy Procedure which provide that—

(1) notwithstanding the provisions of Rule 3015(f), in cases under chapter 13 of title 11, United States Code, an objection to the confirmation of a plan filed by a governmental unit on or before the date that is 60 days after the date on which the debtor files all tax returns required under sections 1308 and 1325(a)(7) of title 11, United States Code, shall be treated for all purposes as if such objection had been timely filed before such confirmation; and

(2) in addition to the provisions of Rule 3007, in a case under chapter 13 of title 11, United States Code, no objection to a tax with respect to which a return is required to be filed under section 1308 of title 11, United States Code, shall be filed until such return has been filed as required.

SEC. 717. STANDARDS FOR TAX DISCLOSURE.

Section 1125(a)(1) of title 11, United States Code, is amended—

(1) by inserting ''including a discussion of the potential material Federal tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor typical of the holders of claims or interests in the case,'' after ''records''; and

(2) by striking ''a hypothetical reasonable investor typical of holders of claims or interests'' and inserting ''such a hypothetical investor''.

SEC. 718. SETOFF OF TAX REFUNDS.

Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (25), as added by this Act, the following:

''(26) under subsection (a), of the setoff under applicable nonbankruptcy law of an income tax refund, by a governmental unit, with respect to a taxable period that ended before the order for relief against an income tax liability for a taxable period that also ended before the order for relief, except that in any case in which the setoff of an income tax refund is not permitted under applicable nonbankruptcy law because of a pending action to determine the amount or legality of a tax liability, the governmental unit may hold the refund pending the resolution of the action, unless the court, upon motion of the trustee and after notice and hearing, grants the taxing authority adequate protection (within the meaning of section 361) for the secured claim of that authority in the setoff under section 506(a);''.

SEC. 719. SPECIAL PROVISIONS RELATED TO THE TREATMENT OF STATE AND LOCAL TAXES.

(a) IN GENERAL.—Section 346 of title 11, United States Code, is amended to read as follows:

"§ 346. Special provisions related to the treatment of State and local taxes

''(a) Whenever the Internal Revenue Code of 1986 provides that a separate taxable estate or entity is created in a case concerning a debtor under this title, and the income, gain, loss, deductions, and credits of such estate shall be taxed to or claimed by the estate, a separate taxable estate is also created for purposes of any State and local law imposing a tax on or measured by income and such income, gain, loss, deductions, and credits shall be taxed to or claimed by the estate and may not be taxed to or claimed by the debtor. The preceding sentence shall not apply if the case is dismissed. The trustee shall make tax returns of income required under any such State or local law.

''(b) Whenever the Internal Revenue Code of 1986 provides that no separate taxable estate shall be created in a case concerning a debtor under this title, and the income, gain, loss, deductions, and credits of an estate shall be taxed to or claimed by the debtor, such income, gain, loss, deductions, and credits shall be taxed to or claimed by the debtor under a State or local law imposing a tax on or measured by income and may not be taxed to or claimed by the estate. The trustee shall make such tax returns of income of corporations and of partnerships as are required under any State or local law, but with respect to partnerships, shall make said returns only to the extent such returns are also required to be made under such Code. The estate shall be liable for any tax imposed on such corporation or partnership, but not for any tax imposed on partners or members.

''(c) With respect to a partnership or any entity treated as a partnership under a State or local law imposing a tax on or measured by income that is a debtor in a case under this title, any gain or loss resulting from a distribution of property from such partnership, or any distributive share of any income, gain, loss, deduction, or credit of a partner or member that is distributed, or considered distributed, from such partnership, after the commencement of the case, is gain, loss, income, deduction, or credit, as the case may be, of the partner or member, and if such partner or member is a debtor in a case under this title, shall be subject to tax in accordance with subsection (a) or (b).

''(d) For purposes of any State or local law imposing a tax on or measured by income, the taxable period of a debtor in a case under this title shall terminate only if and to the extent that the taxable period of such debtor terminates under the Internal Revenue Code of 1986.

''(e) The estate in any case described in subsection (a) shall use the same accounting method as the debtor used immediately before the commencement of the case, if such method of accounting complies with applicable nonbankruptcy tax law.

''(f) For purposes of any State or local law imposing a tax on or measured by income, a transfer of property from the debtor to the estate or from the estate to the debtor shall not be treated as a disposition for purposes of any provision assigning tax consequences to a disposition, except to the extent that such transfer is treated as a disposition under the Internal Revenue Code of 1986.

''(g) Whenever a tax is imposed pursuant to a State or local law imposing a tax on or measured by income pursuant to subsection (a) or (b), such tax shall be imposed at rates generally applicable to the same types of entities under such State or local law.

''(h) The trustee shall withhold from any payment of claims for wages, salaries, commissions, dividends, interest, or other payments, or collect, any amount required to be withheld or collected under applicable State or local tax law, and shall pay such withheld or collected amount to the appropriate governmental unit at the time and in the manner required by such tax law, and with the same priority as the claim from which such amount was withheld or collected was paid.

''(i)(1) To the extent that any State or local law imposing a tax on or measured by income provides for the carryover of any tax attribute from one taxable period to a subsequent taxable period, the estate shall succeed to such tax attribute in any case in

which such estate is subject to tax under subsection (a).

''(2) After such a case is closed or dismissed, the debtor shall succeed to any tax attribute to which the estate succeeded under paragraph (1) to the extent consistent with the Internal Revenue Code of 1986.

''(3) The estate may carry back any loss or tax attribute to a taxable period of the debtor that ended before the order for relief under this title to the extent that—

''(A) applicable State or local tax law provides for a carryback in the case of the debtor; and

''(B) the same or a similar tax attribute may be carried back by the estate to such a taxable period of the debtor under the Internal Revenue Code of 1986.

''(j)(1) For purposes of any State or local law imposing a tax on or measured by income, income is not realized by the estate, the debtor, or a successor to the debtor by reason of discharge of indebtedness in a case under this title, except to the extent, if any, that such income is subject to tax under the Internal Revenue Code of 1986.

''(2) Whenever the Internal Revenue Code of 1986 provides that the amount excluded from gross income in respect of the discharge of indebtedness in a case under this title shall be applied to reduce the tax attributes of the debtor or the estate, a similar reduction shall be made under any State or local law imposing a tax on or measured by income to the extent such State or local law recognizes such attributes. Such State or local law may also provide for the reduction of other attributes to the extent that the full amount of income from the discharge of indebtedness has not been applied.

''(k)(1) Except as provided in this section and section 505, the time and manner of filing tax returns and the items of income, gain, loss, deduction, and credit of any taxpayer shall be determined under applicable nonbankruptcy law.

''(2) For Federal tax purposes, the provisions of this section are subject to the Internal Revenue Code of 1986 and other applicable Federal nonbankruptcy law.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 728 of title 11, United States Code, is repealed.

(2) Section 1146 of title 11, United States Code, is amended—

(A) by striking subsections (a) and (b); and

(B) by redesignating subsections (c) and (d) as subsections (a) and (b), respectively.

(3) Section 1231 of title 11, United States Code, is amended—

(A) by striking subsections (a) and (b); and

(B) by redesignating subsections (c) and (d) as subsections (a) and (b), respectively.

SEC. 720. DISMISSAL FOR FAILURE TO TIMELY FILE TAX RETURNS.

Section 521 of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

''(k)(1) Notwithstanding any other provision of this title, if the debtor fails to file a tax return that becomes due after the commencement of the case or to properly obtain an extension of the due date for filing such return, the taxing authority may request that the court enter an order converting or dismissing the case.

''(2) If the debtor does not file the required return or obtain the extension referred to in paragraph (1) within 90 days after a request is filed by the taxing authority under that paragraph, the court shall convert or dismiss the case, whichever is in the best interests of creditors and the estate.''.

TITLE VIII—ANCILLARY AND OTHER CROSS-BORDER CASES

SEC. 801. AMENDMENT TO ADD CHAPTER 15 TO TITLE 11, UNITED STATES CODE.

(a) IN GENERAL.—Title 11, United States Code, is amended by inserting after chapter 13 the following:

''CHAPTER 15—ANCILLARY AND OTHER CROSS-BORDER CASES

''§ 1501. Purpose and scope of application

''(a) The purpose of this chapter is to incorporate the Model Law on Cross-Border Insolvency so as to provide effective mechanisms for dealing with cases of cross-border insolvency with the objectives of—

''(1) cooperation between—

''(A) United States courts, United States trustees, trustees, examiners, debtors, and debtors in possession; and

''(B) the courts and other competent authorities of foreign countries involved in cross-border insolvency cases;

''(2) greater legal certainty for trade and investment;

''(3) fair and efficient administration of cross-border insolvencies that protects the interests of all creditors, and other interested entities, including the debtor;

''(4) protection and maximization of the value of the debtor's assets; and

''(5) facilitation of the rescue of financially troubled businesses, thereby protecting investment and preserving employment.

''(b) This chapter applies where—

''(1) assistance is sought in the United States by a foreign court or a foreign representative in connection with a foreign proceeding;

''(2) assistance is sought in a foreign country in connection with a case under this title;

''(3) a foreign proceeding and a case under this title with respect to the same debtor are taking place concurrently; or

''(4) creditors or other interested persons in a foreign country have an interest in requesting the commencement of, or participating in, a case or proceeding under this title.

''(c) This chapter does not apply to—

''(1) a proceeding concerning an entity, other than a foreign insurance company, identified by exclusion in section 109(b);

''(2) an individual, or to an individual and such individual's spouse, who have debts within the limits specified in section 109(e) and who are citizens of the United States or aliens lawfully admitted for permanent residence in the United States; or

''(3) an entity subject to a proceeding under the Securities Investor Protection Act of 1970, a stockbroker subject to subchapter III of chapter 7 of this title, or a commodity broker subject to subchapter IV of chapter 7 of this title.

''(d) The court may not grant relief under this chapter with respect to any deposit, escrow, trust fund, or other security required or permitted under any applicable State insurance law or regulation for the benefit of claim holders in the United States.

''SUBCHAPTER I—GENERAL PROVISIONS

''§ 1502. Definitions

''For the purposes of this chapter, the term—

''(1) 'debtor' means an entity that is the subject of a foreign proceeding;

''(2) 'establishment' means any place of operations where the debtor carries out a nontransitory economic activity;

''(3) 'foreign court' means a judicial or other authority competent to control or supervise a foreign proceeding;

''(4) 'foreign main proceeding' means a foreign proceeding taking place in the country where the debtor has the center of its main interests;

''(5) 'foreign nonmain proceeding' means a foreign proceeding, other than a foreign main proceeding, taking place in a country where the debtor has an establishment;

''(6) 'trustee' includes a trustee, a debtor in possession in a case under any chapter of this title, or a debtor under chapter 9 of this title;

''(7) 'recognition' means the entry of an order granting recognition of a foreign main proceeding or foreign nonmain proceeding under this chapter; and

''(8) 'within the territorial jurisdiction of the United States', when used with reference to property of a debtor, refers to tangible

property located within the territory of the United States and intangible property deemed under applicable nonbankruptcy law to be located within that territory, including any property subject to attachment or garnishment that may properly be seized or garnished by an action in a Federal or State court in the United States.

"§ 1503. International obligations of the United States

''To the extent that this chapter conflicts with an obligation of the United States arising out of any treaty or other form of agreement to which it is a party with one or more other countries, the requirements of the treaty or agreement prevail.

"§ 1504. Commencement of ancillary case

''A case under this chapter is commenced by the filing of a petition for recognition of a foreign proceeding under section 1515.

"§ 1505. Authorization to act in a foreign country

''A trustee or another entity (including an examiner) may be authorized by the court to act in a foreign country on behalf of an estate created under section 541. An entity authorized to act under this section may act in any way permitted by the applicable foreign law.

"§ 1506. Public policy exception

''Nothing in this chapter prevents the court from refusing to take an action governed by this chapter if the action would be manifestly contrary to the public policy of the United States.

"§ 1507. Additional assistance

''(a) Subject to the specific limitations stated elsewhere in this chapter the court, if recognition is granted, may provide additional assistance to a foreign representative under this title or under other laws of the United States.

''(b) In determining whether to provide additional assistance under this title or under other laws of the United States, the court shall consider whether such additional assistance, consistent with the principles of comity, will reasonably assure—

''(1) just treatment of all holders of claims against or interests in the debtor's property;

''(2) protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in such foreign proceeding;

''(3) prevention of preferential or fraudulent dispositions of property of the debtor;

''(4) distribution of proceeds of the debtor's property substantially in accordance with the order prescribed by this title; and

''(5) if appropriate, the provision of an opportunity for a fresh start for the individual that such foreign proceeding concerns.

"§ 1508. Interpretation

''In interpreting this chapter, the court shall consider its international origin, and the need to promote an application of this chapter that is consistent with the application of similar statutes adopted by foreign jurisdictions.

''SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

"§ 1509. Right of direct access

''(a) A foreign representative may commence a case under section 1504 by filing directly with the court a petition for recognition of a foreign proceeding under section 1515.

''(b) If the court grants recognition under section 1515, and subject to any limitations that the court may impose consistent with the policy of this chapter—

''(1) the foreign representative has the capacity to sue and be sued in a court in the United States;

''(2) the foreign representative may apply directly to a court in the United States for appropriate relief in that court; and

''(3) a court in the United States shall grant comity or cooperation to the foreign representative.

''(c) A request for comity or cooperation by a foreign representative in a court in the United States other than the court which granted recognition shall be accompanied by a certified copy of an order granting recognition under section 1517.

''(d) If the court denies recognition under this chapter, the court may issue any appropriate order necessary to prevent the foreign representative from obtaining comity or cooperation from courts in the United States.

''(e) Whether or not the court grants recognition, and subject to sections 306 and 1510, a foreign representative is subject to applicable nonbankruptcy law.

''(f) Notwithstanding any other provision of this section, the failure of a foreign representative to commence a case or to obtain recognition under this chapter does not affect any right the foreign representative may have to sue in a court in the United States to collect or recover a claim which is the property of the debtor.

"§ 1510. Limited jurisdiction

''The sole fact that a foreign representative files a petition under section 1515 does not subject the foreign representative to the jurisdiction of any court in the United States for any other purpose.

"§ 1511. Commencement of case under section 301 or 303

''(a) Upon recognition, a foreign representative may commence—

''(1) an involuntary case under section 303; or

''(2) a voluntary case under section 301 or 302, if the foreign proceeding is a foreign main proceeding.

''(b) The petition commencing a case under subsection (a) must be accompanied by a certified copy of an order granting recognition. The court where the petition for recognition has been filed must be advised of the foreign representative's intent to commence a case under subsection (a) prior to such commencement.

"§ 1512. Participation of a foreign representative in a case under this title

''Upon recognition of a foreign proceeding, the foreign representative in the recognized proceeding is entitled to participate as a party in interest in a case regarding the debtor under this title.

"§ 1513. Access of foreign creditors to a case under this title

''(a) Foreign creditors have the same rights regarding the commencement of, and participation in, a case under this title as domestic creditors.

''(b)(1) Subsection (a) does not change or codify present law as to the priority of claims under section 507 or 726 of this title, except that the claim of a foreign creditor under those sections shall not be given a lower priority than that of general unsecured claims without priority solely because the holder of such claim is a foreign creditor.

''(2)(A) Subsection (a) and paragraph (1) do not change or codify present law as to the allowability of foreign revenue claims or other foreign public law claims in a proceeding under this title.

''(B) Allowance and priority as to a foreign tax claim or other foreign public law claim shall be governed by any applicable tax treaty of the United States, under the conditions and circumstances specified therein.

"§ 1514. Notification to foreign creditors concerning a case under this title

''(a) Whenever in a case under this title notice is to be given to creditors generally or to any class or category of creditors, such notice shall also be given to the known creditors generally, or to creditors in the notified class or category, that do not have addresses in the United States. The court may order that appropriate steps be taken with a view to notifying any creditor whose address is not yet known.

''(b) Such notification to creditors with foreign addresses described in subsection (a) shall be given individually, unless the court considers that, under the circumstances, some other form of notification would be more appropriate. No letter or other formality is required.

''(c) When a notification of commencement of a case is to be given to foreign creditors, the notification shall—

''(1) indicate the time period for filing proofs of claim and specify the place for their filing;

''(2) indicate whether secured creditors need to file their proofs of claim; and

''(3) contain any other information required to be included in such a notification to creditors under this title and the orders of the court.

''(d) Any rule of procedure or order of the court as to notice or the filing of a claim shall provide such additional time to creditors with foreign addresses as is reasonable under the circumstances.

''SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

"§ 1515. Application for recognition

''(a) A foreign representative applies to the court for recognition of the foreign proceeding in which the foreign representative has been appointed by filing a petition for recognition.

''(b) A petition for recognition shall be accompanied by—

''(1) a certified copy of the decision commencing the foreign proceeding and appointing the foreign representative;

''(2) a certificate from the foreign court affirming the existence of the foreign proceeding and of the appointment of the foreign representative; or

''(3) in the absence of evidence referred to in paragraphs (1) and (2), any other evidence acceptable to the court of the existence of the foreign proceeding and of the appointment of the foreign representative.

''(c) A petition for recognition shall also be accompanied by a statement identifying all foreign proceedings with respect to the debtor that are known to the foreign representative.

''(d) The documents referred to in paragraphs (1) and (2) of subsection (b) shall be translated into English. The court may require a translation into English of additional documents.

"§ 1516. Presumptions concerning recognition

''(a) If the decision or certificate referred to in section 1515(b) indicates that the foreign proceeding is a foreign proceeding (as defined in section 101) and that the person or body is a foreign representative (as defined in section 101), the court is entitled to so presume.

''(b) The court is entitled to presume that documents submitted in support of the petition for recognition are authentic, whether or not they have been legalized.

''(c) In the absence of evidence to the contrary, the debtor's registered office, or habitual residence in the case of an individual, is presumed to be the center of the debtor's main interests.

"§ 1517. Order granting recognition

''(a) Subject to section 1506, after notice and a hearing, an order recognizing a foreign proceeding shall be entered if—

''(1) the foreign proceeding for which recognition is sought is a foreign main proceeding or foreign nonmain proceeding within the meaning of section 1502;

''(2) the foreign representative applying for recognition is a person or body as defined in section 101; and

''(3) the petition meets the requirements of section 1515.

''(b) The foreign proceeding shall be recognized—

''(1) as a foreign main proceeding if it is taking place in the country where the debtor has the center of its main interests; or

''(2) as a foreign nonmain proceeding if the debtor has an establishment within the meaning of section 1502 in the foreign country where the proceeding is pending.

''(c) A petition for recognition of a foreign proceeding shall be decided upon at the earliest possible time. Entry of an order recognizing a foreign proceeding constitutes recognition under this chapter.

''(d) The provisions of this subchapter do not prevent modification or termination of recognition if it is shown that the grounds for granting it were fully or partially lacking or have ceased to exist, but in considering such action the court shall give due weight to possible prejudice to parties that have relied upon the order granting recognition. The case under this chapter may be closed in the manner prescribed under section 350.

''§ 1518. Subsequent information

''From the time of filing the petition for recognition of the foreign proceeding, the foreign representative shall file with the court promptly a notice of change of status concerning—

''(1) any substantial change in the status of the foreign proceeding or the status of the foreign representative's appointment; and

''(2) any other foreign proceeding regarding the debtor that becomes known to the foreign representative.

''§ 1519. Relief that may be granted upon filing petition for recognition

''(a) From the time of filing a petition for recognition until the court rules on the petition, the court may, at the request of the foreign representative, where relief is urgently needed to protect the assets of the debtor or the interests of the creditors, grant relief of a provisional nature, including—

''(1) staying execution against the debtor's assets;

''(2) entrusting the administration or realization of all or part of the debtor's assets located in the United States to the foreign representative or another person authorized by the court, including an examiner, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to devaluation or otherwise in jeopardy; and

''(3) any relief referred to in paragraph (3), (4), or (7) of section 1521(a).

''(b) Unless extended under section 1521(a)(6), the relief granted under this section terminates when the petition for recognition is granted.

''(c) It is a ground for denial of relief under this section that such relief would interfere with the administration of a foreign main proceeding.

''(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

''(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under this section.

''(f) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(l) shall not be stayed by any order of a court or administrative agency in any proceeding under this chapter.

''§ 1520. Effects of recognition of a foreign main proceeding

''(a) Upon recognition of a foreign proceeding that is a foreign main proceeding—

''(1) sections 361 and 362 apply with respect to the debtor and that property of the debtor that is within the territorial jurisdiction of the United States;

''(2) sections 363, 549, and 552 of this title apply to a transfer of an interest of the debtor in property that is within the territorial jurisdiction of the United States to the same extent that the sections would apply to property of an estate;

''(3) unless the court orders otherwise, the foreign representative may operate the debtor's business and may exercise the rights and powers of a trustee under and to the extent provided by sections 363 and 552; and

''(4) section 552 applies to property of the debtor that is within the territorial jurisdiction of the United States.

''(b) Subsection (a) does not affect the right to commence an individual action or proceeding in a foreign country to the extent necessary to preserve a claim against the debtor.

''(c) Subsection (a) does not affect the right of a foreign representative or an entity to file a petition commencing a case under this title or the right of any party to file claims or take other proper actions in such a case.

''§ 1521. Relief that may be granted upon recognition

''(a) Upon recognition of a foreign proceeding, whether main or nonmain, where necessary to effectuate the purpose of this chapter and to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including—

''(1) staying the commencement or continuation of an individual action or proceeding concerning the debtor's assets, rights, obligations or liabilities to the extent they have not been stayed under section 1520(a);

''(2) staying execution against the debtor's assets to the extent it has not been stayed under section 1520(a);

''(3) suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor to the extent this right has not been suspended under section 1520(a);

''(4) providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor's assets, affairs, rights, obligations or liabilities;

''(5) entrusting the administration or realization of all or part of the debtor's assets within the territorial jurisdiction of the United States to the foreign representative or another person, including an examiner, authorized by the court;

''(6) extending relief granted under section 1519(a); and

''(7) granting any additional relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 548, 550, and 724(a).

''(b) Upon recognition of a foreign proceeding, whether main or nonmain, the court may, at the request of the foreign representative, entrust the distribution of all or part of the debtor's assets located in the United States to the foreign representative or another person, including an examiner, authorized by the court, provided that the court is satisfied that the interests of creditors in the United States are sufficiently protected.

''(c) In granting relief under this section to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

''(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

''(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under paragraphs (1), (2), (3), and (6) of subsection (a).

''(f) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(l) shall not be stayed by any order of a court or administrative agency in any proceeding under this chapter.

''§ 1522. Protection of creditors and other interested persons

''(a) The court may grant relief under section 1519 or 1521, or may modify or terminate relief under subsection (c), only if the interests of the creditors and other interested entities, including the debtor, are sufficiently protected.

''(b) The court may subject relief granted under section 1519 or 1521, or the operation of the debtor's business under section 1520(a)(3) of this title, to conditions it considers appropriate, including the giving of security or the filing of a bond.

''(c) The court may, at the request of the foreign representative or an entity affected by relief granted under section 1519 or 1521, or at its own motion, modify or terminate such relief.

''(d) Section 1104(d) shall apply to the appointment of an examiner under this chapter. Any examiner shall comply with the qualification requirements imposed on a trustee by section 322.

''§ 1523. Actions to avoid acts detrimental to creditors

''(a) Upon recognition of a foreign proceeding, the foreign representative has standing in a case concerning the debtor pending under another chapter of this title to initiate actions under sections 522, 544, 545, 547, 548, 550, 553, and 724(a).

''(b) When the foreign proceeding is a foreign nonmain proceeding, the court must be satisfied that an action under subsection (a) relates to assets that, under United States law, should be administered in the foreign nonmain proceeding.

''§ 1524. Intervention by a foreign representative

''Upon recognition of a foreign proceeding, the foreign representative may intervene in any proceedings in a State or Federal court in the United States in which the debtor is a party.

''SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

''§ 1525. Cooperation and direct communication between the court and foreign courts or foreign representatives

''(a) Consistent with section 1501, the court shall cooperate to the maximum extent possible with foreign courts or foreign representatives, either directly or through the trustee.

''(b) The court is entitled to communicate directly with, or to request information or assistance directly from, foreign courts or foreign representatives, subject to the rights of parties in interest to notice and participation.

''§ 1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives

''(a) Consistent with section 1501, the trustee or other person, including an examiner,

authorized by the court, shall, subject to the supervision of the court, cooperate to the maximum extent possible with foreign courts or foreign representatives.

''(b) The trustee or other person, including an examiner, authorized by the court is entitled, subject to the supervision of the court, to communicate directly with foreign courts or foreign representatives.

''§ 1527. Forms of cooperation

''Cooperation referred to in sections 1525 and 1526 may be implemented by any appropriate means, including—

''(1) appointment of a person or body, including an examiner, to act at the direction of the court;

''(2) communication of information by any means considered appropriate by the court;

''(3) coordination of the administration and supervision of the debtor's assets and affairs;

''(4) approval or implementation of agreements concerning the coordination of proceedings; and

''(5) coordination of concurrent proceedings regarding the same debtor.

''SUBCHAPTER V—CONCURRENT PROCEEDINGS

''§ 1528. Commencement of a case under this title after recognition of a foreign main proceeding

''After recognition of a foreign main proceeding, a case under another chapter of this title may be commenced only if the debtor has assets in the United States. The effects of such case shall be restricted to the assets of the debtor that are within the territorial jurisdiction of the United States and, to the extent necessary to implement cooperation and coordination under sections 1525, 1526, and 1527, to other assets of the debtor that are within the jurisdiction of the court under sections 541(a) of this title, and 1334(e) of title 28, to the extent that such other assets are not subject to the jurisdiction and control of a foreign proceeding that has been recognized under this chapter.

''§ 1529. Coordination of a case under this title and a foreign proceeding

''If a foreign proceeding and a case under another chapter of this title are taking place concurrently regarding the same debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

''(1) If the case in the United States is taking place at the time the petition for recognition of the foreign proceeding is filed—

''(A) any relief granted under section 1519 or 1521 must be consistent with the relief granted in the case in the United States; and

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

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

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

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

''(3) In granting, extending, or modifying relief granted to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the laws of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

''(4) In achieving cooperation and coordination under sections 1528 and 1529, the court may grant any of the relief authorized under section 305.

''§ 1530. Coordination of more than 1 foreign proceeding

''In matters referred to in section 1501, with respect to more than 1 foreign proceeding regarding the debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

''(1) Any relief granted under section 1519 or 1521 to a representative of a foreign nonmain proceeding after recognition of a foreign main proceeding must be consistent with the foreign main proceeding.

''(2) If a foreign main proceeding is recognized after recognition, or after the filing of a petition for recognition, of a foreign nonmain proceeding, any relief in effect under section 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the foreign main proceeding.

''(3) If, after recognition of a foreign nonmain proceeding, another foreign nonmain proceeding is recognized, the court shall grant, modify, or terminate relief for the purpose of facilitating coordination of the proceedings.

''§ 1531. Presumption of insolvency based on recognition of a foreign main proceeding

''In the absence of evidence to the contrary, recognition of a foreign main proceeding is, for the purpose of commencing a proceeding under section 303, proof that the debtor is generally not paying its debts as such debts become due.

''§ 1532. Rule of payment in concurrent proceedings

''Without prejudice to secured claims or rights in rem, a creditor who has received payment with respect to its claim in a foreign proceeding pursuant to a law relating to insolvency may not receive a payment for the same claim in a case under any other chapter of this title regarding the debtor, so long as the payment to other creditors of the same class is proportionately less than the payment the creditor has already received.''.

(b) CLERICAL AMENDMENT.—The table of chapters for title 11, United States Code, is amended by inserting after the item relating to chapter 13 the following:

''15. Ancillary and Other Cross-Border Cases ..... 1501''.

SEC. 802. OTHER AMENDMENTS TO TITLES 11 AND 28, UNITED STATES CODE.

(a) APPLICABILITY OF CHAPTERS.—Section 103 of title 11, United States Code, is amended—

(1) in subsection (a), by inserting before the period the following: '', and this chapter, sections 307, 362(l), 555 through 557, and 559 through 562 apply in a case under chapter 15''; and

(2) by adding at the end the following:

''(j) Chapter 15 applies only in a case under such chapter, except that—

''(1) sections 1505, 1513, and 1514 apply in all cases under this title; and

''(2) section 1509 applies whether or not a case under this title is pending.''.

(b) DEFINITIONS.—Section 101 of title 11, United States Code, is amended by striking paragraphs (23) and (24) and inserting the following:

''(23) 'foreign proceeding' means a collective judicial or administrative proceeding in a foreign country, including an interim proceeding, under a law relating to insolvency or adjustment of debt in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation;

''(24) 'foreign representative' means a person or body, including a person or body appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor's assets or affairs or to act as a representative of the foreign proceeding;''.

(c) AMENDMENTS TO TITLE 28, UNITED STATES CODE.—

(1) PROCEDURES.—Section 157(b)(2) of title 28, United States Code, is amended—

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

(B) in subparagraph (O), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(P) recognition of foreign proceedings and other matters under chapter 15 of title 11.''.

(2) BANKRUPTCY CASES AND PROCEEDINGS.—Section 1334(c) of title 28, United States Code, is amended by striking ''Nothing in'' and inserting ''Except with respect to a case under chapter 15 of title 11, nothing in''.

(3) DUTIES OF TRUSTEES.—Section 586(a)(3) of title 28, United States Code, is amended by striking ''or 13'' and inserting ''13, or 15,''.

(4) VENUE OF CASES ANCILLARY TO FOREIGN PROCEEDINGS.—Section 1410 of title 28, United States Code, is amended to read as follows:

''§ 1410. Venue of cases ancillary to foreign proceedings

''A case under chapter 15 of title 11 may be commenced in the district court for the district—

''(1) in which the debtor has its principal place of business or principal assets in the United States;

''(2) if the debtor does not have a place of business or assets in the United States, in which there is pending against the debtor an action or proceeding in a Federal or State court; or

''(3) in a case other than those specified in paragraph (1) or (2), in which venue will be consistent with the interests of justice and the convenience of the parties, having regard to the relief sought by the foreign representative.''.

(d) OTHER SECTIONS OF TITLE 11.—

(1) Section 109(b)(3) of title 11, United States Code, is amended to read as follows:

''(3)(A) a foreign insurance company, engaged in such business in the United States; or

''(B) a foreign bank, savings bank, cooperative bank, savings and loan association, building and loan association, or credit union, that has a branch or agency (as defined in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101) in the United States.''.

(2) Section 303(k) of title 11, United States Code, is repealed.

(3)(A) Section 304 of title 11, United States Code, is repealed.

(B) The table of sections at the beginning of chapter 3 of title 11, United States Code, is amended by striking the item relating to section 304.

(C) Section 306 of title 11, United States Code, is amended by striking '', 304,'' each place it appears.

(4) Section 305(a)(2) of title 11, United States Code, is amended to read as follows:

''(2)(A) a petition under section 1515 of this title for recognition of a foreign proceeding has been granted; and

''(B) the purposes of chapter 15 of this title would be best served by such dismissal or suspension.''.

(5) Section 508 of title 11, United States Code, is amended—

(A) by striking subsection (a); and

(B) in subsection (b), by striking ''(b)''.

TITLE IX—FINANCIAL CONTRACT PROVISIONS

SEC. 901. TREATMENT OF CERTAIN AGREEMENTS BY CONSERVATORS OR RECEIVERS OF INSURED DEPOSITORY INSTITUTIONS.

(a) DEFINITION OF QUALIFIED FINANCIAL CONTRACT.—Section 11(e)(8)(D)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(i)) is amended by inserting '', resolution, or order'' after ''any similar agreement that the Corporation determines by regulation''.

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

''(ii) SECURITIES CONTRACT.—The term 'securities contract'—

''(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

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

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

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

''(V) means any margin loan;

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

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

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

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

''(X) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.''.

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

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

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

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

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

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

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

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

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

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

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

''(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.''.

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

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

''(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

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

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

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

''(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV) including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.''.

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

''(v) REPURCHASE AGREEMENT.—The term 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

''(I) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;

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

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

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

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

''(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V) including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

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

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

''(vi) SWAP AGREEMENT.—The term 'swap agreement' means—

''(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a total return, credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement; or a weather swap, weather derivative, or weather option;

''(II) any agreement or transaction that is similar to any other agreement or transaction referred to in this clause and that is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

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

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

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

''(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subclause (I), (II), (III), (IV), or (V) including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

Such term is applicable for purposes of this title only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000.''.

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

''(viii) TRANSFER.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the depository institution's equity of redemption.''.

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

(1) in subparagraph (A)—

(A) by striking ''paragraph (10)'' and inserting ''paragraphs (9) and (10)'';

(B) in clause (i), by striking ''to cause the termination or liquidation'' and inserting ''such person has to cause the termination, liquidation, or acceleration''; and

(C) by striking clause (ii) and inserting the following:

''(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);''; and

(2) in subparagraph (E), by striking clause (ii) and inserting the following:

''(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);''.

(i) AVOIDANCE OF TRANSFERS.—Section 11(e)(8)(C)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(C)(i)) is amended by inserting ''section 5242 of the Revised Statutes of the United States (12 U.S.C. 91) or any other Federal or State law relating to the avoidance of preferential or fraudulent transfers,'' before ''the Corporation''.

SEC. 902. AUTHORITY OF THE CORPORATION WITH RESPECT TO FAILED AND FAILING INSTITUTIONS.

(a) IN GENERAL.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(1) in subparagraph (E), by striking ''other than paragraph (12) of this subsection, subsection (d)(9)'' and inserting ''other than subsections (d)(9) and (e)(10)''; and

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

''(F) CLARIFICATION.—No provision of law shall be construed as limiting the right or power of the Corporation, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Corporation to transfer any qualified financial contract in accordance with paragraphs (9) and (10) of this subsection or to disaffirm or repudiate any such contract in accordance with subsection (e)(1) of this section.

''(G) WALKAWAY CLAUSES NOT EFFECTIVE.—

''(i) IN GENERAL.—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of an insured depository institution in default.

''(ii) WALKAWAY CLAUSE DEFINED.—For purposes of this subparagraph, the term 'walkaway clause' means a provision in a qualified financial contract that, after calculation of a value of a party's position or an amount due to or from 1 of the parties in accordance with its terms upon termination, liquidation, or acceleration of the qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of such party's status as a nondefaulting party.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 11(e)(12)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(12)(A)) is amended by inserting ''or the exercise of rights or powers by'' after ''the appointment of''.

SEC. 903. AMENDMENTS RELATING TO TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS.

(a) TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS TO FINANCIAL INSTITUTIONS.—Section 11(e)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(9)) is amended to read as follows:

''(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—

''(A) IN GENERAL.—In making any transfer of assets or liabilities of a depository institution in default which includes any qualified financial contract, the conservator or receiver for such depository institution shall either—

''(i) transfer to one financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding—

''(I) all qualified financial contracts between any person or any affiliate of such person and the depository institution in default;

''(II) all claims of such person or any affiliate of such person against such depository institution under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such institution);

''(III) all claims of such depository institution against such person or any affiliate of such person under any such contract; and

''(IV) all property securing or any other credit enhancement for any contract described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or

''(ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

''(B) TRANSFER TO FOREIGN BANK, FOREIGN FINANCIAL INSTITUTION, OR BRANCH OR AGENCY OF A FOREIGN BANK OR FINANCIAL INSTITUTION.—In transferring any qualified financial contracts and related claims and property under subparagraph (A)(i), the conservator or receiver for the depository institution shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts, the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

''(C) TRANSFER OF CONTRACTS SUBJECT TO THE RULES OF A CLEARING ORGANIZATION.—In the event that a conservator or receiver transfers any qualified financial contract and related claims, property, and credit enhancements pursuant to subparagraph (A)(i) and such contract is cleared by or subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.

''(D) DEFINITIONS.—For purposes of this paragraph, the term 'financial institution' means a broker or dealer, a depository institution, a futures commission merchant, or any other institution, as determined by the Corporation by regulation to be a financial institution, and the term 'clearing organization' has the same meaning as in section 402

of the Federal Deposit Insurance Corporation Improvement Act of 1991.''.

(b) NOTICE TO QUALIFIED FINANCIAL CONTRACT COUNTERPARTIES.—Section 11(e)(10)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)(A)) is amended in the material immediately following clause (ii) by striking ''the conservator'' and all that follows through the period and inserting the following: ''the conservator or receiver shall notify any person who is a party to any such contract of such transfer by 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver in the case of a receivership, or the business day following such transfer in the case of a conservatorship.''.

(c) RIGHTS AGAINST RECEIVER AND TREATMENT OF BRIDGE BANKS.—Section 11(e)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (D); and

(2) by inserting after subparagraph (A) the following new subparagraphs:

''(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

''(i) RECEIVERSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a receiver for the depository institution (or the insolvency or financial condition of the depository institution for which the receiver has been appointed)—

''(I) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver; or

''(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

''(ii) CONSERVATORSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(E) of this subsection or sections 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the depository institution (or the insolvency or financial condition of the depository institution for which the conservator has been appointed).

''(iii) NOTICE.—For purposes of this paragraph, the Corporation as receiver or conservator of an insured depository institution shall be deemed to have notified a person who is a party to a qualified financial contract with such depository institution if the Corporation has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A).

''(C) TREATMENT OF BRIDGE BANKS.—The following institutions shall not be considered to be a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding for purposes of paragraph (9):

''(i) A bridge bank.

''(ii) A depository institution organized by the Corporation, for which a conservator is appointed either—

''(I) immediately upon the organization of the institution; or

''(II) at the time of a purchase and assumption transaction between the depository institution and the Corporation as receiver for a depository institution in default.''.

SEC. 904. AMENDMENTS RELATING TO DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.

Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)) is amended—

(1) by redesignating paragraphs (11) through (15) as paragraphs (12) through (16), respectively;

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

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

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

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

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

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

(3) by including at the end of section 11(e) the following new paragraph:

''(17) SAVINGS CLAUSE.—The meaning of terms used in this subsection (e) are applicable for purposes of this subsection (e) only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities law (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.''.

SEC. 905. CLARIFYING AMENDMENT RELATING TO MASTER AGREEMENTS.

Section 11(e)(8)(D)(vii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vii)) is amended to read as follows:

''(vii) TREATMENT OF MASTER AGREEMENT AS ONE AGREEMENT.—Any master agreement for any contract or agreement described in any preceding clause of this subparagraph (or any master agreement for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contract. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.''.

SEC. 906. FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) DEFINITIONS.—Section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4402) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)(ii), by inserting before the semicolon '', or is exempt from such registration by order of the Securities and Exchange Commission''; and

(B) in subparagraph (B), by inserting before the period '', that has been granted an exemption under section 4(c)(1) of the Commodity Exchange Act, or that is a multilateral clearing organization (as defined in section 408 of this Act)'';

(2) in paragraph (6)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively;

(B) by inserting after subparagraph (A) the following new subparagraph:

''(B) an uninsured national bank or an uninsured State bank that is a member of the Federal Reserve System, if the national bank or State member bank is not eligible to make application to become an insured bank under section 5 of the Federal Deposit Insurance Act;''; and

(C) by amending subparagraph (C) (as redesignated) to read as follows:

''(C) a branch or agency of a foreign bank, a foreign bank and any branch or agency of the foreign bank, or the foreign bank that established the branch or agency, as those terms are defined in section 1(b) of the International Banking Act of 1978;'';

(3) in paragraph (11), by inserting before the period ''and any other clearing organization with which such clearing organization has a netting contract'';

(4) by amending paragraph (14)(A)(i) to read as follows:

''(i) means a contract or agreement between 2 or more financial institutions, clearing organizations, or members that provides for netting present or future payment obligations or payment entitlements (including liquidation or closeout values relating to such obligations or entitlements) among the parties to the agreement; and''; and

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

''(15) PAYMENT.—The term 'payment' means a payment of United States dollars, another currency, or a composite currency, and a noncash delivery, including a payment or delivery to liquidate an unmatured obligation.''.

(b) ENFORCEABILITY OF BILATERAL NETTING CONTRACTS.—Section 403 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4403) is amended—

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

''(a) GENERAL RULE.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act or any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970), the covered contractual payment obligations and the covered contractual payment entitlements between any 2 financial institutions shall be netted in accordance with, and subject to the conditions of, the terms of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code).''; and

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

''(f) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement or arrangement or other credit enhancement related to one or more netting contracts between any 2 financial institutions shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code), and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and section 5(b)(2) of the Securities Investor Protection Act of 1970).''.

(c) ENFORCEABILITY OF CLEARING ORGANIZATION NETTING CONTRACTS.—Section 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4404) is amended—

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

''(a) GENERAL RULE.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970), the covered contractual payment obligations and the covered contractual payment entitlements of a

member of a clearing organization to and from all other members of a clearing organization shall be netted in accordance with and subject to the conditions of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code).''; and

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

''(h) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement or arrangement or other credit enhancement related to one or more netting contracts between any 2 members of a clearing organization shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code), and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and section 5(b)(2) of the Securities Investor Protection Act of 1970).''.

(d) ENFORCEABILITY OF CONTRACTS WITH UNINSURED NATIONAL BANKS, UNINSURED FEDERAL BRANCHES AND AGENCIES, CERTAIN UNINSURED STATE MEMBER BANKS, AND EDGE ACT CORPORATIONS.—The Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4401 et seq.) is amended—

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

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

''SEC. 407. TREATMENT OF CONTRACTS WITH UNINSURED NATIONAL BANKS, UNINSURED FEDERAL BRANCHES AND AGENCIES, CERTAIN UNINSURED STATE MEMBER BANKS, AND EDGE ACT CORPORATIONS.

''(a) IN GENERAL.—Notwithstanding any other provision of law, paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act shall apply to an uninsured national bank or uninsured Federal branch or Federal agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, except that for such purpose—

''(1) any reference to the 'Corporation as receiver' or 'the receiver or the Corporation' shall refer to the receiver appointed by the Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver appointed by the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank;

''(2) any reference to the 'Corporation' (other than in section 11(e)(8)(D) of such Act), the 'Corporation, whether acting as such or as conservator or receiver', a 'receiver', or a 'conservator' shall refer to the receiver or conservator appointed by the Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver or conservator appointed by the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank; and

''(3) any reference to an 'insured depository institution' or 'depository institution' shall refer to an uninsured national bank, an uninsured Federal branch or Federal agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act.

''(b) LIABILITY.—The liability of a receiver or conservator of an uninsured national bank, uninsured Federal branch or agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, shall be determined in the same manner and subject to the same limitations that apply to receivers and conservators of insured depository institutions under section 11(e) of the Federal Deposit Insurance Act.

''(c) REGULATORY AUTHORITY.—

''(1) IN GENERAL.—The Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency and the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank that operates, or operates as, a multilateral clearing organization pursuant to section 409 of the Act, in consultation with the Federal Deposit Insurance Corporation, may each promulgate regulations solely to implement this section.

''(2) SPECIFIC REQUIREMENT.—In promulgating regulations, limited solely to implementing paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act, the Comptroller of the Currency and the Board of Governors of the Federal Reserve System each shall ensure that their regulations generally are consistent with the regulations and policies of the Federal Deposit Insurance Corporation adopted pursuant to the Federal Deposit Insurance Act.

''(d) DEFINITIONS.—For purposes of this section, the terms 'Federal branch', 'Federal agency', and 'foreign bank' have the same meanings as in section 1(b) of the International Banking Act of 1978.''.

SEC. 907. BANKRUPTCY CODE AMENDMENTS.

(a) DEFINITIONS OF FORWARD CONTRACT, REPURCHASE AGREEMENT, SECURITIES CLEARING AGENCY, SWAP AGREEMENT, COMMODITY CONTRACT, AND SECURITIES CONTRACT.—Title 11, United States Code, is amended—

(1) in section 101—

(A) in paragraph (25)—

(i) by striking ''means a contract'' and inserting ''means—

''(A) a contract'';

(ii) by striking '', or any combination thereof or option thereon;'' and inserting '', or any other similar agreement;''; and

(iii) by adding at the end the following:

''(B) any combination of agreements or transactions referred to in subparagraphs (A) and (C);

''(C) any option to enter into an agreement or transaction referred to in subparagraph (A) or (B);

''(D) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), or (C), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a forward contract under this paragraph, except that such master agreement shall be considered to be a forward contract under this paragraph only with respect to each agreement or transaction under such master agreement that is referred to in subparagraph (A), (B), or (C); or

''(E) any security agreement or arrangement, or other credit enhancement related to any agreement or transaction referred to in subparagraph (A), (B), (C), or (D) including any guarantee or reimbursement obligation by or to a forward contract merchant or financial participant in connection with any agreement or transaction referred to in any such subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562;'';

(B) in paragraph (46), by striking ''on any day during the period beginning 90 days before the date of'' and inserting ''at any time before'';

(C) by amending paragraph (47) to read as follows:

''(47) 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

''(A) means—

''(i) an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage related securities (as defined in section 3 of the Securities Exchange Act of 1934), mortgage loans, interests in mortgage related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities (defined as a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development), or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests, with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptance, securities, mortgage loans, or interests of the kind described in this clause, at a date certain not later than 1 year after such transfer or on demand, against the transfer of funds;

''(ii) any combination of agreements or transactions referred to in clauses (i) and (iii);

''(iii) an option to enter into an agreement or transaction referred to in clause (i) or (ii);

''(iv) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), or (iii), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a repurchase agreement under this paragraph, except that such master agreement shall be considered to be a repurchase agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), or (iii); or

''(v) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in clause (i), (ii), (iii), or (iv) including any guarantee or reimbursement obligation by or to a repo participant or financial participant in connection with any agreement or transaction referred to in any such clause, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562; and

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

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

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

''(53B) 'swap agreement'—

''(A) means—

''(i) any agreement, including the terms and conditions incorporated by reference in such agreement, which is—

''(I) an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap;

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

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

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

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

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

''(VII) a commodity index or a commodity swap, option, future, or forward agreement; or

''(VIII) a weather swap, weather derivative, or weather option;

''(ii) any agreement or transaction that is similar to any other agreement or transaction referred to in this paragraph and that—

''(I) is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference therein); and

''(II) is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities, or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

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

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

''(v) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), or (iv), together with all supplements to any such master agreement, and without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this paragraph, except that the master agreement shall be considered to be a swap agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), (iii), or (iv); or

''(vi) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in clause (i) through (v) including any guarantee or reimbursement obligation by or to a swap participant or financial participant in connection with any agreement or transaction referred to in any such clause, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562; and

''(B) is applicable for purposes of this title only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000.'';

(2) in section 741(7), by striking paragraph (7) and inserting the following:

''(7) 'securities contract'—

''(A) means—

''(i) a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including an interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

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

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

''(iv) any margin loan;

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

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

''(vii) any option to enter into any agreement or transaction referred to in this subparagraph;

''(viii) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this subparagraph, except that such master agreement shall be considered to be a securities contract under this subparagraph only with respect to each agreement or transaction under such master agreement that is referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii); or

''(ix) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this subparagraph including any guarantee or reimbursement obligation by or to a stockbroker, securities clearing agency, financial institution, or financial participant in connection with any agreement or transaction referred to in this subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562; and

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

(3) in section 761(4)—

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

(B) by adding at the end the following:

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

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

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

''(I) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H), together with all supplements to such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this paragraph, except that the master agreement shall be considered to be a commodity contract under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H); or

''(J) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this paragraph including any guarantee or reimbursement obligation by or to a commodity broker or financial participant in connection with any agreement or transaction referred to in this paragraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562;''.

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

(1) by striking paragraph (22) and inserting the following:

''(22) 'financial institution' means—

''(A) a Federal reserve bank, or an entity (domestic or foreign) that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, or receiver or conservator for such entity and, when any such Federal reserve bank, receiver, conservator or entity is acting as agent or custodian for a customer in connection with a securities contract, as defined in section 741, such customer; or

''(B) in connection with a securities contract, as defined in section 741, an investment company registered under the Investment Company Act of 1940;'';

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

''(22A) 'financial participant' means—

''(A) an entity that, at the time it enters into a securities contract, commodity contract, swap agreement, repurchase agreement, or forward contract, or at the time of the filing of the petition, has one or more agreements or transactions described in paragraph (1), (2), (3), (4), (5), or (6) of section 561(a) with the debtor or any other entity (other than an affiliate) of a total gross dollar value of not less than $1,000,000,000 in notional or actual principal amount outstanding on any day during the previous 15-month period, or has gross mark-to-market positions of not less than $100,000,000 (aggregated across counterparties) in one or more such agreements or transactions with the debtor or any other entity (other than an affiliate) on any day during the previous 15-month period; or

''(B) a clearing organization (as that term is defined in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991);''; and

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

''(26) 'forward contract merchant' means a Federal reserve bank, or an entity the business of which consists in whole or in part of entering into forward contracts as or with merchants in a commodity, as defined in section 761 or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade;''.

(c) DEFINITION OF MASTER NETTING AGREEMENT AND MASTER NETTING AGREEMENT PARTICIPANT.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (38) the following new paragraphs:

''(38A) 'master netting agreement'—

''(A) means an agreement providing for the exercise of rights, including rights of netting, setoff, liquidation, termination, acceleration, or closeout, under or in connection with one or more contracts that are described in any one or more of paragraphs (1) through (5) of section 561(a), or any security agreement or arrangement or other credit enhancement related to one or more of the foregoing, including any guarantee or reimbursement obligation related to 1 or more of the foregoing; and

''(B) if the agreement contains provisions relating to agreements or transactions that are not contracts described in paragraphs (1)

through (5) of section 561(a), shall be deemed to be a master netting agreement only with respect to those agreements or transactions that are described in any one or more of paragraphs (1) through (5) of section 561(a);

''(38B) 'master netting agreement participant' means an entity that, at any time before the filing of the petition, is a party to an outstanding master netting agreement with the debtor;''.

(d) SWAP AGREEMENTS, SECURITIES CONTRACTS, COMMODITY CONTRACTS, FORWARD CONTRACTS, REPURCHASE AGREEMENTS, AND MASTER NETTING AGREEMENTS UNDER THE AUTOMATIC-STAY.—

(1) IN GENERAL.—Section 362(b) of title 11, United States Code, as amended by this Act, is amended—

(A) in paragraph (6), by inserting '', pledged to and under the control of,'' after ''held by'';

(B) in paragraph (7), by inserting '', pledged to and under the control of,'' after ''held by'';

(C) by striking paragraph (17) and inserting the following:

''(17) under subsection (a), of the setoff by a swap participant or financial participant of a mutual debt and claim under or in connection with one or more swap agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with any swap agreement against any payment due to the debtor from the swap participant or financial participant under or in connection with any swap agreement or against cash, securities, or other property held by, pledged to and under the control of, or due from such swap participant or financial participant to margin, guarantee, secure, or settle any swap agreement;''; and

(D) by inserting after paragraph (26), as added by this Act, the following new paragraph:

''(27) under subsection (a), of the setoff by a master netting agreement participant of a mutual debt and claim under or in connection with one or more master netting agreements or any contract or agreement subject to such agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with such agreements or any contract or agreement subject to such agreements against any payment due to the debtor from such master netting agreement participant under or in connection with such agreements or any contract or agreement subject to such agreements or against cash, securities, or other property held by, pledged to and under the control of, or due from such master netting agreement participant to margin, guarantee, secure, or settle such agreements or any contract or agreement subject to such agreements, to the extent that such participant is eligible to exercise such offset rights under paragraph (6), (7), or (17) for each individual contract covered by the master netting agreement in issue; or''.

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

''(m) LIMITATION.—The exercise of rights not subject to the stay arising under subsection (a) pursuant to paragraph (6), (7), (17), or (27) of subsection (b) shall not be stayed by any order of a court or administrative agency in any proceeding under this title.''.

(e) LIMITATION OF AVOIDANCE POWERS UNDER MASTER NETTING AGREEMENT.—Section 546 of title 11, United States Code, as amended by this Act, is amended—

(1) in subsection (g) (as added by section 103 of Public Law 101–311)—

(A) by striking ''under a swap agreement'';

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

(C) by inserting ''or financial participant'' after ''swap participant'' each place that term appears; and

(2) by adding at the end the following:

''(k) Notwithstanding sections 544, 545, 547, 548(a)(1)(B), and 548(b) the trustee may not avoid a transfer made by or to a master netting agreement participant under or in connection with any master netting agreement or any individual contract covered thereby that is made before the commencement of the case, except under section 548(a)(1)(A) and except to the extent that the trustee could otherwise avoid such a transfer made under an individual contract covered by such master netting agreement.''.

(f) FRAUDULENT TRANSFERS OF MASTER NETTING AGREEMENTS.—Section 548(d)(2) of title 11, United States Code, is amended—

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

(2) in subparagraph (D), by striking the period and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(E) a master netting agreement participant that receives a transfer in connection with a master netting agreement or any individual contract covered thereby takes for value to the extent of such transfer, except that, with respect to a transfer under any individual contract covered thereby, to the extent that such master netting agreement participant otherwise did not take (or is otherwise not deemed to have taken) such transfer for value.''.

(g) TERMINATION OR ACCELERATION OF SECURITIES CONTRACTS.—Section 555 of title 11, United States Code, is amended—

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

''§ 555. Contractual right to liquidate, terminate, or accelerate a securities contract'';

and

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

(h) TERMINATION OR ACCELERATION OF COMMODITIES OR FORWARD CONTRACTS.—Section 556 of title 11, United States Code, is amended—

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

''§ 556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract'';

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

(3) in the second sentence, by striking ''As used'' and all that follows through ''right,'' and inserting ''As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,''.

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

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

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

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

(3) in the third sentence, by striking ''As used'' and all that follows through ''right,'' and inserting ''As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,''.

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

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

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

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

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

(4) in the second sentence, by striking ''As used'' and all that follows through ''right,'' and inserting ''As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,''.

(k) LIQUIDATION, TERMINATION, ACCELERATION, OR OFFSET UNDER A MASTER NETTING AGREEMENT AND ACROSS CONTRACTS.—

(1) IN GENERAL.—Title 11, United States Code, is amended by inserting after section 560 the following:

''§ 561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15

''(a) IN GENERAL.—Subject to subsection (b), the exercise of any contractual right, because of a condition of the kind specified in section 365(e)(1), to cause the termination, liquidation, or acceleration of or to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more (or the termination, liquidation, or acceleration of one or more)—

''(1) securities contracts, as defined in section 741(7);

''(2) commodity contracts, as defined in section 761(4);

''(3) forward contracts;

''(4) repurchase agreements;

''(5) swap agreements; or

''(6) master netting agreements,

shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by any order of a court or administrative agency in any proceeding under this title.

''(b) EXCEPTION.—

''(1) IN GENERAL.—A party may exercise a contractual right described in subsection (a) to terminate, liquidate, or accelerate only to the extent that such party could exercise such a right under section 555, 556, 559, or 560 for each individual contract covered by the master netting agreement in issue.

''(2) COMMODITY BROKERS.—If a debtor is a commodity broker subject to subchapter IV of chapter 7—

''(A) a party may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a) except to the extent that the party has positive net equity in the commodity accounts at the debtor, as calculated under that subchapter IV; and

''(B) another commodity broker may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract entered into or held on behalf of a customer of the debtor and traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a).

''(3) CONSTRUCTION.—No provision of subparagraph (A) or (B) of paragraph (2) shall prohibit the offset of claims and obligations that arise under—

''(A) a cross-margining agreement or similar arrangement that has been approved by the Commodity Futures Trading Commission or submitted to the Commodity Futures Trading Commission under paragraph (1) or (2) of section 5c(c) of the Commodity Exchange Act and has not been abrogated or rendered ineffective by the Commodity Futures Trading Commission; or

''(B) any other netting agreement between a clearing organization, as defined in section 761, and another entity that has been approved by the Commodity Futures Trading Commission.

''(c) DEFINITION.—As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof, and a right, whether or not evidenced in writing, arising under common law, under law merchant, or by reason of normal business practice.

''(d) CASES ANCILLARY TO FOREIGN PROCEEDINGS.—Any provisions of this title relating to securities contracts, commodity contracts, forward contracts, repurchase agreements, swap agreements, or master netting agreements shall apply in a case under chapter 15 of this title, so that enforcement of contractual provisions of such contracts and agreements in accordance with their terms will not be stayed or otherwise limited by operation of any provision of this title or by order of a court in any case under this title, and to limit avoidance powers to the same extent as in a proceeding under chapter 7 or 11 of this title (such enforcement not to be limited based on the presence or absence of assets of the debtor in the United States).''.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 560 the following:

''561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15.''.

(l) COMMODITY BROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 766 the following:

''§ 767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants

''Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, financial participant, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.''.

(m) STOCKBROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 752 the following:

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

''Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, securities clearing agency, swap participant, repo participant, financial participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.''.

(n) SETOFF.—Section 553 of title 11, United States Code, is amended—

(1) in subsection (a)(2)(B)(ii), by inserting before the semicolon the following: ''(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561)'';

(2) in subsection (a)(3)(C), by inserting before the period the following: ''(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561 of this title)''; and

(3) in subsection (b)(1), by striking ''362(b)(14),'' and inserting ''362(b)(17), 362(b)(27), 555, 556, 559, 560, 561''.

(o) SECURITIES CONTRACTS, COMMODITY CONTRACTS, AND FORWARD CONTRACTS.—Title 11, United States Code, is amended—

(1) in section 362(b)(6), by striking ''financial institutions,'' each place such term appears and inserting ''financial institution, financial participant,'';

(2) in sections 362(b)(7) and 546(f), by inserting ''or financial participant'' after ''repo participant'' each place that term appears;

(3) in section 546(e), by inserting ''financial participant,'' after ''financial institution,'';

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

(5) in section 548(d)(2)(C), by inserting ''or financial participant'' after ''repo participant'';

(6) in section 548(d)(2)(D), by inserting ''or financial participant'' after ''swap participant'';

(7) in section 555—

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

(B) by striking the second sentence and inserting the following: ''As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act), or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice'';

(8) in section 556, by inserting '', financial participant,'' after ''commodity broker'';

(9) in section 559, by inserting ''or financial participant'' after ''repo participant'' each place that term appears; and

(10) in section 560, by inserting ''or financial participant'' after ''swap participant''.

(p) CONFORMING AMENDMENTS.—Title 11, United States Code, is amended—

(1) in the table of sections for chapter 5—

(A) by amending the items relating to sections 555 and 556 to read as follows:

''555. Contractual right to liquidate, terminate, or accelerate a securities contract.

''556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract.'';

and

(B) by amending the items relating to sections 559 and 560 to read as follows:

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

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

and

(2) in the table of sections for chapter 7—

(A) by inserting after the item relating to section 766 the following:

''767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.'';

and

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

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

SEC. 907A. SECURITIES BROKER/COMMODITY BROKER LIQUIDATION.

The Securities and Exchange Commission and the Commodity Futures Trading Commission may consult with each other with respect to whether, under what circumstances, and the extent to which security futures products will be treated as commodity contracts or securities in a liquidation of a person that is both a securities broker and a commodity broker, and with respect to the treatment in such a liquidation of accounts in which both commodity contracts and securities are carried.

SEC. 908. RECORDKEEPING REQUIREMENTS.

Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended by adding at the end the following new subparagraph:

''(H) RECORDKEEPING REQUIREMENTS.—The Corporation, in consultation with the appropriate Federal banking agencies, may by regulation require more detailed recordkeeping by any insured depository institution with respect to qualified financial contracts (including market valuations) only if such insured depository institution is in a troubled condition (as such term is defined by the Corporation pursuant to 12 U.S.C. 1831i).'';

SEC. 909. EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.

Section 13(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)(2)) is amended to read as follows:

''(2) EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.—An agreement to provide for the lawful collateralization of—

''(A) deposits of, or other credit extension by, a Federal, State, or local governmental entity, or of any depositor referred to in section 11(a)(2), including an agreement to provide collateral in lieu of a surety bond;

''(B) bankruptcy estate funds pursuant to section 345(b)(2) of title 11, United States Code;

''(C) extensions of credit, including any overdraft, from a Federal reserve bank or Federal home loan bank; or

''(D) one or more qualified financial contracts, as defined in section 11(e)(8)(D),

shall not be deemed invalid pursuant to paragraph (1)(B) solely because such agreement was not executed contemporaneously with the acquisition of the collateral or because of pledges, delivery, or substitution of the collateral made in accordance with such agreement.''.

SEC. 910. DAMAGE MEASURE.

(a) IN GENERAL.—Title 11, United States Code, is amended—

(1) by inserting after section 561, as added by this Act, the following:

''§ 562. Damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements

''If the trustee rejects a swap agreement, securities contract (as defined in section 741), forward contract, commodity contract (as defined in section 761), repurchase agreement, or master netting agreement pursuant to section 365(a), or if a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant liquidates, terminates, or accelerates such contract or agreement, damages shall be measured as of the earlier of—

''(1) the date of such rejection; or

''(2) the date of such liquidation, termination, or acceleration.''; and

(2) in the table of sections for chapter 5, by inserting after the item relating to section 561 (as added by this Act) the following:

''562. Damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements.''.

(b) CLAIMS ARISING FROM REJECTION.—Section 502(g) of title 11, United States Code, is amended—

(1) by inserting ''(1)'' after ''(g)''; and

(2) by adding at the end the following:

''(2) A claim for damages calculated in accordance with section 562 of this title shall be allowed under subsection (a), (b), or (c), or disallowed under subsection (d) or (e), as if such claim had arisen before the date of the filing of the petition.''.

SEC. 911. SIPC STAY.

Section 5(b)(2) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78eee(b)(2)) is amended by adding at the end the following new subparagraph:

''(C) EXCEPTION FROM STAY.—

''(i) Notwithstanding section 362 of title 11, United States Code, neither the filing of an application under subsection (a)(3) nor any order or decree obtained by SIPC from the court shall operate as a stay of any contractual rights of a creditor to liquidate, terminate, or accelerate a securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, or master netting agreement, as those terms are defined in sections 101, 741, and 761 of title 11, United States Code, to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more of such contracts or agreements, or to foreclose on any cash collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements.

''(ii) Notwithstanding clause (i), such application, order, or decree may operate as a stay of the foreclosure on, or disposition of, securities collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements, securities sold by the debtor under a repurchase agreement, or securities lent under a securities lending agreement.

''(iii) As used in this subparagraph, the term 'contractual right' includes a right set forth in a rule or bylaw of a national securities exchange, a national securities association, or a securities clearing agency, a right set forth in a bylaw of a clearing organization or contract market or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice.''.

SEC. 912. ASSET-BACKED SECURITIZATIONS.

Section 541 of title 11, United States Code, is amended—

(1) in subsection (b), by inserting after paragraph (7), as added by this Act, the following:

''(8) any eligible asset (or proceeds thereof), to the extent that such eligible asset was transferred by the debtor, before the date of commencement of the case, to an eligible entity in connection with an asset-backed securitization, except to the extent such asset (or proceeds or value thereof) may be recovered by the trustee under section 550 by virtue of avoidance under section 548(a);''; and

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

''(f) For purposes of this section—

''(1) the term 'asset-backed securitization' means a transaction in which eligible assets transferred to an eligible entity are used as the source of payment on securities, including, without limitation, all securities issued by governmental units, at least one class or tranche of which was rated investment grade by one or more nationally recognized securities rating organizations, when the securities were initially issued by an issuer;

''(2) the term 'eligible asset' means—

''(A) financial assets (including interests therein and proceeds thereof), either fixed or revolving, whether or not the same are in existence as of the date of the transfer, including residential and commercial mortgage loans, consumer receivables, trade receivables, assets of governmental units, including payment obligations relating to taxes, receipts, fines, tickets, and other sources of revenue, and lease receivables, that, by their terms, convert into cash within a finite time period, plus any residual interest in property subject to receivables included in such financial assets plus any rights or other assets designed to assure the servicing or timely distribution of proceeds to security holders;

''(B) cash; and

''(C) securities, including without limitation, all securities issued by governmental units;

''(3) the term 'eligible entity' means—

''(A) an issuer; or

''(B) a trust, corporation, partnership, governmental unit, limited liability company (including a single member limited liability company), or other entity engaged exclusively in the business of acquiring and transferring eligible assets directly or indirectly to an issuer and taking actions ancillary thereto;

''(4) the term 'issuer' means a trust, corporation, partnership, governmental unit, limited liability company (including a single member limited liability company), or other entity engaged exclusively in the business of acquiring and holding eligible assets, issuing securities backed by eligible assets, and taking actions ancillary thereto; and

''(5) the term 'transferred' means the debtor, under a written agreement, represented and warranted that eligible assets were sold, contributed, or otherwise conveyed with the intention of removing them from the estate of the debtor pursuant to subsection (b)(8) (whether or not reference is made to this title or any section hereof), irrespective and without limitation of—

''(A) whether the debtor directly or indirectly obtained or held an interest in the issuer or in any securities issued by the issuer;

''(B) whether the debtor had an obligation to repurchase or to service or supervise the servicing of all or any portion of such eligible assets; or

''(C) the characterization of such sale, contribution, or other conveyance for tax, accounting, regulatory reporting, or other purposes.''.

SEC. 913. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—This title shall take effect on the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this title shall apply with respect to cases commenced or appointments made under any Federal or State law on or after the date of enactment of this Act, but shall not apply with respect to cases commenced or appointments made under any Federal or State law before the date of enactment of this Act.

SEC. 914. SAVINGS CLAUSE.

The meaning of terms used in this title are applicable for purposes of this title only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of

2000, the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.

TITLE X—PROTECTION OF FAMILY FARMERS AND FAMILY FISHERMEN

SEC. 1001. PERMANENT REENACTMENT OF CHAPTER 12.

(a) REENACTMENT.—

(1) IN GENERAL.—Chapter 12 of title 11, United States Code, as reenacted by section 149 of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277, 112 Stat. 2681-610), and amended by this Act, is reenacted.

(2) EFFECTIVE DATE.—Subsection (a) shall be deemed to have taken effect on July 1, 2000.

(b) CONFORMING AMENDMENT.—Section 302 of the Bankruptcy, Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended by striking subsection (f).

SEC. 1002. DEBT LIMIT INCREASE.

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

''(4) The dollar amount in section 101(18) shall be adjusted at the same times and in the same manner as the dollar amounts in paragraph (1) of this subsection.''.

(b) EFFECTIVE DATE.—The first adjustment required by section 104(b)(4) of title 11, United States Code, as added by subsection (a) of this section, shall occur on the later of—

(1) April 1, 2001; or

(2) 60 days after the date of enactment of this Act.

SEC. 1003. CERTAIN CLAIMS OWED TO GOVERNMENTAL UNITS.

(a) CONTENTS OF PLAN.—Section 1222(a)(2) of title 11, United States Code, is amended to read as follows:

''(2) provide for the full payment, in deferred cash payments, of all claims entitled to priority under section 507, unless—

''(A) the claim is a claim owed to a governmental unit that arises as a result of the sale, transfer, exchange, or other disposition of any farm asset used in the debtor's farming operation, in which case the claim shall be treated as an unsecured claim that is not entitled to priority under section 507, but the debt shall be treated in such manner only if the debtor receives a discharge; or

''(B) the holder of a particular claim agrees to a different treatment of that claim;''.

(b) SPECIAL NOTICE PROVISIONS.—Section 1231(b) of title 11, United States Code, as so designated by this Act, is amended by striking ''a State or local governmental unit'' and inserting ''any governmental unit''.

SEC. 1004. DEFINITION OF FAMILY FARMER.

Section 101(18) of title 11, United States Code, is amended—

(1) in subparagraph (A)—

(A) by striking ''$1,500,000'' and inserting ''$3,000,000''; and

(B) by striking ''80'' and inserting ''50''; and

(2) in subparagraph (B)(ii)—

(A) by striking ''$1,500,000'' and inserting ''$3,000,000''; and

(B) by striking ''80'' and inserting ''50''.

SEC. 1005. ELIMINATION OF REQUIREMENT THAT FAMILY FARMER AND SPOUSE RECEIVE OVER 50 PERCENT OF INCOME FROM FARMING OPERATION IN YEAR PRIOR TO BANKRUPTCY.

Section 101(18)(A) of title 11, United States Code, is amended by striking ''the taxable year preceding the taxable year'' and inserting ''at least 1 of the 3 calendar years preceding the year''.

SEC. 1006. PROHIBITION OF RETROACTIVE ASSESSMENT OF DISPOSABLE INCOME.

(a) IN GENERAL.—Section 1225(b) of title 11, United States Code, is amended by adding at the end the following:

''(3) If the plan provides for specific amounts of property to be distributed on account of allowed unsecured claims as required by paragraph (1)(B), those amounts equal or exceed the debtor's projected disposable income for that period, and the plan meets the requirements for confirmation other than those of this subsection, the plan shall be confirmed.''.

(b) MODIFICATION.—Section 1229 of title 11, United States Code, is amended by adding at the end the following:

''(d)(1) A modification of the plan under this section may not increase the amount of payments that were due prior to the date of the order modifying the plan.

''(2) A modification of the plan under this section to increase payments based on an increase in the debtor's disposable income may not require payments to unsecured creditors in any particular month greater than the debtor's disposable income for that month, unless the debtor proposes such a modification.

''(3) A modification of the plan in the last year of the plan shall not require payments that would leave the debtor with insufficient funds to carry on the farming operation after the plan is completed, unless the debtor proposes such a modification.''.

SEC. 1007. FAMILY FISHERMEN.

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

(1) by inserting after paragraph (7) the following:

''(7A) 'commercial fishing operation' includes—

''(A) the catching or harvesting of fish, shrimp, lobsters, urchins, seaweed, shellfish, or other aquatic species or products;

''(B) for purposes of section 109 and chapter 12, aquaculture activities consisting of raising for market any species or product described in subparagraph (A); and

''(C) the transporting by vessel of a passenger for hire (as defined in section 2101 of title 46) who is engaged in recreational fishing;

''(7B) 'commercial fishing vessel' means a vessel used by a fisherman to carry out a commercial fishing operation;'';

(2) by inserting after paragraph (19) the following:

''(19A) 'family fisherman' means—

''(A) an individual or individual and spouse engaged in a commercial fishing operation (including aquaculture for purposes of chapter 12)—

''(i) whose aggregate debts do not exceed $1,500,000 and not less than 80 percent of whose aggregate noncontingent, liquidated debts (excluding a debt for the principal residence of such individual or such individual and spouse, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such individual or such individual and spouse; and

''(ii) who receive from such commercial fishing operation more than 50 percent of such individual's or such individual's and spouse's gross income for the taxable year preceding the taxable year in which the case concerning such individual or such individual and spouse was filed; or

''(B) a corporation or partnership—

''(i) in which more than 50 percent of the outstanding stock or equity is held by—

''(I) 1 family that conducts the commercial fishing operation; or

''(II) 1 family and the relatives of the members of such family, and such family or such relatives conduct the commercial fishing operation; and

''(ii)(I) more than 80 percent of the value of its assets consists of assets related to the commercial fishing operation;

''(II) its aggregate debts do not exceed $1,500,000 and not less than 80 percent of its aggregate noncontingent, liquidated debts (excluding a debt for 1 dwelling which is owned by such corporation or partnership and which a shareholder or partner maintains as a principal residence, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such corporation or such partnership; and

''(III) if such corporation issues stock, such stock is not publicly traded;''; and

(3) by inserting after paragraph (19A) the following:

''(19B) 'family fisherman with regular annual income' means a family fisherman whose annual income is sufficiently stable and regular to enable such family fisherman to make payments under a plan under chapter 12 of this title;''.

(b) WHO MAY BE A DEBTOR.—Section 109(f) of title 11, United States Code, is amended by inserting ''or family fisherman'' after ''family farmer''.

(c) CHAPTER 12.—Chapter 12 of title 11, United States Code, is amended—

(1) in the chapter heading, by inserting ''**OR FISHERMAN**'' after ''**FAMILY FARMER**'';

(2) in section 1201, by adding at the end the following:

''(e)(1) Notwithstanding any other provision of law, for purposes of this subsection, a guarantor of a claim of a creditor under this section shall be treated in the same manner as a creditor with respect to the operation of a stay under this section.

''(2) For purposes of a claim that arises from the ownership or operation of a commercial fishing operation, a co-maker of a loan made by a creditor under this section shall be treated in the same manner as a creditor with respect to the operation of a stay under this section.'';

(3) in section 1203, by inserting ''or commercial fishing operation'' after ''farm'';

(4) in section 1206, by striking ''if the property is farmland or farm equipment'' and inserting ''if the property is farmland, farm equipment, or property of a commercial fishing operation (including a commercial fishing vessel)''; and

(5) by adding at the end the following:

''§ 1232. Additional provisions relating to family fishermen

''(a)(1) Notwithstanding any other provision of law, except as provided in subsection (c), with respect to any commercial fishing vessel of a family fisherman, the debts of that family fisherman shall be treated in the manner prescribed in paragraph (2).

''(2)(A) For purposes of this chapter, a claim for a lien described in subsection (b) for a commercial fishing vessel of a family fisherman that could, but for this subsection, be subject to a lien under otherwise applicable maritime law, shall be treated as an unsecured claim.

''(B) Subparagraph (A) applies to a claim for a lien resulting from a debt of a family fisherman incurred on or after the date of enactment of this chapter.

''(b) A lien described in this subsection is—

''(1) a maritime lien under subchapter III of chapter 313 of title 46 without regard to whether that lien is recorded under section 31343 of title 46; or

''(2) a lien under applicable State law (or the law of a political subdivision thereof).

''(c) Subsection (a) shall not apply to—

''(1) a claim made by a member of a crew or a seaman including a claim made for—

''(A) wages, maintenance, or cure; or

''(B) personal injury; or

''(2) a preferred ship mortgage that has been perfected under subchapter II of chapter 313 of title 46.

''(d) For purposes of this chapter, a mortgage described in subsection (c)(2) shall be treated as a secured claim.''.

(d) CLERICAL AMENDMENTS.—

(1) TABLE OF CHAPTERS.—In the table of chapters for title 11, United States Code, the item relating to chapter 12, is amended to read as follows:

''12. Adjustments of Debts of a Family Farmer or Family Fisherman with Regular Annual Income ..... 1201''.

(2) TABLE OF SECTIONS.—The table of sections for chapter 12 of title 11, United States Code, is amended by adding at the end the following new item:

''1232. Additional provisions relating to family fishermen.''.

(e) Applicability.—

Nothing in this section shall change, affect, or amend the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801, et seq.).

TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS

SEC. 1101. DEFINITIONS.

(a) HEALTH CARE BUSINESS DEFINED.—Section 101 of title 11, United States Code, is amended—

(1) by redesignating paragraph (27A), as added by this Act, as paragraph (27B); and

(2) by inserting after paragraph (27) the following:

''(27A) 'health care business'—

''(A) means any public or private entity (without regard to whether that entity is organized for profit or not for profit) that is primarily engaged in offering to the general public facilities and services for—

''(i) the diagnosis or treatment of injury, deformity, or disease; and

''(ii) surgical, drug treatment, psychiatric, or obstetric care; and

''(B) includes—

''(i) any—

''(I) general or specialized hospital;

''(II) ancillary ambulatory, emergency, or surgical treatment facility;

''(III) hospice;

''(IV) home health agency; and

''(V) other health care institution that is similar to an entity referred to in subclause (I), (II), (III), or (IV); and

''(ii) any long-term care facility, including any—

''(I) skilled nursing facility;

''(II) intermediate care facility;

''(III) assisted living facility;

''(IV) home for the aged;

''(V) domiciliary care facility; and

''(VI) health care institution that is related to a facility referred to in subclause (I), (II), (III), (IV), or (V), if that institution is primarily engaged in offering room, board, laundry, or personal assistance with activities of daily living and incidentals to activities of daily living;''.

(b) PATIENT AND PATIENT RECORDS DEFINED.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (40) the following:

''(40A) 'patient' means any person who obtains or receives services from a health care business;

''(40B) 'patient records' means any written document relating to a patient or a record recorded in a magnetic, optical, or other form of electronic medium;''.

(c) RULE OF CONSTRUCTION.—The amendments made by subsection (a) of this section shall not affect the interpretation of section 109(b) of title 11, United States Code.

SEC. 1102. DISPOSAL OF PATIENT RECORDS.

(a) IN GENERAL.—Subchapter III of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

''§ 351. Disposal of patient records

''If a health care business commences a case under chapter 7, 9, or 11, and the trustee does not have a sufficient amount of funds to pay for the storage of patient records in the manner required under applicable Federal or State law, the following requirements shall apply:

''(1) The trustee shall—

''(A) promptly publish notice, in 1 or more appropriate newspapers, that if patient records are not claimed by the patient or an insurance provider (if applicable law permits the insurance provider to make that claim) by the date that is 365 days after the date of that notification, the trustee will destroy the patient records; and

''(B) during the first 180 days of the 365-day period described in subparagraph (A), promptly attempt to notify directly each patient that is the subject of the patient records and appropriate insurance carrier concerning the patient records by mailing to the last known address of that patient, or a family member or contact person for that patient, and to the appropriate insurance carrier an appropriate notice regarding the claiming or disposing of patient records.

''(2) If, after providing the notification under paragraph (1), patient records are not claimed during the 365-day period described under that paragraph, the trustee shall mail, by certified mail, at the end of such 365-day period a written request to each appropriate Federal agency to request permission from that agency to deposit the patient records with that agency, except that no Federal agency is required to accept patient records under this paragraph.

''(3) If, following the 365-day period described in paragraph (2) and after providing the notification under paragraph (1), patient records are not claimed by a patient or insurance provider, or request is not granted by a Federal agency to deposit such records with that agency, the trustee shall destroy those records by—

''(A) if the records are written, shredding or burning the records; or

''(B) if the records are magnetic, optical, or other electronic records, by otherwise destroying those records so that those records cannot be retrieved.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 350 the following:

''351. Disposal of patient records.''.

SEC. 1103. ADMINISTRATIVE EXPENSE CLAIM FOR COSTS OF CLOSING A HEALTH CARE BUSINESS AND OTHER ADMINISTRATIVE EXPENSES.

Section 503(b) of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

''(8) the actual, necessary costs and expenses of closing a health care business incurred by a trustee or by a Federal agency (as that term is defined in section 551(1) of title 5) or a department or agency of a State or political subdivision thereof, including any cost or expense incurred—

''(A) in disposing of patient records in accordance with section 351; or

''(B) in connection with transferring patients from the health care business that is in the process of being closed to another health care business;

''(9) with respect to a nonresidential real property lease previously assumed under section 365, and subsequently rejected, a sum equal to all monetary obligations due, excluding those arising from or related to a failure to operate or penalty provisions, for the period of 2 years following the later of the rejection date or date of actual turnover of the premises, without reduction or setoff for any reason whatsoever except for sums actually received or to be received from a nondebtor, and the claim for remaining sums due for the balance of the term of the lease shall be a claim under section 502(b)(6); and''.

SEC. 1104. APPOINTMENT OF OMBUDSMAN TO ACT AS PATIENT ADVOCATE.

(a) IN GENERAL.—

(1) APPOINTMENT OF OMBUDSMAN.—Subchapter II of chapter 3 of title 11, United States Code, is amended by inserting after section 331 the following:

''§ 332. Appointment of ombudsman

''(a) IN GENERAL.—

''(1) AUTHORITY TO APPOINT.—Not later than 30 days after a case is commenced by a health care business under chapter 7, 9, or 11, the court shall order the appointment of an ombudsman to monitor the quality of patient care to represent the interests of the patients of the health care business, unless the court finds that the appointment of the ombudsman is not necessary for the protection of patients under the specific facts of the case.

''(2) QUALIFICATIONS.—If the court orders the appointment of an ombudsman, the United States trustee shall appoint 1 disinterested person, other than the United States trustee, to serve as an ombudsman. If the health care business is a long-term care facility, the trustee may appoint a person who is serving as a State Long-Term Care Ombudsman appointed under title III or VII of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq., 3058 et seq.).

In the event that the trustee does not appoint the State Long-Term Care Ombudsman to monitor the quality of patient care in a long-term care facility, the court shall notify the individual who serves as the State Long-Term Care Ombudsman of the name and address of the individual who is appointed.

''(b) DUTIES.—An ombudsman appointed under subsection (a) shall—

''(1) monitor the quality of patient care, to the extent necessary under the circumstances, including interviewing patients and physicians;

''(2) not later than 60 days after the date of appointment, and not less frequently than every 60 days thereafter, report to the court, at a hearing or in writing, regarding the quality of patient care at the health care business involved; and

''(3) if the ombudsman determines that the quality of patient care is declining significantly or is otherwise being materially compromised, notify the court by motion or written report, with notice to appropriate parties in interest, immediately upon making that determination.

''(c) CONFIDENTIALITY.—An ombudsman shall maintain any information obtained by the ombudsman under this section that relates to patients (including information relating to patient records) as confidential information. The ombudsman may not review confidential patient records, unless the court provides prior approval, with restrictions on the ombudsman to protect the confidentiality of patient records. If the individual appointed as ombudsman is a person who is also serving as a State Long-Term Care Ombudsman appointed under title III or title VII of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq., 3058 et seq.), that person shall have access to patient records, consistent with authority spelled out in the Older Americans Act and State laws governing the State Long-Term Care Ombudsman program.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 331 the following:

''332. Appointment of ombudsman.''.

(b) COMPENSATION OF OMBUDSMAN.—Section 330(a)(1) of title 11, United States Code, is amended—

(1) in the matter preceeding subparagraph (A), by inserting ''an ombudsman appointed under section 331, or'' before ''a professional person''; and

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

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

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

''(11) use all reasonable and best efforts to transfer patients from a health care business that is in the process of being closed to an appropriate health care business that—

''(A) is in the vicinity of the health care business that is closing;

''(B) provides the patient with services that are substantially similar to those provided by the health care business that is in the process of being closed; and

''(C) maintains a reasonable quality of care.''.

(b) CONFORMING AMENDMENT.—Section 1106(a)(1) of title 11, United States Code, is amended by striking ''sections 704(2), 704(5), 704(7), 704(8), and 704(9)'' and inserting ''paragraphs (2), (5), (7), (8), (9), and (11) of section 704(a)''.

SEC. 1106. EXCLUSION FROM PROGRAM PARTICIPATION NOT SUBJECT TO AUTOMATIC STAY.

Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (27), as added by this Act, the following:

''(28) under subsection (a), of the exclusion by the Secretary of Health and Human Services of the debtor from participation in the medicare program or any other Federal health care program (as defined in section 1128B(f) of the Social Security Act (42 U.S.C. 1320a–7b(f)) pursuant to title XI of such Act (42 U.S.C. 1301 et seq.) or title XVIII of such Act (42 U.S.C. 1395 et seq.).''.

TITLE XII—TECHNICAL AMENDMENTS

SEC. 1201. DEFINITIONS.

Section 101 of title 11, United States Code, as amended by this Act, is amended—

(1) by striking ''In this title—'' and inserting ''In this title, the following definitions shall apply:'';

(2) in each paragraph, by inserting ''The term'' after the paragraph designation;

(3) in paragraph (35)(B), by striking ''paragraphs (21B) and (33)(A)'' and inserting ''paragraphs (23) and (35)'';

(4) in each of paragraphs (35A) and (38), by striking ''; and'' at the end and inserting a period;

(5) in paragraph (51B)—

(A) by inserting ''who is not a family farmer'' after ''debtor'' the first place it appears; and

(B) by striking ''thereto having aggregate'' and all that follows through the end of the paragraph;

(6) by striking paragraph (54) and inserting the following:

''(54) The term 'transfer' means—

''(A) the creation of a lien;

''(B) the retention of title as a security interest;

''(C) the foreclosure of a debtor's equity of redemption; or

''(D) each mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with—

''(i) property; or

''(ii) an interest in property.''; and

(7) in each of paragraphs (1) through (35), in each of paragraphs (36) and (37), and in each of paragraphs (40) through (55), by striking the semicolon at the end and inserting a period.

SEC. 1202. ADJUSTMENT OF DOLLAR AMOUNTS.

Section 104 of title 11, United States Code, as amended by section 308 of this Act, is amended by inserting ''522(f)(3),'' after ''522(d),'' each place it appears.

SEC. 1203. EXTENSION OF TIME.

Section 108(c)(2) of title 11, United States Code, is amended by striking ''922'' and all that follows through ''or'', and inserting ''922, 1201, or''.

SEC. 1204. TECHNICAL AMENDMENTS.

Title 11, United States Code, is amended—

(1) in section 109(b)(2), by striking ''subsection (c) or (d) of''; and

(2) in section 552(b)(1), by striking ''product'' each place it appears and inserting ''products''.

SEC. 1205. PENALTY FOR PERSONS WHO NEGLIGENTLY OR FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.

Section 110(j)(4) of title 11, United States Code, as so designated by this Act, is amended by striking ''attorney's'' and inserting ''attorneys' ''.

SEC. 1206. LIMITATION ON COMPENSATION OF PROFESSIONAL PERSONS.

Section 328(a) of title 11, United States Code, is amended by inserting ''on a fixed or percentage fee basis,'' after ''hourly basis,''.

SEC. 1207. EFFECT OF CONVERSION.

Section 348(f)(2) of title 11, United States Code, is amended by inserting ''of the estate'' after ''property'' the first place it appears.

SEC. 1208. ALLOWANCE OF ADMINISTRATIVE EXPENSES.

Section 503(b)(4) of title 11, United States Code, is amended by inserting ''subparagraph (A), (B), (C), (D), or (E) of'' before ''paragraph (3)''.

SEC. 1209. EXCEPTIONS TO DISCHARGE.

Section 523 of title 11, United States Code, as amended by this Act, is amended—

(1) by transferring paragraph (15), as added by section 304(e) of Public Law 103–394 (108 Stat. 4133), so as to insert such paragraph after subsection (a)(14);

(2) in subsection (a)(9), by striking ''motor vehicle'' and inserting ''motor vehicle, vessel, or aircraft''; and

(3) in subsection (e), by striking ''a insured'' and inserting ''an insured''.

SEC. 1210. EFFECT OF DISCHARGE.

Section 524(a)(3) of title 11, United States Code, is amended by striking ''section 523'' and all that follows through ''or that'' and inserting ''section 523, 1228(a)(1), or 1328(a)(1), or that''.

SEC. 1211. PROTECTION AGAINST DISCRIMINATORY TREATMENT.

Section 525(c) of title 11, United States Code, is amended—

(1) in paragraph (1), by inserting ''student'' before ''grant'' the second place it appears; and

(2) in paragraph (2), by striking ''the program operated under part B, D, or E of'' and inserting ''any program operated under''.

SEC. 1212. PROPERTY OF THE ESTATE.

Section 541(b)(4)(B)(ii) of title 11, United States Code, is amended by inserting ''365 or'' before ''542''.

SEC. 1213. PREFERENCES.

(a) IN GENERAL.—Section 547 of title 11, United States Code, as amended by this Act, is amended—

(1) in subsection (b), by striking ''subsection (c)'' and inserting ''subsections (c) and (i)''; and

(2) by adding at the end the following:

''(i) If the trustee avoids under subsection (b) a transfer made between 90 days and 1 year before the date of the filing of the petition, by the debtor to an entity that is not an insider for the benefit of a creditor that is an insider, such transfer shall be considered to be avoided under this section only with respect to the creditor that is an insider.''.

(b) APPLICABILITY.—The amendments made by this section shall apply to any case that is pending or commenced on or after the date of enactment of this Act.

SEC. 1214. POSTPETITION TRANSACTIONS.

Section 549(c) of title 11, United States Code, is amended—

(1) by inserting ''an interest in'' after ''transfer of'' each place it appears;

(2) by striking ''such property'' and inserting ''such real property''; and

(3) by striking ''the interest'' and inserting ''such interest''.

SEC. 1215. DISPOSITION OF PROPERTY OF THE ESTATE.

Section 726(b) of title 11, United States Code, is amended by striking ''1009,''.

SEC. 1216. GENERAL PROVISIONS.

Section 901(a) of title 11, United States Code, as amended by this Act, is amended by inserting ''1123(d),'' after ''1123(b),''.

SEC. 1217. ABANDONMENT OF RAILROAD LINE.

Section 1170(e)(1) of title 11, United States Code, is amended by striking ''section 11347'' and inserting ''section 11326(a)''.

SEC. 1218. CONTENTS OF PLAN.

Section 1172(c)(1) of title 11, United States Code, is amended by striking ''section 11347'' and inserting ''section 11326(a)''.

SEC. 1219. BANKRUPTCY CASES AND PROCEEDINGS.

Section 1334(d) of title 28, United States Code, is amended—

(1) by striking ''made under this subsection'' and inserting ''made under subsection (c)''; and

(2) by striking ''This subsection'' and inserting ''Subsection (c) and this subsection''.

SEC. 1220. KNOWING DISREGARD OF BANKRUPTCY LAW OR RULE.

Section 156(a) of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by inserting ''(1) the term'' before '' 'bankruptcy''; and

(B) by striking the period at the end and inserting ''; and''; and

(2) in the second undesignated paragraph—

(A) by inserting ''(2) the term'' before '' 'document''; and

(B) by striking ''this title'' and inserting ''title 11''.

SEC. 1221. TRANSFERS MADE BY NONPROFIT CHARITABLE CORPORATIONS.

(a) SALE OF PROPERTY OF ESTATE.—Section 363(d) of title 11, United States Code, is amended by striking ''only'' and all that follows through the end of the subsection and inserting ''only—

''(1) in accordance with applicable nonbankruptcy law that governs the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust; and

''(2) to the extent not inconsistent with any relief granted under subsection (c), (d), (e), or (f) of section 362.''.

(b) CONFIRMATION OF PLAN FOR REORGANIZATION.—Section 1129(a) of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

''(16) All transfers of property of the plan shall be made in accordance with any applicable provisions of nonbankruptcy law that govern the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust.''.

(c) TRANSFER OF PROPERTY.—Section 541 of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

''(g) Notwithstanding any other provision of this title, property that is held by a debtor that is a corporation described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code may be transferred to an entity that is not such a corporation, but only under the same conditions as would apply if the debtor had not filed a case under this title.''.

(d) APPLICABILITY.—The amendments made by this section shall apply to a case pending under title 11, United States Code, on the date of enactment of this Act, or filed under that title on or after that date of enactment, except that the court shall not confirm a plan under chapter 11 of title 11, United States Code, without considering whether this section would substantially affect the rights of a party in interest who first acquired rights with respect to the debtor after the date of the petition. The parties who may appear and be heard in a proceeding under this section include the attorney general of the State in which the debtor is incorporated, was formed, or does business.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require the court in which a case under chapter 11 of title 11, United States Code, is pending to remand or refer any proceeding, issue, or controversy to any other court or to require the approval of any other court for the transfer of property.

SEC. 1222. PROTECTION OF VALID PURCHASE MONEY SECURITY INTERESTS.

Section 547(c)(3)(B) of title 11, United States Code, is amended by striking ''20'' and inserting ''30''.

SEC. 1223. BANKRUPTCY JUDGESHIPS.

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

(b) TEMPORARY JUDGESHIPS.—

(1) APPOINTMENTS.—The following judgeship positions shall be filled in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:

(A) One additional bankruptcy judgeship for the eastern district of California.

(B) Four additional bankruptcy judgeships for the central district of California.

(C) One additional bankruptcy judgeship for the district of Delaware.

(D) Two additional bankruptcy judgeships for the southern district of Florida.

(E) One additional bankruptcy judgeship for the southern district of Georgia.

(F) Three additional bankruptcy judgeships for the district of Maryland.

(G) One additional bankruptcy judgeship for the eastern district of Michigan.

(H) One additional bankruptcy judgeship for the southern district of Mississippi.

(I) One additional bankruptcy judgeship for the district of New Jersey.

(J) One additional bankruptcy judgeship for the eastern district of New York.

(K) One additional bankruptcy judgeship for the northern district of New York.

(L) One additional bankruptcy judgeship for the southern district of New York.

(M) One additional bankruptcy judgeship for the eastern district of North Carolina.

(N) One additional bankruptcy judgeship for the eastern district of Pennsylvania.

(O) One additional bankruptcy judgeship for the middle district of Pennsylvania.

(P) One additional bankruptcy judgeship for the district of Puerto Rico.

(Q) One additional bankruptcy judgeship for the western district of Tennessee.

(R) One additional bankruptcy judgeship for the eastern district of Virginia.

(S) One additional bankruptcy judgeship for the district of South Carolina.

(T) One additional bankruptcy judgeship for the district of Nevada, and one for the district of Delaware.

(2) VACANCIES.—The first vacancy occurring in the office of a bankruptcy judge in each of the judicial districts set forth in paragraph (1) shall not be filled if the vacancy—

(A) results from the death, retirement, resignation, or removal of a bankruptcy judge; and

(B) occurs 5 years or more after the appointment date of a bankruptcy judge appointed under paragraph (1).

(c) EXTENSIONS.—

(1) IN GENERAL.—The temporary bankruptcy judgeship positions authorized for the northern district of Alabama, the district of Delaware, the district of Puerto Rico, and the eastern district of Tennessee under paragraphs (1), (3), (7), and (9) of section 3(a) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) are extended until the first vacancy occurring in the office of a bankruptcy judge in the applicable district resulting from the death, retirement, resignation, or removal of a bankruptcy judge and occurring—

(A) 11 years or more after November 8, 1993, with respect to the northern district of Alabama;

(B) 13 years or more after October 28, 1993, with respect to the district of Delaware;

(C) 11 years or more after August 29, 1994, with respect to the district of Puerto Rico; and

(D) 11 years or more after November 23, 1993, with respect to the eastern district of Tennessee.

(2) APPLICABILITY OF OTHER PROVISIONS.—All other provisions of section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) remain applicable to temporary judgeship positions referred to in this subsection.

(d) TECHNICAL AMENDMENTS.—Section 152(a) of title 28, United States Code, is amended—

(1) in paragraph (1), by striking the first sentence and inserting the following: ''Each bankruptcy judge to be appointed for a judicial district, as provided in paragraph (2), shall be appointed by the United States court of appeals for the circuit in which such district is located.''; and

(2) in paragraph (2)—

(A) in the item relating to the middle district of Georgia, by striking ''2'' and inserting ''3''; and

(B) in the collective item relating to the middle and southern districts of Georgia, by striking ''Middle and Southern . . . . . 1''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

SEC. 1224. COMPENSATING TRUSTEES.

Section 1326 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking ''and'';

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

(C) by adding at the end the following:

''(3) if a chapter 7 trustee has been allowed compensation due to the conversion or dismissal of the debtor's prior case pursuant to section 707(b), and some portion of that compensation remains unpaid in a case converted to this chapter or in the case dismissed under section 707(b) and refiled under this chapter, the amount of any such unpaid compensation, which shall be paid monthly—

''(A) by prorating such amount over the remaining duration of the plan; and

''(B) by monthly payments not to exceed the greater of—

''(i) $25; or

''(ii) the amount payable to unsecured nonpriority creditors, as provided by the plan, multiplied by 5 percent, and the result divided by the number of months in the plan.''; and

(2) by adding at the end the following:

''(d) Notwithstanding any other provision of this title—

''(1) compensation referred to in subsection (b)(3) is payable and may be collected by the trustee under that paragraph, even if such amount has been discharged in a prior proceeding under this title; and

''(2) such compensation is payable in a case under this chapter only to the extent permitted by subsection (b)(3).''.

SEC. 1225. AMENDMENT TO SECTION 362 OF TITLE 11, UNITED STATES CODE.

Section 362(b)(18) of title 11, United States Code, is amended to read as follows:

''(18) under subsection (a) of the creation or perfection of a statutory lien for an ad valorem property tax, or a special tax or special assessment on real property whether or not ad valorem, imposed by a governmental unit, if such tax or assessment comes due after the filing of the petition;''.

SEC. 1226. JUDICIAL EDUCATION.

The Director of the Federal Judicial Center, in consultation with the Director of the Executive Office for United States Trustees, shall develop materials and conduct such training as may be useful to courts in implementing this Act and the amendments made by this Act, including the requirements relating to the means test and reaffirmations under section 707(b) of title 11, United States Code, as amended by this Act.

SEC. 1227. RECLAMATION.

(a) RIGHTS AND POWERS OF THE TRUSTEE.—Section 546(c) of title 11, United States Code, is amended to read as follows:

''(c)(1) Except as provided in subsection (d) of this section and subsection (c) of section 507, and subject to the prior rights of holders of security interests in such goods or the proceeds thereof, the rights and powers of the trustee under sections 544(a), 545, 547, and 549 are subject to the right of a seller of goods that has sold goods to the debtor, in the ordinary course of such seller's business, to reclaim such goods if the debtor has received such goods while insolvent, not later than 45 days prior to the date of the commencement of a case under this title, but such seller may not reclaim such goods unless such seller demands in writing reclamation of such goods—

''(A) not later than 45 days after the date of receipt of such goods by the debtor; or

''(B) not later than 20 days after the date of commencement of the case, if the 45-day period expires after the commencement of the case.

''(2) If a seller of goods fails to provide notice in the manner described in paragraph (1), the seller still may assert the rights contained in section 503(b)(7).''.

(b) ADMINISTRATIVE EXPENSES.—Section 503(b) of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

''(10) the value of any goods received by the debtor not later than 20 days prior to the date of commencement of a case under this title in which the goods have been sold to the debtor in the ordinary course of such debtor's business.''.

SEC. 1228. PROVIDING REQUESTED TAX DOCUMENTS TO THE COURT.

(a) CHAPTER 7 CASES.—The court shall not grant a discharge in the case of an individual seeking bankruptcy under chapter 7 of title 11, United States Code, unless requested tax documents have been provided to the court.

(b) CHAPTER 11 AND CHAPTER 13 CASES.—The court shall not confirm a plan of reorganization in the case of an individual under chapter 11 or 13 of title 11, United States Code, unless requested tax documents have been filed with the court.

(c) DOCUMENT RETENTION.—The court shall destroy documents submitted in support of a bankruptcy claim not sooner than 3 years after the date of the conclusion of a bankruptcy case filed by an individual under chapter 7, 11, or 13 of title 11, United States Code. In the event of a pending audit or enforcement action, the court may extend the time for destruction of such requested tax documents.

SEC. 1229. ENCOURAGING CREDITWORTHINESS.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) certain lenders may sometimes offer credit to consumers indiscriminately, without taking steps to ensure that consumers are capable of repaying the resulting debt, and in a manner which may encourage certain consumers to accumulate additional debt; and

(2) resulting consumer debt may increasingly be a major contributing factor to consumer insolvency.

(b) STUDY REQUIRED.—The Board of Governors of the Federal Reserve System (hereafter in this section referred to as the ''Board'') shall conduct a study of—

(1) consumer credit industry practices of soliciting and extending credit—

(A) indiscriminately;

(B) without taking steps to ensure that consumers are capable of repaying the resulting debt; and

(C) in a manner that encourages consumers to accumulate additional debt; and

(2) the effects of such practices on consumer debt and insolvency.

(c) REPORT AND REGULATIONS.—Not later than 12 months after the date of enactment of this Act, the Board—

(1) shall make public a report on its findings with respect to the indiscriminate solicitation and extension of credit by the credit industry;

(2) may issue regulations that would require additional disclosures to consumers; and

(3) may take any other actions, consistent with its existing statutory authority, that the Board finds necessary to ensure responsible industrywide practices and to prevent resulting consumer debt and insolvency.

SEC. 1230. PROPERTY NO LONGER SUBJECT TO REDEMPTION.

Section 541(b) of title 11, United States Code, is amended by inserting after paragraph (8), as added by this Act, the following:

''(9) subject to subchapter III of chapter 5, any interest of the debtor in property where the debtor pledged or sold tangible personal property (other than securities or written or printed evidences of indebtedness or title) as collateral for a loan or advance of money given by a person licensed under law to make such loans or advances, where—

''(A) the tangible personal property is in the possession of the pledgee or transferee;

''(B) the debtor has no obligation to repay the money, redeem the collateral, or buy back the property at a stipulated price; and

''(C) neither the debtor nor the trustee have exercised any right to redeem provided under the contract or State law, in a timely manner as provided under State law and section 108(b) of this title; or''.

SEC. 1231. TRUSTEES.

(a) SUSPENSION AND TERMINATION OF PANEL TRUSTEES AND STANDING TRUSTEES.—Section 586(d) of title 28, United States Code, is amended—

(1) by inserting ''(1)'' after ''(d)''; and

(2) by adding at the end the following:

''(2) A trustee whose appointment under subsection (a)(1) or under subsection (b) is terminated or who ceases to be assigned to cases filed under title 11, United States Code, may obtain judicial review of the final agency decision by commencing an action in the United States district court for the district for which the panel to which the trustee is appointed under subsection (a)(1), or in the United States district court for the district in which the trustee is appointed under subsection (b) resides, after first exhausting all available administrative remedies, which if the trustee so elects, shall also include an administrative hearing on the record. Unless the trustee elects to have an administrative hearing on the record, the trustee shall be deemed to have exhausted all administrative remedies for purposes of this paragraph if the agency fails to make a final agency decision within 90 days after the trustee requests administrative remedies. The Attorney General shall prescribe procedures to implement this paragraph. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based on the administrative record before the agency.''.

(b) EXPENSES OF STANDING TRUSTEES.—Section 586(e) of title 28, United States Code, is amended by adding at the end the following:

''(3) After first exhausting all available administrative remedies, an individual appointed under subsection (b) may obtain judicial review of final agency action to deny a claim of actual, necessary expenses under this subsection by commencing an action in the United States district court in the district where the individual resides. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based upon the administrative record before the agency.

''(4) The Attorney General shall prescribe procedures to implement this subsection.''.

SEC. 1232. BANKRUPTCY FORMS.

Section 2075 of title 28, United States Code, is amended by adding at the end the following:

''The bankruptcy rules promulgated under this section shall prescribe a form for the statement required under section 707(b)(2)(C) of title 11 and may provide general rules on the content of such statement.''.

SEC. 1233. EXPEDITED APPEALS OF BANKRUPTCY CASES TO COURTS OF APPEALS.

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

(1) in subsection (c)(1), by striking ''Subject to subsection (b),'' and inserting ''Subject to subsections (b) and (d)(2),''; and

(2) in subsection (d)—

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

(B) by adding at the end the following:

''(2)(A) A court of appeals that would have jurisdiction of a subsequent appeal under paragraph (1) or other law may authorize an immediate appeal of an order or decree, not otherwise appealable, that is entered in a case or proceeding pending under section 157 or is entered by the district court or bankruptcy appellate panel exercising jurisdiction under subsection (a) or (b), if the bankruptcy court, district court, bankruptcy appellate panel, or the parties acting jointly certify that—

''(i) the order or decree involves—

''(I) a substantial question of law;

''(II) a question of law requiring resolution of conflicting decisions; or

''(III) a matter of public importance; and

''(ii) an immediate appeal from the order or decree may materially advance the progress of the case or proceeding.

''(B) An appeal under this paragraph does not stay proceedings in the court from which the order or decree originated, unless the originating court or the court of appeals orders such a stay.''.

(b) PROCEDURAL RULES.—

(1) TEMPORARY APPLICATION.—A provision of this subsection shall apply to appeals under section 158(d)(2) of title 28, United States Code, as added by subsection (a) of this section, until a rule of practice and procedure relating to such provision and appeal is promulgated or amended under chapter 131 of such title.

(2) CERTIFICATION.—A district court, bankruptcy court, or bankruptcy appellate panel may enter a certification as described in section 158(d)(2) of title 28, United States Code, during proceedings pending before that court or panel.

(3) PROCEDURE.—Subject to the other provisions of this subsection, an appeal by permission under section 158(d)(2) of title 28, United States Code, shall be taken in the manner prescribed in rule 5 of the Federal Rules of Appellate Procedure.

(4) FILING PETITION.—When permission to appeal is requested on the basis of a certification of the parties, a district court, bankruptcy court, or bankruptcy appellate panel, the petition shall be filed within 10 days after the certification is entered or filed.

(5) ATTACHMENT.—When permission to appeal is requested on the basis of a certification of a district court, bankruptcy court, or bankruptcy appellate panel, a copy of the certification shall be attached to the petition.

(6) PANEL AND CLERK.—In a case pending before a bankruptcy appellate panel in which permission to appeal is requested, the terms ''district court'' and ''district clerk'', as used in rule 5 of the Federal Rules of Appellate Procedure, mean ''bankruptcy appellate panel'' and ''clerk of the bankruptcy appellate panel'', respectively.

(7) APPLICATION OF RULES.—In a case pending before a district court, bankruptcy court, or bankruptcy appellate panel in which a court of appeals grants permission to appeal, the Federal Rules of Appellate Procedure apply to the proceedings in the court of appeals, to the extent relevant, as if the appeal were taken from a final judgment, order, or decree of a district court, bankruptcy court, or bankruptcy appellate panel exercising appellate jurisdiction under subsection (a) or (b) of section 158 of title 28, United States Code.

SEC. 1234. EXEMPTIONS.

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

SEC. 1235. INVOLUNTARY CASES.

Section 303 of title 11, United States Code, is amended—

(1) in subsection (b)(1), by—

(A) inserting ''as to liability or amount'' after ''bona fide dispute''; and

(B) striking ''if such claims'' and inserting ''if such undisputed claims''; and

(2) in subsection (h)(1), by inserting before the semicolon the following: ''as to liability or amount''.

SEC. 1236. FEDERAL ELECTION LAW FINES AND PENALTIES AS NONDISCHARGEABLE DEBT.

Section 523(a) of title 11, United States Code, is amended by inserting after paragraph (14A) (as added by this Act) the following:

''(14B) incurred to pay fines or penalties imposed under Federal election law;''.

SEC. 1237. NO BANKRUPTCY FOR INSOLVENT POLITICAL COMMITTEES.

Section 105 of title 11, United States Code, is amended by adding at the end the following:

''(e) A political committee subject to the jurisdiction of the Federal Election Commission under Federal election laws may not file for bankruptcy under this title.''.

TITLE XIII—CONSUMER CREDIT DISCLOSURE

SEC. 1301. ENHANCED DISCLOSURES UNDER AN OPEN END CREDIT PLAN.

(a) MINIMUM PAYMENT DISCLOSURES.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

''(11)(A) In the case of an open end credit plan that requires a minimum monthly payment of not more than 4 percent of the balance on which finance charges are accruing, the following statement, located on the front of the billing statement, disclosed clearly and conspicuously: 'Minimum Payment Warning: Making only the minimum payment will increase the interest you pay and the time it takes to repay your balance. For example, making only the typical 2% minimum monthly payment on a balance of $1,000 at an interest rate of 17% would take 88 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum payments, call this toll-free number: _____.' (the blank space to be filled in by the creditor).

''(B) In the case of an open end credit plan that requires a minimum monthly payment of more than 4 percent of the balance on which finance charges are accruing, the following statement, in a prominent location on the front of the billing statement, disclosed clearly and conspicuously: 'Minimum Payment Warning: Making only the required minimum payment will increase the interest you pay and the time it takes to repay your balance. Making a typical 5% minimum monthly payment on a balance of $300 at an interest rate of 17% would take 24 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum monthly payments, call this toll-free number: _____.' (the blank space to be filled in by the creditor).

''(C) Notwithstanding subparagraphs (A) and (B), in the case of a creditor with respect to which compliance with this title is enforced by the Federal Trade Commission, the following statement, in a prominent location on the front of the billing statement, disclosed clearly and conspicuously: 'Minimum Payment Warning: Making only the required minimum payment will increase the interest you pay and the time it takes to repay your balance. For example, making only the typical 5% minimum monthly payment on a balance of $300 at an interest rate of 17% would take 24 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum monthly payments, call the Federal Trade Commission at this toll-free number: _____.' (the blank space to be filled in by the creditor). A creditor who is subject to this subparagraph shall not be subject to subparagraph (A) or (B).

''(D) Notwithstanding subparagraph (A), (B), or (C), in complying with any such subparagraph, a creditor may substitute an example based on an interest rate that is greater than 17 percent. Any creditor that is subject to subparagraph (B) may elect to provide the disclosure required under subparagraph (A) in lieu of the disclosure required under subparagraph (B).

''(E) The Board shall, by rule, periodically recalculate, as necessary, the interest rate and repayment period under subparagraphs (A), (B), and (C).

''(F)(i) The toll-free telephone number disclosed by a creditor or the Federal Trade Commission under subparagraph (A), (B), or (G), as appropriate, may be a toll-free telephone number established and maintained by the creditor or the Federal Trade Commission, as appropriate, or may be a toll-free telephone number established and maintained by a third party for use by the creditor or multiple creditors or the Federal Trade Commission, as appropriate. The toll-free telephone number may connect consumers to an automated device through which consumers may obtain information described in subparagraph (A), (B), or (C), by inputting information using a touch-tone telephone or similar device, if consumers whose telephones are not equipped to use such automated device are provided the opportunity to be connected to an individual from whom the information described in subparagraph (A), (B), or (C), as applicable, may be obtained. A person that receives a request for information described in subparagraph (A), (B), or (C) from an obligor through the toll-free telephone number disclosed under subparagraph (A), (B), or (C), as applicable, shall disclose in response to such request only the information set forth in the table promulgated by the Board under subparagraph (H)(i).

''(ii)(I) The Board shall establish and maintain for a period not to exceed 24 months following the effective date of the Bankruptcy Reform Act of 2001, a toll-free telephone number, or provide a toll-free telephone number established and maintained by a third party, for use by creditors that are depository institutions (as defined in section 3 of the Federal Deposit Insurance Act), including a Federal credit union or State credit union (as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752)), with total assets not exceeding $250,000,000. The toll-free telephone number may connect consumers to an automated device through which consumers may obtain information described in subparagraph (A) or (B), as applicable, by inputting information using a touch-tone telephone or similar device, if consumers whose telephones are not equipped to use such automated device are provided the opportunity to be connected to an individual from whom the information described in subparagraph (A) or (B), as applicable, may be obtained. A person that receives a request for information described in subparagraph (A) or (B) from an obligor through the toll-free telephone number disclosed under subparagraph (A) or (B), as applicable, shall disclose in response to such request only the information set forth in the table promulgated by the Board under subparagraph (H)(i). The dollar amount contained in this subclause shall be adjusted according to an indexing mechanism established by the Board.

''(II) Not later than 6 months prior to the expiration of the 24-month period referenced in subclause (I), the Board shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the program described in subclause (I).

''(G) The Federal Trade Commission shall establish and maintain a toll-free number for the purpose of providing to consumers the information required to be disclosed under subparagraph (C).

''(H) The Board shall—

''(i) establish a detailed table illustrating the approximate number of months that it would take to repay an outstanding balance if a consumer pays only the required minimum monthly payments and if no other advances are made, which table shall clearly present standardized information to be used to disclose the information required to be disclosed under subparagraph (A), (B), or (C), as applicable;

''(ii) establish the table required under clause (i) by assuming—

''(I) a significant number of different annual percentage rates;

''(II) a significant number of different account balances;

''(III) a significant number of different minimum payment amounts; and

''(IV) that only minimum monthly payments are made and no additional extensions of credit are obtained; and

''(iii) promulgate regulations that provide instructional guidance regarding the manner in which the information contained in the table established under clause (i) should be used in responding to the request of an obligor for any information required to be disclosed under subparagraph (A), (B), or (C).

''(I) The disclosure requirements of this paragraph do not apply to any charge card account, the primary purpose of which is to require payment of charges in full each month.

''(J) A creditor that maintains a toll-free telephone number for the purpose of providing customers with the actual number of months that it will take to repay the customer's outstanding balance is not subject to the requirements of subparagraph (A) or (B).

''(K) A creditor that maintains a toll-free telephone number for the purpose of providing customers with the actual number of months that it will take to repay an outstanding balance shall include the following statement on each billing statement: 'Making only the minimum payment will increase the interest you pay and the time it takes to repay your balance. For more information, call this toll-free number: _____.' (the blank space to be filled in by the creditor).''.

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board of Governors of the Federal Reserve System (hereafter in this title referred to as the ''Board'') shall promulgate regulations implementing the requirements of section 127(b)(11) of the Truth in Lending Act, as added by subsection (a) of this section.

(2) EFFECTIVE DATE.—Section 127(b)(11) of the Truth in Lending Act, as added by subsection (a) of this section, and the regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 18 months after the date of enactment of this Act; or

(B) 12 months after the publication of such final regulations by the Board.

(c) STUDY OF FINANCIAL DISCLOSURES.—

(1) IN GENERAL.—The Board may conduct a study to determine the types of information available to potential borrowers from consumer credit lending institutions regarding factors qualifying potential borrowers for credit, repayment requirements, and the consequences of default.

(2) FACTORS FOR CONSIDERATION.—In conducting a study under paragraph (1), the Board should, in consultation with the other Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration, and the Federal Trade Commission, consider the extent to which—

(A) consumers, in establishing new credit arrangements, are aware of their existing payment obligations, the need to consider those obligations in deciding to take on new credit, and how taking on excessive credit can result in financial difficulty;

(B) minimum periodic payment features offered in connection with open end credit plans impact consumer default rates;

(C) consumers make only the required minimum payment under open end credit plans;

(D) consumers are aware that making only required minimum payments will increase the cost and repayment period of an open end credit obligation; and

(E) the availability of low minimum payment options is a cause of consumers experiencing financial difficulty.

(3) REPORT TO CONGRESS.—Findings of the Board in connection with any study conducted under this subsection shall be submitted to Congress. Such report shall also include recommendations for legislative initiatives, if any, of the Board, based on its findings.

SEC. 1302. ENHANCED DISCLOSURE FOR CREDIT EXTENSIONS SECURED BY A DWELLING.

(a) OPEN END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 127A(a)(13) of the Truth in Lending Act (15 U.S.C. 1637a(a)(13)) is amended—

(A) by striking ''CONSULTATION OF TAX ADVISER.—A statement that the'' and inserting the following: ''TAX DEDUCTIBILITY.—A statement that—

''(A) the''; and

(B) by striking the period at the end and inserting the following: ''; and

''(B) in any case in which the extension of credit exceeds the fair market value (as defined under the Internal Revenue Code of 1986) of the dwelling, the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes.''.

(2) CREDIT ADVERTISEMENTS.—Section 147(b) of the Truth in Lending Act (15 U.S.C. 1665b(b)) is amended—

(A) by striking ''If any'' and inserting the following:

''(1) IN GENERAL.—If any''; and

(B) by adding at the end the following:

''(2) CREDIT IN EXCESS OF FAIR MARKET VALUE.—Each advertisement described in subsection (a) that relates to an extension of credit that may exceed the fair market value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall include a clear and conspicuous statement that—

''(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

''(B) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.''.

(b) NON-OPEN END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 128 of the Truth in Lending Act (15 U.S.C. 1638) is amended—

(A) in subsection (a), by adding at the end the following:

''(15) In the case of a consumer credit transaction that is secured by the principal dwelling of the consumer, in which the extension of credit may exceed the fair market value of the dwelling, a clear and conspicuous statement that—

''(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

''(B) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.''; and

(B) in subsection (b), by adding at the end the following:

''(3) In the case of a credit transaction described in paragraph (15) of subsection (a), disclosures required by that paragraph shall be made to the consumer at the time of application for such extension of credit.''.

(2) CREDIT ADVERTISEMENTS.—Section 144 of the Truth in Lending Act (15 U.S.C. 1664) is amended by adding at the end the following:

''(e) Each advertisement to which this section applies that relates to a consumer credit transaction that is secured by the principal dwelling of a consumer in which the extension of credit may exceed the fair market value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall clearly and conspicuously state that—

''(1) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

''(2) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.''.

(c) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the amendments made by this section.

(2) EFFECTIVE DATE.—Regulations issued under paragraph (1) shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1303. DISCLOSURES RELATED TO "INTRODUCTORY RATES".

(a) INTRODUCTORY RATE DISCLOSURES.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

''(6) ADDITIONAL NOTICE CONCERNING 'INTRODUCTORY RATES'.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), an application or solicitation to open a credit card account and all promotional materials accompanying such application or solicitation for which a disclosure is required under paragraph (1), and that offers a temporary annual percentage rate of interest, shall—

''(i) use the term 'introductory' in immediate proximity to each listing of the temporary annual percentage rate applicable to such account, which term shall appear clearly and conspicuously;

''(ii) if the annual percentage rate of interest that will apply after the end of the temporary rate period will be a fixed rate, state in a clear and conspicuous manner in a prominent location closely proximate to the first listing of the temporary annual percentage rate (other than a listing of the temporary annual percentage rate in the tabular format described in section 122(c)), the time period in which the introductory period will end and the annual percentage rate that will apply after the end of the introductory period; and

''(iii) if the annual percentage rate that will apply after the end of the temporary rate period will vary in accordance with an index, state in a clear and conspicuous manner in a prominent location closely proximate to the first listing of the temporary annual percentage rate (other than a listing in the tabular format prescribed by section 122(c)), the time period in which the introductory period will end and the rate that will apply after that, based on an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation.

''(B) EXCEPTION.—Clauses (ii) and (iii) of subparagraph (A) do not apply with respect to any listing of a temporary annual percentage rate on an envelope or other enclosure in which an application or solicitation to open a credit card account is mailed.

''(C) CONDITIONS FOR INTRODUCTORY RATES.—An application or solicitation to open a credit card account for which a disclosure is required under paragraph (1), and that offers a temporary annual percentage rate of interest shall, if that rate of interest is revocable under any circumstance or upon any event, clearly and conspicuously disclose, in a prominent manner on or with such application or solicitation—

''(i) a general description of the circumstances that may result in the revocation of the temporary annual percentage rate; and

''(ii) if the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate—

''(I) will be a fixed rate, the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate; or

''(II) will vary in accordance with an index, the rate that will apply after the temporary rate, based on an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation.

''(D) DEFINITIONS.—In this paragraph—

''(i) the terms 'temporary annual percentage rate of interest' and 'temporary annual percentage rate' mean any rate of interest applicable to a credit card account for an introductory period of less than 1 year, if that rate is less than an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation; and

''(ii) the term 'introductory period' means the maximum time period for which the temporary annual percentage rate may be applicable.

''(E) RELATION TO OTHER DISCLOSURE REQUIREMENTS.—Nothing in this paragraph may be construed to supersede subsection (a) of section 122, or any disclosure required by paragraph (1) or any other provision of this subsection.''.

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(c)(6) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—Section 127(c)(6) of the Truth in Lending Act, as added by this section, and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1304. INTERNET-BASED CREDIT CARD SOLICITATIONS.

(a) INTERNET-BASED APPLICATIONS AND SOLICITATIONS.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

''(7) INTERNET-BASED APPLICATIONS AND SOLICITATIONS.—

''(A) IN GENERAL.—In any solicitation to open a credit card account for any person under an open end consumer credit plan using the Internet or other interactive computer service, the person making the solicitation shall clearly and conspicuously disclose—

''(i) the information described in subparagraphs (A) and (B) of paragraph (1); and

''(ii) the information described in paragraph (6).

''(B) FORM OF DISCLOSURE.—The disclosures required by subparagraph (A) shall be—

''(i) readily accessible to consumers in close proximity to the solicitation to open a credit card account; and

''(ii) updated regularly to reflect the current policies, terms, and fee amounts applicable to the credit card account.

''(C) DEFINITIONS.—For purposes of this paragraph—

''(i) the term 'Internet' means the international computer network of both Federal and non-Federal interoperable packet switched data networks; and

''(ii) the term 'interactive computer service' means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.''.

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(c)(7) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and the regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1305. DISCLOSURES RELATED TO LATE PAYMENT DEADLINES AND PENALTIES.

(a) DISCLOSURES RELATED TO LATE PAYMENT DEADLINES AND PENALTIES.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

''(12) If a late payment fee is to be imposed due to the failure of the obligor to make payment on or before a required payment due date, the following shall be stated clearly and conspicuously on the billing statement:

''(A) The date on which that payment is due or, if different, the earliest date on which a late payment fee may be charged.

''(B) The amount of the late payment fee to be imposed if payment is made after such date.''.

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(b)(12) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1306. PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.

(a) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

''(h) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—A creditor of an account under an open end consumer credit plan may not terminate an account prior to its expiration date solely because the consumer has not incurred finance charges on the account. Nothing in this subsection shall prohibit a creditor from terminating an account for inactivity in 3 or more consecutive months.''.

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(h) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1307. DUAL USE DEBIT CARD.

(a) REPORT.—The Board may conduct a study of, and present to Congress a report containing its analysis of, consumer protections under existing law to limit the liability of consumers for unauthorized use of a debit card or similar access device. Such report, if submitted, shall include recommendations for legislative initiatives, if any, of the Board, based on its findings.

(b) CONSIDERATIONS.—In preparing a report under subsection (a), the Board may include—

(1) the extent to which section 909 of the Electronic Fund Transfer Act (15 U.S.C. 1693g), as in effect at the time of the report, and the implementing regulations promulgated by the Board to carry out that section provide adequate unauthorized use liability protection for consumers;

(2) the extent to which any voluntary industry rules have enhanced or may enhance the level of protection afforded consumers in connection with such unauthorized use liability; and

(3) whether amendments to the Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.), or revisions to regulations promulgated by the Board to carry out that Act, are necessary to further address adequate protection for consumers concerning unauthorized use liability.

SEC. 1308. STUDY OF BANKRUPTCY IMPACT OF CREDIT EXTENDED TO DEPENDENT STUDENTS.

(a) STUDY.—

(1) IN GENERAL.—The Board shall conduct a study regarding the impact that the extension of credit described in paragraph (2) has on the rate of bankruptcy cases filed under title 11, United States Code.

(2) EXTENSION OF CREDIT.—The extension of credit described in this paragraph is the extension of credit to individuals who are—

(A) claimed as dependents for purposes of the Internal Revenue Code of 1986; and

(B) enrolled within 1 year of successfully completing all required secondary education requirements and on a full-time basis, in postsecondary educational institutions.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Board shall submit to the Senate and the House of Representatives a report summarizing the results of the study conducted under subsection (a).

SEC. 1309. CLARIFICATION OF CLEAR AND CONSPICUOUS.

(a) REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the Board, in consultation with the other Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration Board, and the Federal Trade Commission, shall promulgate regulations to provide guidance regarding the meaning of the term ''clear and conspicuous'', as used in subparagraphs (A), (B), and (C) of section 127(b)(11) and clauses (ii) and (iii) of section 127(c)(6)(A) of the Truth in Lending Act.

(b) EXAMPLES.—Regulations promulgated under subsection (a) shall include examples of clear and conspicuous model disclosures for the purposes of disclosures required by the provisions of the Truth in Lending Act referred to in subsection (a).

(c) STANDARDS.—In promulgating regulations under this section, the Board shall ensure that the clear and conspicuous standard required for disclosures made under the provisions of the Truth in Lending Act referred to in subsection (a) can be implemented in a manner which results in disclosures which are reasonably understandable and designed to call attention to the nature and significance of the information in the notice.

TITLE XIV—EMERGENCY ENERGY ASSISTANCE AND CONSERVATION MEASURES

SEC. 1401. SHORT TITLE.

This title may be cited as the ''Energy Emergency Response Act of 2001''.

SEC. 1402. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) high energy costs are causing hardship for families;

(2) restructured energy markets have increased the need for a higher and more consistent level of funding for low-income energy assistance programs;

(3) conservation programs implemented by the States and the low-income weatherization program reduce costs and need for additional energy supplies;

(4) energy conservation is a cornerstone of national energy security policy;

(5) the Federal Government is the largest consumer of energy in the economy of the United States; and

(6) many opportunities exist for significant energy cost savings within the Federal Government.

(b) PURPOSES.—The purposes of this title are to provide assistance to those individuals most affected by high energy prices and to promote and accelerate energy conservation investments in private and Federal facilities.

SEC. 1403. INCREASED FUNDING FOR LIHEAP, WEATHERIZATION AND STATE ENERGY GRANTS.

(a) LIHEAP.—(1) Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(b)) is amended by striking the first sentence and inserting the following: ''There are authorized to be appropriated to carry out the provisions of this title (other than section 2607A), $3,400,000,000 for each of fiscal years 2001 through 2005.''.

(2) Section 2605(b)(2) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(b)(2)) is amended by adding at the end the following: ''and except that during fiscal year 2001, a State may make payments under this title to households with incomes up to and including 200 percent of the poverty level for such State''.

(b) WEATHERIZATION ASSISTANCE.—Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended by striking ''For fiscal years 1999 through 2003 such sums as may be necessary'' and inserting: ''$310,000,000 for fiscal years 2001 and 2002, $325,000,000 for fiscal year 2003, $400,000,000 for fiscal year 2004, and $500,000,000 for fiscal year 2005.''.

(c) STATE ENERGY CONSERVATION GRANTS.—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(f)) is amended by striking ''for fiscal years 1999 through 2003 such sums as may be necessary'' and inserting: ''$75,000,000 for each of fiscal years 2001 through 2005''.

SEC. 1404. FEDERAL ENERGY MANAGEMENT REVIEWS.

Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is amended by adding at the end the following:

''(e) PRIORITY RESPONSE REVIEWS.—Each agency shall—

''(1) not later than October 1, 2001, undertake a comprehensive review of all practicable measures for—

''(A) increasing energy and water conservation; and

''(B) using renewable energy sources; and

''(2) not later than 180 days after completing the review, implement measures to achieve not less than 50 percent of the potential efficiency and renewable savings identified in the review.''.

SEC. 1405. COST SAVINGS FROM REPLACEMENT FACILITIES.

Section 801(a) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)) is amended by adding at the end the following:

''(3)(A) In the case of an energy savings contract or energy savings performance contract providing for energy savings through the construction and operation of one or more buildings or facilities to replace one or more existing buildings or facilities, benefits ancillary to the purpose of such contract under paragraph (1) may include savings resulting from reduced costs of operation and maintenance at such replacement buildings or facilities when compared with costs of operation and maintenance at the buildings or facilities being replaced.

''(B) Notwithstanding paragraph (2)(B), aggregate annual payments by an agency under an energy savings contract or energy savings performance contract referred to in subparagraph (A) may take into account (through the procedures developed pursuant to this section) savings resulting from reduced costs of operation and maintenance as described in subparagraph (A).''.

SEC. 1406. REPEAL OF ENERGY SAVINGS PERFORMANCE CONTRACT SUNSET.

Section 801(c) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)) is repealed.

SEC. 1407. ENERGY SAVINGS PERFORMANCE CONTRACT DEFINITIONS.

(a) ENERGY SAVINGS.—Section 804(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(2)) is amended to read as follows:

''(2) The term 'energy savings' means a reduction in the cost of energy, water, or wastewater treatment from a base cost established through a methodology set forth in the contract, used by either—

''(A) an existing federally owned building or buildings or other federally owned facilities as a result of—

''(i) the lease or purchase of operating equipment, improvements, altered operation and maintenance, or technical services;

''(ii) more efficient use of existing energy sources by cogeneration or heat recovery, excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities; or

''(iii) more efficient use of water at an existing federally owned building or buildings, in either interior or exterior applications; or

''(B) a replacement facility under section 801(a)(3).''.

(b) ENERGY SAVINGS CONTRACT.—Section 804(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(3)) is amended to read as follows:

''(3) The terms 'energy savings contract' and 'energy savings performance contract' mean a contract which provides for—

''(A) the performance of services for the design, acquisition, installation, testing, operation, and, where appropriate, maintenance and repair, of an identified energy, water conservation, or wastewater treatment measure or series of measures at one or more locations; or

''(B) energy savings through the construction and operation of one or more buildings or facilities to replace one or more existing buildings or facilities.''.

(c) ENERGY OR WATER CONSERVATION MEASURE.—Section 804(4) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(4)) is amended to read a follows:

''(4) The term 'energy or water conservation measure' means—

''(A) an energy conservation measure, as defined in section 551(4) (42 U.S.C. 8259(4)); or

''(B) a water conservation measure that improves the efficiency of water use, is life cycle cost effective, and involves water conservation, water recycling or reuse, improvements in operation or maintenance efficiencies, retrofit activities or other related activities, not affecting the power generating operations at a federally owned hydroelectric dam.''.

SEC. 1408. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect upon the date of enactment of this title.

TITLE XV—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

SEC. 1501. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—Except as otherwise provided in this Act, the amendments made by this Act shall not apply with respect to cases commenced under title 11, United States Code, before the effective date of this Act.

TITLE XVI—MISCELLANEOUS PROVISIONS

SEC. 1601. REIMBURSEMENT OF RESEARCH, DEVELOPMENT, AND MAINTENANCE COSTS.

(a) IN GENERAL.—Not later August 1, 2001, the Federal Crop Insurance Corporation shall promulgate final regulations to carry out section 522(b) of the Federal Crop Insurance Act (7 U.S.C. 522(b)), without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(b) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Corporation shall use the authority provided under section 808 of title 5, United States Code.

(c) EFFECTIVE DATE.—The final regulations promulgated under subsection (a) shall take effect on the date of publication of the final regulations.

SA 975. Mrs. BOXER (for Mr. BYRD) proposed an amendment to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. MODIFICATION TO STEEL LOAN GUARANTEE PROGRAM.

(a) IN GENERAL.—Section 101 of the Emergency Steel Loan Guarantee Act of 1999 (Public Law 106–51; 15 U.S.C. 1841 note) is amended as follows:

(1) REQUIREMENTS FOR LOAN GUARANTEES.—

(A) IN GENERAL.—Subsection (g) is amended in the matter preceding paragraph (1), by striking ''a private bank or investment company'' and inserting ''an institution''.

(B) CONFORMING AMENDMENT.—Subsection (f)(1) is amended by striking ''private banking and investment''.

(2) TERMS AND CONDITIONS.—Subsection (h) is amended—

(A) in paragraph (1), by striking ''2005'' and inserting ''2015''; and

(B) by amending paragraph (4) to read as follows:

''(4) GUARANTEE LEVEL.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), any loan guarantee provided under this section shall not exceed 85 percent of the amount of principal of the loan.

''(B) INCREASED LEVEL.—A loan guarantee may be provided under this section in excess of 85 percent, but not more than 95 percent, of the amount of principal of the loan, if—

''(i) the aggregate amount of loans guaranteed at such percentage and outstanding under this section at any one time does not exceed $500,000,000; and

''(ii) the aggregate amount of loans guaranteed at such percentage under this section with respect to a single qualified steel company does not exceed $100,000,000.''.

(3) REPORTS TO CONGRESS.—Subsection (i) is amended by striking ''of fiscal years 1999 and 2000, and annually thereafter,'' and inserting ''fiscal year''.

(4) TERMINATION OF GUARANTEE AUTHORITY.—Subsection (k) is amended by striking ''2001'' and inserting ''2003''.

(5) MONITORING, REPORTING, AND FORECLOSURE PROCEDURES.—Subsection (l) is amended by adding at the end the following: ''All monitoring, reporting, and foreclosure procedures (and other matters addressed in the guarantee agreement) established with respect to loan guarantees provided under this section shall be consistent with customary practices in the commercial banking industry. Minor or inadvertent reporting violations shall not cause termination of any guarantee provided under this section.''.

(6) DEFINITION OF STEEL COMPANIES.—Subsection (c)(3)(B) is amended to read as follows:

''(B) is engaged in—

''(i) the production or manufacture of a product identified by the American Iron and Steel Institute as a basic steel mill product, including ingots, slab and billets, plates, flat-rolled steel, sections and structural products, bars, rail type products, pipe and tube, and wire rod;

''(ii) the production or manufacture of coke used in the production of steel; or

''(iii) the mining of iron ore; and''.

(b) CONFORMING AMENDMENT.—Section 101 of the Emergency Steel Loan Guarantee Act of 1999 is further amended by striking subsection (m).

(c) APPLICABILITY.—The amendments made by this section shall apply only with respect to any guarantee issued on or after the date of the enactment of this Act.

SA 976. Mr. BYRD (for himself and Mr. BURNS) submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; as follows;

On page 195, line 3, strike ''Act'' and insert ''Act, of which $1,000,000 shall be available for the Tumbledown/Mount Blue conservation project, Maine, and of which $4,000,000 shall be for the purchase of a conservation easement on the Connecticut Lakes Tract, located in northern New Hampshire and owned by International Paper Co., and of which $500,000 shall be for the purchase of a conservation easement on the Range Creek Headwaters tract in Utah.''

At the end of Title I, add the following:

''SEC. . (a) The National Park Service shall make further evaluations of national significance, suitability and feasibility for the Glenwood locality and each of the twelve Special Landscape Areas (including combinations of such areas) as identified by the National Park Service in the course of undertaking the Special Resource Study of the Loess Hills Landform Region of Western Iowa.

''(b) The National Park Service shall provide the results of these evaluations no later than January 15, 2002, to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the Committee on Resources of the House of Representatives.''

At the end of Title I, insert the following new General Provision:

SEC. . From within available funds the National Park Service shall conduct an Environmental Impact Statement on vessel entries into such park taking into account possible impacts on whale populations; Provided, That none of the funds available under this Act shall be used to reduce or increase the number of permits and vessel entries into the Park below or above the levels established by the National Park Service effective for the 2001 season until the Environmental Impact Statement required by law is completed notwithstanding any other provision of law; Provided further, That nothing in this section shall preclude the Secretary from adjusting the number of permits or vessel entries if the Secretary determines that it is necessary to protect park resources.

On page 183, line 11, after ''offshore'', insert ''preleasing,''.

On page 202, line 5, after 205 insert ''of which, $244,000 is to be provided for the design of historic office renovations of the Bearlodge Ranger District Work Center (Old Stoney) in Sundance, Wyoming, and''.

On page 145, line 9, before the period at the end, insert the following: '', of which $500,000 shall be available to acquire land for the Don Edwards National Wildlife Refuge, California''.

On page 149, strike all text appearing between the '':'' on line 4 and the '':'' on line 12, and insert the following in lieu thereof: ''(A) one-third of which is based on the ratio to which the land area of such State bears to the total land area of all such States; and, (B) two-thirds of which is based on the ratio to which the population of such State bears to the total population of all such States: *Provided further,* That the amounts apportioned under this paragraph shall be adjusted equitably so that no State shall be apportioned a sum which is less than 1 percent of the amount available for apportion under this paragraph for any fiscal year or more than 5 percent of such amount''.

On page 132, line 8, immediately following the word ''expended,'' insert ''of which $700,000 is for riparian management projects in the Rio Puerco watershed, New Mexico, and''.

Under United States Fish and Wildlife Service—Resource Management, on page 143, starting in line 5, strike ''$845,714,000, to remain available until September 30, 2003, except as otherwise provided herein,'' and insert in lieu thereof, ''$845,814,000 to remain available until September 30, 2003, except as otherwise provided herein, of which $100,000 is for the University of Idaho for developing research mechanisms in support of salmon and trout recovery in the Columbia and Snake River basins and their tributaries, and''.

On page 134, line 2, immediately following the '':'' strike the word ''*Provided,*'' and insert the following: ''*Provided,* That not less than $111,255,000 of the funds available for hazardous fuels reduction under this heading shall be for alleviating immediate emergency threats to urban wildland interface areas as defined by the Secretary of the Interior: *Provided further*,''

On page 197, line 19 immediately following the '':'' insert the following: ''*Provided further,* That the Forest Service shall expend not less than $125,000,000 of funds provided under this heading for hazardous fules reduction activities for alleviating immediate emergency threats to urban wildland interface areas as defined by the Secretary of Agriculture:''

On page 198, line 23, immediately following the '':'' insert the following: ''*Provided further,* That in addition to funds provided for State Fire Assistance programs, and subject to all authorities available to the Forest Service under the State and Private Forestry Appropriation, up to $15,000,000 may be used on adjacent non-federal lands for the purpose of protecting communities when hazard reduction activities are planned on national forest lands that have the potential to place such communities at risk: *Provided further,* That the Forest Service shall analyze the impact of restrictions on mechanical fuel treatments and forest access in the upcoming Chugach National Forest Land and Resource Management Plan, on the level of prescribed burning on the Chugach National Forest, and on the implementation of the National Fire Plan: *Provided further,* That this analysis shall be completed before the release of the Chugach Forest Plan and shall be included in the plan: *Provided further,* That included in funding for hazardous fuel reduction is $5,000,000 for implementing the Community Forest Restoration Act, P.L. 106–393, Title VI, and any portion of such funds shall be available for use on non-federal lands in accordance with authorities available to the Forest Service under the State and Private Forestry Appropriation: *Provided further,* That of the amounts provided under this heading $2,838,000 is for the Ecological Restoration Institute, of which $338,000 is for ongoing activities on Mt. Trumbull:''

On page 225, line 15, insert before the period the following: '':*Provided further,* That $2,333,000 shall be made available for the Sisseton Wahpeton Sioux Tribe Indian Health Services clinic in Sisseton, South Dakota, and $9,167,000 shall be made available for the small ambulatory facilities program''.

On page 143, line 7, after ''herein.'' insert ''of which $140,000 shall be made available for the preparation of, and not later than July 31, 2002, submission to Congress of a report on, a feasibility study and situational appraisal of the Hackensack Meadowlands, New Jersey, to identify management objectives and address strategies for preservation efforts, and''.

On page 153, line 22, delete ''$65,886,000.'' and insert ''66,287,000, of which $300,000 in heritage partnership funds are for the Erie Canal Way National Heritage Corridor.''.

On page 153, line 22, insert the following before the period: '', and of which $101,000 in statutory or contractual aid is for the Brown Foundation for Educational Equity''.

On page 153, line 22, insert the following before the period: '', of which $250,000 is for a cultural program grant to the Underground Railroad Coalition of Delaware''.

At the end of Title I, add the following:

''SEC. . No funds contained in this Act shall be used to approve the transfer of lands on South Fox Island, Michigan until Congress has authorized such transfer.

At the end of title I, add the following:

SEC. ____. (a) FINDINGS.—Congress makes the following findings:

(1) The land described in subsection (b) is—

(A) the site of cultural, ceremonial, spiritual, archaeological, and traditional gathering sites of significance to the Pechanga Band of Luiseno Mission Indians;

(B) the site of what is considered to be the oldest living coastal live oak; and

(C) the site of the historic Erle Stanley Gardner Ranch.

(2) Based on the finding described in paragraph (1), local and county officials have expressed their support for the efforts of the Pechanga Band of Luiseno Mission Indians to have the land described in subsection (b) held in trust by the United States for purposes of preservation.

(b) DECLARATION OF LAND HELD IN TRUST.—Notwithstanding any other provision of law, the land held in fee by the Pechanga Band of Luiseno Mission Indians, as described in Document No. 211130 of the Riverside County, California Office of the Recorder and recorded on May 15, 2001, located within the boundaries of the county of Riverside within the State of California, is hereby declared to be held by the United States in trust for the benefit of the Pechanga Band of Luiseno Mission Indians and shall be part of the Pechanga Indian Reservation.

On page 145, line 9, before the period, insert the following:'', of which not more than $500,000 shall be used for acquisition of 1,750 acres for the Red River National Wildlife Refuge, and of which $3,000,000 shall be for the acquisition of lands in the Cahaba River National Wildlife Refuge, and of which $1,500,000 shall be for emergencies and hardships, and of which $1,500,000 shall be for inholdings.

On page 194, between lines 9 and 10, insert the following:

SEC. 1___. SENSE OF CONGRESS CONCERNING COASTAL IMPACT ASSISTANCE.

(a) FINDINGS.—Congress finds that—

(1) the United States continues to be reliant on fossil fuels (including crude oil and natural gas) as a source of most of the energy consumed in the country;

(2) this reliance is likely to continue for the foreseeable future;

(3) about 65 percent of the energy needs of the United States are supplied by oil and natural gas;

(4) the United States is becoming increasingly reliant on clean-burning natural gas for electricity generation, home heating and air conditioning, agricultural needs, and essential chemical processes;

(5) a large portion of the remaining crude oil and natural gas resources of the country are on Federal land located in the western United States, in Alaska, and off the coastline of the United States;

(6) the Gulf of Mexico has proven to be a significant source of oil and natural gas and is predicted to remain a significant source in the immediate future;

(7) many States and counties oppose the development of Federal crude oil and natural gas resources within or near the coastline, which opposition results in congressional, Executive, State, or local policies to prevent the development of those resources;

(8) actions that prevent the development of certain Federal crude oil and natural gas resources do not lessen the energy needs of the United States or of those States and counties that object to exploration and development for fossil fuels;

(9) actions to prevent the development of certain Federal crude oil and natural gas resources focus development pressure on the remaining areas of Federal crude oil and natural gas resources, such as onshore and offshore Alaska, certain onshore areas in the western United States, and the central Gulf of Mexico off the coasts of Alabama, Alaska, Louisiana, Mississippi, and Texas;

(10) the development of Federal crude oil and natural gas resources is accompanied by adverse effects on the infrastructure services, public services, and the environment of States, counties, and local communities that host the development of those Federal resources;

(11) States, counties, and local communities do not have the power to tax adequately the development of Federal crude oil and natural gas resources, particularly when those development activities occur off the coastline of States that serve as platforms for that development, such as Alabama, Alaska, Louisiana, Mississippi, and Texas;

(12) the Mineral Leasing Act (30 U.S.C. 181 et seq.), which governs the development of Federal crude oil and natural gas resources located onshore, provides, outside the budget

and appropriations processes of the Federal Government, payments to States in which Federal crude oil and natural gas resources are located in the amount of 50 percent of the direct revenues received from the Federal Government for those resources; and

(13) there is no permanent provision in the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), which governs the development of Federal crude oil and natural gas resources located offshore, that authorizes the sharing of a portion of the annual revenues generated from Federal offshore crude oil and natural gas resources with adjacent coastal States that—

(A) serve as the platform for that development; and

(B) suffer adverse effects on the environment and infrastructure of the States.

(b) SENSE OF CONGRESS.—It is the sense of Congress that Congress should provide a significant portion of the Federal offshore mineral revenues to coastal States that permit the development of Federal mineral resources off the coastline, including the States of Alabama, Alaska, Louisiana, Mississippi, and Texas.

On page 144, line 15, strike ''analyses'' and insert ''analyses: *Provided further*, That $1,100,000 shall be made available to the National Fish and Wildlife Foundation to carry out a competitively awarded grant program for State, local, or other organizations in Maine to fund on-the-ground projects to further Atlantic salmon conservation and restoration efforts, at least $550,000 of which shall be awarded to projects that will also assist industries in Maine affected by the listing of Atlantic salmon under the Endangered Species Act.''

NOTICES OF HEARINGS

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. LIEBERMAN. Mr. President, I announce that the Committee on Governmental Affairs will meet on Tuesday, July 17, 2001, at 2:30 p.m. for a hearing to examine ''Expanding Flexible Personnel Systems Government-wide.''

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, the Subcommittee on National Parks of the Committee on Energy and Natural Resources has previously announced a hearing on Tuesday, July 17, 2001, on several national park and memorial measures pending before the subcommittee.

I would like to announce for the information of the Senate and the public that in addition to considering the measures previously announced, the subcommittee will receive testimony on H.R. 1668, to authorize the Adams Memorial Foundation to establish a commemorative work on Federal land in the District of Columbia and its environs to honor former President John Adams and his legacy.

The hearing will begin at 2:30 p.m., in room 366 of the Dirksen Senate Office Building in Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on National Parks, Committee on Energy and Natural Resources, United States Senate, 312 Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact David Brooks of the committee staff at (202) 224–9863.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday, July 12, 2001. The purpose of this hearing will be to consider nominations for positions with the United States Department of Agriculture, and to discuss the next Federal farm bill.

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

COMMITTEE ON ARMED SERVICES

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, July 12, 2001 at 9:30 a.m., in open session to receive testimony on Ballistic Missile Defense Programs and Policies in Review of the Defense Authorization request for fiscal year 2002.

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

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on July 12, 2001.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, July 12 for purposes of conducting a Full Committee business meeting which is scheduled to begin at 9:15 a.m.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. LEAHY. Mr. President, I ask unanimous consent that the Senate Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, July 12 at 9:30 a.m.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 12, 2001 at 4:00 p.m. to hold a business meeting.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on July 12, 2001, at 10:00 a.m. in room 485 Russell Senate Building to conduct a Hearing to receive testimony on the goals and priorities of the member tribes of the Montana Wyoming Tribal Leaders Council for the 107th session of the Congress.

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

COMMITTEE ON THE JUDICIARY

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, July 12, 2001 at 10:00 a.m. in SD226.

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

SUBCOMMITTEE ON EMERGING THREATS AND CAPABILITIES

Mr. LEAHY. Mr. President, I ask unanimous consent that the Subcommittee on Emerging Threats and Capabilities of the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, July 12, 2001, at 2:00 P.M., in open session to receive testimony on Cooperative Threat Reduction, Chemical Weapons demilitarization, defense threat reduction agency, Nonproliferation Research and Engineering, and Related Programs, in review of the defense authorization request for fiscal year 2002.

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

PRIVILEGES OF THE FLOOR

Mr. WELLSTONE. I ask unanimous consent that an intern, Archie Ingersoll, be allowed to be on the floor during the deliberations today.

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

Mr. REID. I ask unanimous consent a fellow in Senator BINGAMAN'S office, Geri Rivers, be given floor privileges during consideration of H.R. 2217, the Interior appropriations bill.

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

AUTHORITY TO FILE FIRST-DEGREE AMENDMENTS TO THE BANKRUPTCY REFORM BILL

Mr. REID. Mr. President, I ask unanimous consent that Senators have until 3 p.m. Monday, July 16, to file first-degree amendments to the substitute amendment to the Bankruptcy Reform Act.

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

MEASURE PLACED ON THE CALENDAR—H.R. 2311

Mr. REID. Mr. President, I ask unanimous consent that H.R. 2311 be discharged from the Appropriations Committee and the bill be placed on the calendar.

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

UNANIMOUS CONSENT AGREEMENT—H.R. 2311

Mr. REID. Mr. President, I ask unanimous consent that on Monday, July 16, at 2 p.m., the Senate proceed to the consideration of H.R. 2311, the energy and water appropriations bill; that on Monday, there be debate only on the bill, except that it be in order for the chairman and ranking member to offer the text of the committee-reported bill, S. 1171, as an amendment; that no other amendments be in order during Monday's session.

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

ORDERS FOR MONDAY, JULY 16, 2001

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 2 p.m., Monday, July 16. I further ask unanimous consent that on Monday, immediately following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate begin consideration of the energy and water appropriations bill for debate only.

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

PROGRAM

Mr. REID. Mr. President, the Senate will not be in session tomorrow. On Monday, the Senate will convene at 2 p.m. and begin consideration of the energy and water appropriations act for debate only during Monday's session. There will be no rollcall votes on Monday.

We have a lot of activity expected on the energy and water appropriations bill. We hope that Members will be thinking about whatever amendments they want to offer because it is the intent of the leaders and the two managers of the bill, Senator DOMENICI and myself, that we will ask sometime Monday for a finite list of amendments to be filed, so people should be thinking about amendments.

ORDER FOR ADJOURNMENT

Mr. REID. Mr. President, I ask unanimous consent that the senior Senator from West Virginia be recognized to speak as in morning business, and that following his statement the Senate stand in adjournment under the previous order.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

EMERGENCY STEEL LOAN GUARANTEE PROGRAM

Mr. BYRD. Mr. President, roughly 2 years ago, we passed legislation to create the Emergency Steel Loan Guarantee Program, Public Law 106–51. The President signed the legislation on August 17, 1999. At that time, we were alarmed by a growing crisis in the steel industry. Therefore, Congress found that the U.S. steel industry had been severely harmed by a record surge of more than 40 million tons of steel imports in 1998. In addition, we found that the surge had resulted in the loss of more than 10,000 steelworker jobs in 1998 and was the proximate cause of bankruptcy for three steel companies; that the imports had damaged the financial viability of the American steel industry and had affected the willingness of private lenders to make loans to the industry; that all of these developments were having serious negative effects on communities across the country; and that: a strong steel industry is necessary to the adequate defense preparedness of the United States in order to have sufficient steel available to build the ships, tanks, planes, and armaments necessary for the national defense.

In response to this growing crisis, I offered an amendment during an appropriations conference to create a loan guarantee fund for domestic steel companies that have experienced layoffs, production losses, or financial losses since the beginning of the steel import crisis. The program was intended to provide guarantees of up to 85 percent of the principal amount of loans to qualified domestic steel companies for whom credit is not otherwise available at reasonable rates, provided there is reasonable assurance of repayment. The legislation provided budget authority of $140 million to support $1 billion in guaranteed loans.

Since we took that action, the import crisis has deepened. During the last 6 months, the number of steelworkers who have lost their jobs as a result of the crisis has reached 23,500. The number of companies filing for bankruptcy has reached 18. Current import levels remain well above pre-crisis levels. Moreover, prices for finished steel products have fallen below the levels that prevailed during the depths of the 1998 crisis.

The U.S. industry has been driven into this state of crisis by foreign producers who are generally less efficient and less productive, and who in many cases could not compete in the U.S. market or even survive without Government support. Since 1980, steel producers outside of North America have received well over $100 billion in direct Government subsidies. This does not include the costs incurred by communist governments in the former Soviet Union, Eastern Europe, and China in establishing steel industries that would not have existed without government involvement. Enormous market distortions abroad have led to the creation and retention for over a quarter of a century of massive foreign overcapacity—an estimated 275 million tons of excess crude steel capacity, or more than twice the annual steel consumption of the United States. The U.S. steel industry, on the other hand, restructured itself in the 1980s and early 1990s, emerging by the mid-1990s as the most productive in the world in terms of man-hours expended per ton of steel produced.

Unfortunately, the emergency steel loan guarantee program has not been able to fulfill its mission. By February 28, 2000, the governing board of the program had received 13 loan guarantee applications. Of that number, three were rejected for failure to comply with statutory or regulatory requirements and three others were rejected because the board did not find that there was a reasonable assurance of repayment. The board approved the other seven applications, totaling $550,525,500 and issued offers of guarantee to the applicant lenders during Fiscal Year 2000. Nevertheless, no guaranteed loans were closed and funded during Fiscal Year 2000, and only one guaranteed steel loan—$110 million to Geneva Steel Company of Vineyard, UT—has closed this year.

So, it is time to consider whether we can make changes to the program that will increase its effectiveness without imposing significant additional costs on the Federal Government. I have offered an amendment that has three key features:

No. 1, for $100 million worth of guarantee authority, the amendment increases the federal guarantee from 85 percent of principal to as much as 95 percent of principal, provided that no steel company gets more than $50 million of these more favorable guarantees. Similarly, for another $100 million worth of guarantee authority, the amendment increases the federal guarantee from 85 percent to as much as 90 percent, with a $50 million limit for any single company.

No. 2, loans approved after the effective date of the amendment could be structured so that repayment is not completed until 2015—extended from 2005 under current law.

No. 3, the Emergency Steel Loan Guarantee Board would have guarantee authority until December 31, 2003—extended from December 31, 2001, under current law.

The current balance of budget authority is $127.2 million for $890 million

of unused guarantee authority. The Office of Management and Budget has estimated that the existing $127.2 million budget authority balance will be adequate to support the more generous terms and conditions contained in my amendment. The amendment, therefore, does not need to provide any additional budget authority.

If we do not take every action we can to support this vital industry, I am afraid the wave of bankruptcies will continue. By the end of the year, we may not have much of a steel industry to speak of. What will we then say to those who question our defense preparedness? What will we say to the steelworkers of America, to their families, and to the communities and consuming industries that depend upon a vital American steel industry? What will we say to the industries that are next on the hit lists of foreign predators? Let us stand up for steel in its time of need, as the industry has stood up for us in times of war and times of peace. Let us not allow imports to eviscerate this efficient and productive industry, an industry that has provided quality jobs to generations of hardworking Americans.

I would like to thank several Senators who helped in crafting this amendment. Senators GRAMM of Texas and NICKLES of Oklahoma, as well as Senators VOINOVICH of Ohio and SPECTER of Pennsylvania, all of whom demonstrated their creativity and flexibility—as well as good humor—in coming to agreement. I also wish to thank our distinguished majority whip for his very considerable help and encouragement to all of us.

I urge my colleagues to support this amendment to the Emergency Steel Loan Guarantee Program.

EXECUTIVE CALENDAR

EXECUTIVE SESSION

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the nominations reported earlier today by the Banking Committee as follows:

Angela Antonelli to be Chief Financial Officer for the Department of Housing and Urban Development; Donald E. Powell to be Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation; Donald E. Powell to be a Member of the Board of Directors of the Federal Deposit Insurance Corporation; Ronald Rosenfeld to be President of the Government National Mortgage Association; And Jennifer L. Dorn to be Federal Transit Administrator; that the nominations be confirmed, the motions to reconsider be laid upon the table, any statements thereon be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate return to legislative session.

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

The nominations were considered and confirmed as follows:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Angela Antonelli, of Virginia, to be Chief Financial Officer, Department of Housing and Urban Development.

FEDERAL DEPOSIT INSURANCE CORPORATION

Donald E. Powell, of Texas, to be Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation for a term of five years.

Donald E. Powell, of Texas, to be a Member of the Board of Directors of the Federal Deposit Insurance Corporation for a term of six years.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Ronald Rosenfeld, of Maryland, to be President, Government National Mortgage Association.

DEPARTMENT OF TRANSPORTATION

Jennifer L. Dorn, of Nebraska, to be Federal Transit Administrator.

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.

LEGISLATIVE SESSION

The PRESIDENT pro tempore. Under the previous order, the Senate will return to legislative session.

ADJOURNMENT UNTIL 2 P.M. MONDAY, JULY 16, 2001

The PRESIDENT pro tempore. Under the previous order, the Senate stands adjourned until the hour of 2 o'clock p.m. on Monday next, July 16, this year of our Lord, 2001.

Thereupon, the Senate, at 8:30 p.m., adjourned until Monday, July 16, 2001, at 2 p.m.

NOMINATIONS

Executive nominations received by the Senate July 12, 2001:

DEPARTMENT OF AGRICULTURE

ERIC M. BOST, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION, VICE SHIRLEY ROBINSON WATKINS, RESIGNED.

THOMAS C. DORR, OF IOWA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION, VICE JILL L. LONG, RESIGNED.

WILLIAM T. HAWKS, OF MISSISSIPPI, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION, VICE MICHAEL V. DUNN, RESIGNED.

JOSEPH J. JEN, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION, VICE KEITH C. KELLY, RESIGNED.

JAMES R. MOSELEY, OF INDIANA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION, VICE RICHARD E. ROMINGER, RESIGNED.

J.B. PENN, OF ARKANSAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION, VICE AUGUST SCHUMACHER, JR., RESIGNED.

MARK EDWARD REY, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION, VICE KARL N. STAUBER.

DEPARTMENT OF DEFENSE

JOHN P. STENBIT, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE ARTHUR L. MONEY.

MICHAEL L. DOMINGUEZ, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE AIR FORCE, VICE RUBY BUTLER DEMESME.

NELSON F. GIBBS, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF THE AIR FORCE, VICE KEITH R. HALL.

MARIO P. FIORI, OF GEORGIA, TO BE AN ASSISTANT SECRETARY OF THE ARMY, VICE MAHLON APGAR, IV.

RONALD M. SEGA, OF COLORADO, TO BE DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING, VICE HANS MARK, RESIGNED.

DEPARTMENT OF COMMERCE

OTTO WOLFF, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE, VICE LINDA J. BILMES, RESIGNED.

OTTO WOLFF, OF VIRGINIA, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF COMMERCE, VICE LINDA J. BILMES, RESIGNED.

DEPARTMENT OF STATE

HANS H. HERTELL, OF PUERTO RICO, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE DOMINICAN REPUBLIC.

CRAIG ROBERTS STAPLETON, OF CONNECTICUT, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE CZECH REPUBLIC.

ROBERT GEERS LOFTIS, OF COLORADO, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF LESOTHO.

DEPARTMENT OF JUSTICE

MAURICIO J. TAMARGO, OF FLORIDA, TO BE CHAIRMAN OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR A TERM EXPIRING SEPTEMBER 30, 2003, VICE JOHN R. LACEY.

DEPARTMENT OF STATE

OTTO J. REICH, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF STATE (WESTERN HEMISPHERE AFFAIRS), VICE PETER F. ROMERO.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. RICHARD E. BROWN III, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. BURWELL B. BELL III, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JOHN S. CALDWELL JR., 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JAMES L. CAMPBELL, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. MICHAEL L. DODSON, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. LARRY R. ELLIS, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. DAVID D. MCKIERNAN, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

DENNIS E. PLATT, 0000
R. KENT POLLARD, 0000
SIDNEY F. RICKS JR., 0000
LAWRENCE C. SELLIN, 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

GEORGE J. CARLUCCI, 0000
JUSTINE B. EMERSON, 0000
KENNETH G. GALE, 0000
TIMOTHY F. JOOST, 0000

HAROLD E. KERKHOFF JR., 0000
MARTIN A. LEPPERT, 0000
ANGEL M. ORTIZRODRIGUEZ, 0000
DAVID C. PETERSEN, 0000
CHARLES P. SHEEHAN, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AS CHAPLAIN AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be major

BYUNG H * AHN, 0000 CH
GEOFFREY L * ALLEYNE, 0000 CH
DAVID E * COOPER, 0000 CH
ADOLPH G * DUBOSE JR., 0000 CH
DOUGLAS W * DUERKSEN, 0000 CH
JONATHAN J * ETTERBEEK, 0000 CH
FREDRICK W * GARCIA, 0000 CH
SCOTT A * HAMMOND, 0000 CH
JUDITH A * HAMRICK, 0000 CH
KENNETH J * HANCOCK, 0000 CH
BILLY N * HAWKINS JR., 0000 CH
ROBERT J * HEARN, 0000 CH
WALTER G * HOSKINS, 0000 CH
NORMAN W * JONES, 0000 CH
SCOTT F * JONES, 0000 CH
JOHN L * KALLERSON, 0000 CH
KLON K * KITCHEN JR., 0000 CH
ROBERT P * LASLEY, 0000 CH
KEVIN M * LEIDERITZ, 0000 CH
WILLIAM G * LEWIS, 0000 CH
TIMOTHY S * MALLARD, 0000 CH
PEDRO R * MARTINEZ, 0000 CH
MARK A * MITERA, 0000 CH
LEO * MORA JR., 0000 CH
ABDUL R * MUHAMMAD, 0000 CH
BRENT A * NELSON, 0000 CH
ROBERT E * PHILLIPS, 0000 CH
ALLEN L * PUNDT, 0000 CH
KENNETH S * RASICO, 0000 CH
JOEL L * RUSSELL, 0000 CH
JERZY * RZASOWSKI, 0000 CH
CLYDE E * SCOTT, 0000 CH
WILLIAM E * SHEFFIELD, 0000 CH
DAVID G * SNYDER, 0000 CH
MICHAEL R * THOMPSON, 0000 CH
GREGORY O * TYREE, 0000 CH
GREGORY B * WALKER, 0000 CH
TERRENCE M * WALSH, 0000 CH
ROBERT E * WICHMAN, 0000 CH
LONNIE P * WILLIAMS, 0000 CH
ROBERT H * WILLIAMS, 0000 CH
DAVID L * WINKLE, 0000 CH
MICHAEL D * WOOD, 0000 CH
ELIZABETH S * YOUNGBERG, 0000 CH

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR ORIGINAL REGULAR APPOINTMENT AS PERMANENT LIMITED DUTY OFFICERS TO THE GRADE INDICATED IN UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 5589:

To be captain

DONALD L. ALBERT, 0000
SAMSON P. AVENETTI, 0000
FRANCIS P. BABEU, 0000
CARL BAILEY JR., 0000
PETER M. BARACK JR., 0000
WILLIAM H. BARLOW, 0000
DWIGHT D. BELIN, 0000
JAYSON A. BRAYALL, 0000
MATTHEW J. CAFFREY, 0000
DAVID T. CLARK, 0000
GUY E. COOLEY, 0000
STEVEN R. DANIELSON, 0000
LEONARD R. DOMITROVITS, 0000
TIMOTHY L. COLLINS, 0000
STEVEN M. DOTSON, 0000
FRANK A. FARROW, 0000
ISRAEL GARCIA, 0000
ANDREW E. GEPP, 0000
GREGORY M. GOODRICH, 0000
KEVIN T. GRAESSLE, 0000
CHARLES A. GRAYBEAL, 0000
JOHN K. GRAYVOLD, 0000
PRISCILLA A. GUNN, 0000
JAY F. HALEY, 0000
JONN R. HARRIS, 0000
KURT J. HASTINGS, 0000
RAYMOND J. HORN, 0000
CEDRIC M. INGRAM, 0000
MARK A. IVY, 0000
SCOTT A. JOHNSON, 0000
DEAN L. JONES, 0000
RODNEY E. JORDAN, 0000
DEAN R. KECK, 0000
STEVEN J. LENGUIST, 0000
MICHEAL A. LUJAN, 0000
WINDRED W. LUSTER, 0000
MARIA L. MARTINEZ, 0000
RALPH D. MCNEAL JR., 0000
EDWARD M. MUDD, 0000
CARL D. NEAL, 0000
KEVIN A. OGRADY, 0000
MICHAEL R. OLDHAM JR., 0000
BARRY ONEAL, 0000
LAYNE T. PAGE, 0000
PATRICK B. RABBITT, 0000
JAY A. ROGERS, 0000
WILLIAM E. ROSCHE, 0000
ROBERT W. SAJEWSKI, 0000
VICTOR J. SCHLOTTERER JR., 0000
LOWELL W. SCHWEICKART JR., 0000
TIMOTHY D. SECHREST, 0000
CALVIN W. SMITH, 0000
STEVEN E. SPROUT, 0000
KENNETH N. STEINKE, 0000
MICHAEL A. SYMES, 0000
PETER M. TAVARES, 0000
WILLIAM R. TIFFANY, 0000
KENNETH L. VANZANDT, 0000
VIEVES G. VILLASENOR, 0000
WILLIAM J. WADLEY, 0000
TIMOTHY W. WALDRON, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

LEIGH P ACKART, 0000
WILLIAM D AGERTON, 0000
BRIAN A ALEXANDER, 0000
RAOUL ALLEN, 0000
ROBERT P ALLEN, 0000
WILLIAM J ALLISON, 0000
DEAN L AMSDEN, 0000
EROL S APAYDIN, 0000
ROBERT L ARBEENE, 0000
WILLIAM E BAILEY II, 0000
THOMAS A BALCOM, 0000
ROBERT E BALLENGER, 0000
MARIA E BALOLONG, 0000
JAMES B BALZ, 0000
DARIUS BANAJI, 0000
STEVEN L BANKS, 0000
DALE P BARRETTE, 0000
JOHN A BARTELS, 0000
TIMOTHY G BATTRELL, 0000
JAN R BEAUJON III, 0000
BRUCE A BECKER, 0000
GREGORY P BELANGER, 0000
KARENA M BELIN, 0000
JUDITH D BELLAS, 0000
STUART W BELT, 0000
BRADLEY A BERGAN, 0000
SCOTT A BERNOTAS, 0000
ROBERT J BESTERCY, 0000
LOUIS M BIENVENU, 0000
CHARLES D BISSELL, 0000
KENT A BLADE, 0000
NANCY D BLUNT, 0000
MICHAEL B BOHN, 0000
JULIA E BOND, 0000
ROBERT A BOUFFARD, 0000
PATRICK H BOWERS, 0000
LESTER S BOWLING, 0000
PATRICK K BOYLE, 0000
MICHAEL R BRANTLEY, 0000
BRUCE R BRETH, 0000
ELIZABETH A BREZA, 0000
JANE M BRILL, 0000
NANCY M BROWN, 0000
RONDALL BROWN, 0000
STEVEN W BRUCH, 0000
ROBERT L BRUNSON JR., 0000
CRAIG L BURTON, 0000
MARK P BUSINGER, 0000
EDWARD S BYE, 0000
RAFAEL A CABRERA, 0000
ALICE A CAGNINA, 0000
ELLEN B CALLAHAN, 0000
BRENT J CALLEGARI, 0000
RICHARD P CAMPBELL, 0000
ROBERT CAMPBELL, 0000
MATTHEW A CARLBERG, 0000
DENNIS L CARLSON, 0000
TED F CARRELL, 0000
DEBRA P CARTER, 0000
JOHN J CARTY, 0000
KATHLEEN M CASEY, 0000
KIM M CAULK, 0000
STEVEN G CHALLEEN, 0000
LINDA C C CHAN, 0000
GAIL D CHAPMAN, 0000
DAVID M CLABORN, 0000
BRENDA A CLARK, 0000
DWAYNE C CLARK, 0000
MICHAEL E CLARK, 0000
LLOYD S CLEMENTS, 0000
EDA P CLEMONS, 0000
JEANNETTE M CLEMONS, 0000
KENNETH A COLE, 0000
GILDA M COLLAZO, 0000
GRISELL F COLLAZO, 0000
BOBBI L COLLINS, 0000
TIMOTHY W COLYER, 0000
THOMAS L COPENHAVER, 0000
JOHN CORONADO, 0000
JOSEPH COSENTINO JR., 0000
CHRISTOPHER J COSTIGAN, 0000
PIERRE C COULOMBE, 0000
JOHN F COUTURE, 0000
WILLIAM D CRAIG, 0000
DWIN C CROW, 0000
DAVID F CRUZ, 0000
KEVIN J DAMANDA, 0000
DAVID J DAMSTRA, 0000
ADRIAN M DANCHENKO, 0000
THOMAS P DAVIS, 0000
MARK R DEIBERT, 0000
RICHARD A DELACRUZ, 0000
EUGENE M DELARA, 0000
ROBERT D DELIS, 0000
JANET A DELOREYLYTLE, 0000
ERIC J DENFELD, 0000
GREGORY L DENISON, 0000
GERALD D DENTON, 0000
PAUL M DESIMONE, 0000
GEORGE DEVRIES, 0000
STEVEN E DICHIARA, 0000
PATRICIA DIGGS, 0000
ROBERT W DILL, 0000
MICHAEL J DOLAN, 0000
MICHAEL E DORY, 0000
BARRY J DOWELL, 0000
BRIAN T DRAPP, 0000
LAWRENCE J DUANE, 0000
RODNEY E DUGGINS, 0000
JAMES R DUNNE, 0000
WILLIAM E DUNNING, 0000
DENNIS L DUREN, 0000
CATALINO DUREZA, 0000
EDDY L ECHOLS, 0000
KENNETH L EISENBERG, 0000
CHIDIEBERE EKENNAKALU, 0000
CHARLES L ELLIS, 0000
IRVING A ELSON, 0000
JUDITH E EPSTEIN, 0000
BENJAMIN D ERNST, 0000
JAMES M ERSKINE, 0000
CONSTANCE J EVANS, 0000
JOHN S EVERED, 0000
PHILIP A FAHRINGER, 0000
RICK A FAIR, 0000
DEANNA L FALLS, 0000
GERALD W FELDER, 0000
MARSHA G FINK, 0000
ALLAN M FINLEY, 0000
MARK A FONTANA, 0000
MATTHEW P FORD, 0000
NOREEN H FORD, 0000
DAVID N FOWLER, 0000
JAMES P FOWLER, 0000
RICHARD P FRANCO, 0000
LORI S FRANK, 0000
JOHN V FRANKLIN, 0000
DANIEL A FREILICH, 0000
TONIANNE FRENCH, 0000
CRAIG A FULTON, 0000
SCHLEURIOUS L GAITER, 0000
COLLEEN K GALLAGHER, 0000
SUSAN J GALLOWAY, 0000
ROBERT A GANTT, 0000
GREGORY A GARCIA, 0000
JAIME A GARCIA, 0000
THOMAS G GAYLORD, 0000
BRENDON L GELFORD, 0000
LAURIE GENTENE, 0000
BETH W GERING, 0000
DAVE E GIBSON, 0000
STEPHEN M GILL, 0000
MARTHA K GIRZ, 0000
ERIC L GLASER, 0000
BRENDAN K GLENNON, 0000
GARY S GLUCK, 0000
BARRY J GOEHLER, 0000
ELISE T GORDON, 0000
BRIAN J GRADY, 0000
BRADLEY S GRAHAM, 0000
ROBERT A GRASSO JR., 0000
MARY L GREBENC, 0000
KRISTIN L GREEN, 0000
BRUCE E GREENLAND, 0000
JEFFREY K GRIMES, 0000
RICKY D GROSS, 0000
PAUL W HAGEN, 0000
GREGORY A HAJZAK, 0000
BRADEN R HALE, 0000
REGINA HALL, 0000
ALAN F HAMAMURA, 0000
JERRY W HAMLIN, 0000
JOHN G HANNINK, 0000
ERIC T HANSEN, 0000
AMIR E HARARI, 0000
SCOTT L HAWKINS, 0000
STEVEN L HAYCOCK, 0000
WILLIAM R HAYES, 0000
ROBERT D HECK, 0000
WANDA P HEISLER, 0000
SCOTT W HELMERS, 0000
STEVEN B HEMMRICH, 0000
DAVID K HENDERSON, 0000
WILLIAM J HESS III, 0000
SCOTT K HIGGINS, 0000
FREDERICK A HILDER JR., 0000
DEBORAH A HINKLEY, 0000
SCOTT HINTON, 0000
MELINDA J HOFF, 0000
LORI J HOFFMANN, 0000
PAIGE K HOFFMANN, 0000
GARY L HOOK, 0000
TAMARA J HOOVER, 0000
JOHN H HORNBROOK III, 0000
BETH A HOWELL, 0000
ROBERT E HOWELL, 0000
JOAN E HOWLEY, 0000
DAVID R HOYT, 0000
RODERICK R HUBBARD, 0000
WILLIAM B HUEY, 0000
JOHN D HUGHES, 0000
CHARLOTTE E HUNTER, 0000
MARK T HUNZEKER, 0000
RANDALL N HYER, 0000
MICHAEL A ILLOVSKY, 0000
LISA INOUYE, 0000
BETH R JAKLIC, 0000
CHRISTOPHER J JANKOSKY, 0000
EDUARDO JARAMILLO, 0000
ANDREW S JOHNSON, 0000
MICHAEL H JOHNSON, 0000
CYNTHIA R JOYNER, 0000
CHRISTOPHER D JUNG, 0000
JOHN J S KANE, 0000
JOHN L KANE III, 0000

PAUL D KANE, 0000
MAURICE S KAPROW, 0000
CHAND B KATHURIA, 0000
KAREN S KATO, 0000
KEITH C KEALEY, 0000
ROBERT L KEANE, 0000
KENNETH W KEARLY, 0000
STEVEN L KEENER, 0000
JOSEPH A KELLY, 0000
GAYLE S KENNERLY, 0000
ROBERT J KILPATRICK JR., 0000
JAMES J KING, 0000
ANDERS C KINSEY, 0000
STEVEN W KINSKIE, 0000
PATRICIA A KISNER, 0000
DAVID R KLESS, 0000
JACQUELINE KOVACS, 0000
ANNE M KREKELBERG, 0000
ERIC J KUNCIR, 0000
REMEDIOS J LABRADOR, 0000
SCOTT M LANG, 0000
VINCENT C LAPOINTE, 0000
LORI A LARAWAY, 0000
TRACY A LARCHER, 0000
DAVID M LARSON, 0000
KENNETH A LAUBE, 0000
MICHAEL L LAVIGNA, 0000
FRANCISCO R LEAL, 0000
ANNE M LEAR, 0000
LAWRENCE L LECLAIR, 0000
TAE H LEE, 0000
WENDY LEE, 0000
DEAN W LEECH, 0000
WILLIAM J LEONARD JR., 0000
IVAN K LESNIK, 0000
DAVID R LESSER, 0000
LISA E LESSLEY, 0000
JOHN F LEUNG, 0000
EDGAR M LEVINE, 0000
BRIAN J LEWIS, 0000
MICHAEL C LIBBY, 0000
SUSAN E LICHTENSTEIN, 0000
STEVEN E LINNVILLE, 0000
ELIZABETH A LIOTTA, 0000
MARK J LOGID, 0000
KIMBERLY A LONGMIRE, 0000
KAREN M LYNCH, 0000
STEVEN D MACDONALD, 0000
BRIAN H MALLADY, 0000
KIERAN G MANDATO, 0000
CAREY M A MANHERTZ, 0000
GAIL H J MANOS, 0000
PIETRO D MARGHELLA, 0000
ROBERT W MARTIN, 0000
MICHAEL A MAZZILLI, 0000
KALAS K MCALEXANDER, 0000
PATRICK M MCCARTHY, 0000
RITA L MCCARTHY, 0000
PAULA H MCCLURE, 0000
LINDA S V MCCORD, 0000
PATRICK J MCCORMICK, 0000
EDISON P MCDANIELS, 0000
MICHAEL J MCDERMOTT, 0000
ELIZABETH G MCDONALD, 0000
PATRICIA MCDONALD, 0000
LARRY A MCFARLAND, 0000
TERENCE M MCGEE, 0000
ELIZABETH A G MCGUIGAN, 0000
SUSAN P MCKEEFREY, 0000
RONALD N MCLEAN, 0000
GEORGE F MCMAHON, 0000
JAMIN T MCMAHON, 0000
JOANNE T MCMAHON, 0000
TERRIE C MCSWEEN, 0000
JOY MEADE, 0000
DISMAS E MEEHAN, 0000
SHAWN A MENEFEE, 0000
REGINA K MERCADO, 0000
DAVID S MEZEBISH, 0000
JULIE L MIAVEZ, 0000
PAMELA M MILLER, 0000
CAROLA A MINER, 0000
THOMAS E MIRO, 0000
PETER B MISHKY, 0000
CLAYTON O MITCHELL JR., 0000
MELANIE W MITCHELL, 0000
ROBERT H MITTON, 0000
LUIS M MOLINA, 0000
MARK C MONAHAN, 0000
MONA M MOOREMEAUX, 0000
STEVEN A MORGAN, 0000
KATHY L MORRIS, 0000
BEVERLY A MORSE, 0000
THOMAS MOSZKOWICZ, 0000
VICTORIA L MUNDT, 0000
LINDA J NAILE, 0000
NALAN NARINE, 0000
LINDA L NASH, 0000
TAMMY M NATHAN, 0000
JOHN T NEFF, 0000
PHILLIP L NELSON, 0000
JOHN J NESIUS, 0000
DOUGLAS C NEWELL, 0000
MATTHEW E NEWTON, 0000
JOHN C NICHOLSON, 0000
DANIEL F NOLTKAMPER, 0000
GERALD W NORBUT, 0000
JOHN S NORTON, 0000
CHRISTOPHER W NORWOOD, 0000
TIMOTHY J OBRIEN, 0000
OTTO W OHM II, 0000
PETER H OLSON, 0000
KEVIN C OMALLEY, 0000
LOUIS D OROSZ, 0000
MARGARET K OROURKE, 0000
JOSEPH O OSAZUWA, 0000
CARY A OSTERGAARD, 0000
KEVIN J OTTE, 0000
JOHN P OUANO, 0000
JUDITH M OWENS, 0000
VIOLETA O PADORA, 0000
ERIC L PAGENKOPF, 0000
MICHAEL J PARISI, 0000
VIVIENNE A PARODI, 0000
MICHAEL P PATTEN, 0000
JOSEPH D PAULDING, 0000
BARBARA E PAULY, 0000
JOHN M PEARSON, 0000
NANCY L PEARSON, 0000
DAVID PEDRAZA, 0000
KERRI S PEGG, 0000
JAMES J PELLACK, 0000
MICHAEL J PETEE, 0000
THOMAS J PETRILAK, 0000
BILLY J PHILLIPS, 0000
INGRID A PHILLIPS, 0000
LARRY L PICARD, 0000
JACK S PIERCE, 0000
EDWARD S PISKURA JR., 0000
LAURA E PISTEY, 0000
JAMES M POLO, 0000
JOHN P POLOWCZYK, 0000
KEVIN W POORT, 0000
DOUGLAS P PORTER, 0000
CINDY L POTTER, 0000
WILLIAM C POWER, 0000
ALONSO M POZO, 0000
CHRISTOPHER J PRATT, 0000
ERIC C PRICE, 0000
JAMES L PROCTOR JR., 0000
FRANK D QUADRINI, 0000
JOHN J RAGAN, 0000
ERIC RASMUSSEN, 0000
CHRISTOPHER J RAY JR., 0000
KEVIN D REDMAN, 0000
JAMES M REICH, 0000
ROBERT A REICHART, 0000
CHRISTIAN L REISMEIER, 0000
LEISA R RICHARDSON, 0000
SCOTT K RINEER, 0000
MARK F ROBACK, 0000
REGINA L ROBERTS, 0000
JOYCELIN ROBINSON, 0000
WANDA I RODRIGUEZ, 0000
MICHAEL J ROPIAK, 0000
MICHAEL B ROTH, 0000
JAMES H ROTHSTEIN, 0000
WALTER P RUGGLES, 0000
ROBERT T RULAND, 0000
KEVIN L RUSSELL, 0000
JACQUELINE D RYCHNOVSKY, 0000
RONALD A SABINS, 0000
DONALD R SALLEE, 0000
ROBERT A SANDERS, 0000
DAVID J SASEK, 0000
JEAN T SCHERRER, 0000
MICHAEL S SCHLEGEL, 0000
ROBBIE H SCOTT JR., 0000
MARK E SEMMLER, 0000
JOSEPH T SERMARINI JR., 0000
STOCKTON K M SEYB, 0000
CARON L SHAKE, 0000
JOSEPH M SHAUGHNESSY, 0000
NEIL A SHEEHAN, 0000
ANDREA L SHORTER, 0000
CAREY M SILL, 0000
EDWARD D SIMMER, 0000
STEPHANIE M SIMON, 0000
MICHELLE C SKUBIC, 0000
BARRY R SMITH, 0000
BRADLEY H SMITH, 0000
DENISE L SMITH, 0000
ERIC P SMITH, 0000
PHILIP A SMITH, 0000
STEWART D SMITH, 0000
MICHAEL A SOKOLOWSKI, 0000
TERRENCE L SOLDO, 0000
GARY W SOUTHERLAND, 0000
REBECCA V SPARKS, 0000
GINA M SPLEEN, 0000
CHARLES K SPRINGLE, 0000
RANDOLPH R STANTON, 0000
MARK G STEINER, 0000
MICHAEL A STEINLE, 0000
TREVERN A STERLING, 0000
TERRY K STEVENSON, 0000
SUSAN C STEWART, 0000
JONATHAN F STINSON, 0000
PETER B STMARTIN, 0000
THOMAS S STONUM, 0000
ALLAN M STRATMAN, 0000
RONALD C STURGIS, 0000
BRETT A STURKEN, 0000
DAVID R SUTTON, 0000
ADRIAN B SZWEC, 0000
ROBERT P TAISHOFF, 0000
SUSAN A TALWAR, 0000
ANIL TANEJA, 0000
DAVID J TANZER, 0000
CONRAD A TARGONSKI, 0000
NANCY B TAYLOR, 0000
MARK A TERRILL, 0000
SANDRA L THOMASROGERS, 0000
JOHN S THURBER, 0000
TAMMY P TIDESWELL, 0000
JOHN D TITUS JR., 0000
CHARLES B TONER, 0000
PATRICIA A TORDIK, 0000
JOHN C TORRIS, 0000
ROBERT B TOWLE, 0000
NGOC N TRAN, 0000
DANIEL J VALAIK, 0000
JONATHAN G I VANDERMARK, 0000
MARY K VANN, 0000
JENNIFER L VEDRALBARON, 0000
ESTEBAN C VILLAROS JR., 0000
ROLAND G WADGE, 0000
CLARK W WALKER, 0000
BOBBY J WARFIELD, 0000
ANTOINE P WASHINGTON, 0000
KEVIN D WASKOW, 0000
BRENT T WATSON, 0000
KURT E WAYMIRE, 0000
PAUL F WEBB, 0000
STEVEN M WECHSLER, 0000
GARY P WEEDEN, 0000
PETER J WEIS, 0000
JAMES J WEISER, 0000
CARL F WEISS, 0000
DAVID K WEISS, 0000
DOUGLAS E WELCH, 0000
KIRK M WELKER, 0000
GARY D WERTZ, 0000
LOYD A WEST, 0000
SILVA P D WESTERBECK, 0000
MARY K WHITCOMB, 0000
FRED K WILKERSON, 0000
CAREY C WILLIAMS, 0000
DEBORAH G WILLIAMS, 0000
BRIAN S WILSON, 0000
STEVEN J WINTER, 0000
THOMAS L WOOD, 0000
VICTORIA M WOODEN, 0000
STEVEN J WYRSCH, 0000
HELEN K YOUNG, 0000
STEPHANIE T YOUNG, 0000
KEVIN E ZAWACKI, 0000
LISA A ZIEMKE, 0000
HUMBERTO ZUNIGA JR., 0000

CONFIRMATIONS

Executive nominations confirmed by the Senate July 12, 2001:

DEPARTMENT OF THE INTERIOR

J. STEVEN GRILES, OF VIRGINIA, TO BE DEPUTY SECRETARY OF THE INTERIOR.

DEPARTMENT OF DEFENSE

DOUGLAS JAY FEITH, OF MARYLAND, TO BE UNDER SECRETARY OF DEFENSE FOR POLICY.

DEPARTMENT OF ENERGY

JESSIE HILL ROBERSON, OF ALABAMA, TO BE AN ASSISTANT SECRETARY OF ENERGY (ENVIRONMENTAL MANAGEMENT).

DEPARTMENT OF DEFENSE

PETER W. RODMAN, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE.

THOMAS P. CHRISTIE, OF VIRGINIA, TO BE DIRECTOR OF OPERATIONAL TEST AND EVALUATION, DEPARTMENT OF DEFENSE.

DIANE K. MORALES, OF TEXAS, TO BE DEPUTY UNDER SECRETARY OF DEFENSE FOR LOGISTICS AND MATERIEL READINESS.

STEVEN JOHN MORELLO, SR., OF MICHIGAN, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF THE ARMY.

WILLIAM A. NAVAS, JR., OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE NAVY.

MICHAEL MONTELONGO, OF GEORGIA, TO BE AN ASSISTANT SECRETARY OF THE AIR FORCE.

REGINALD JUDE BROWN, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE ARMY.

JOHN J. YOUNG, JR., OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE NAVY.

MICHAEL W. WYNNE, OF FLORIDA, TO BE DEPUTY UNDER SECRETARY OF DEFENSE FOR ACQUISITION AND TECHNOLOGY.

DIONEL M. AVILES, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF THE NAVY.

DEPARTMENT OF THE INTERIOR

PATRICIA LYNN SCARLETT, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF THE INTERIOR.

WILLIAM GERRY MYERS III, OF IDAHO, TO BE SOLICITOR OF THE DEPARTMENT OF THE INTERIOR.

BENNETT WILLIAM RALEY, OF COLORADO, TO BE AN ASSISTANT SECRETARY OF THE INTERIOR.

DEPARTMENT OF ENERGY

VICKY A. BAILEY, OF INDIANA, TO BE AN ASSISTANT SECRETARY OF ENERGY (INTERNATIONAL AFFAIRS AND DOMESTIC POLICY).

DEPARTMENT OF THE INTERIOR

FRANCES P. MAINELLA, OF FLORIDA, TO BE DIRECTOR OF THE NATIONAL PARK SERVICE.

JOHN W. KEYS, III, OF UTAH, TO BE COMMISSIONER OF RECLAMATION.

DEPARTMENT OF AGRICULTURE

JOSEPH J. JEN, OF CALIFORNIA, TO BE UNDER SECRETARY OF AGRICULTURE FOR RESEARCH, EDUCATION, AND ECONOMICS.

JAMES R. MOSELEY, OF INDIANA, TO BE DEPUTY SECRETARY OF AGRICULTURE.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ANGELA ANTONELLI, OF VIRGINIA, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

FEDERAL DEPOSIT INSURANCE CORPORATION

DONALD E. POWELL, OF TEXAS, TO BE CHAIRPERSON OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION FOR A TERM OF FIVE YEARS.

DONALD E. POWELL, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION FOR A TERM OF SIX YEARS.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

RONALD ROSENFELD, OF MARYLAND, TO BE PRESIDENT, GOVERNMENT NATIONAL MORTGAGE ASSOCIATION.

DEPARTMENT OF TRANSPORTATION

JENNIFER L. DORN, OF NEBRASKA, TO BE FEDERAL TRANSIT ADMINISTRATOR.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

LORI A. FORMAN, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.

DEPARTMENT OF STATE

AUBREY HOOKS, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE DEMOCRATIC REPUBLIC OF THE CONGO.

DONALD J. MCCONNELL, OF OHIO, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE STATE OF ERITREA.

PETER R. CHAVEAS, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SIERRA LEONE.

NANCY J. POWELL, OF IOWA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF GHANA.

GEORGE MCDADE STAPLES, OF KENTUCKY, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CAMEROON, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF EQUATORIAL GUINEA.

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.

DEPARTMENT OF EDUCATION

GROVER J. WHITEHURST, OF NEW YORK, TO BE ASSISTANT SECRETARY FOR EDUCATIONAL RESEARCH AND IMPROVEMENT, DEPARTMENT OF EDUCATION.

SUSAN B. NEUMAN, OF MICHIGAN, TO BE ASSISTANT SECRETARY FOR ELEMENTARY AND SECONDARY EDUCATION, DEPARTMENT OF EDUCATION.

REBECCA O. CAMPOVERDE, OF VIRGINIA, TO BE ASSISTANT SECRETARY FOR LEGISLATION AND CONGRESSIONAL AFFAIRS, DEPARTMENT OF EDUCATION.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

ROBERT S. MARTIN, OF TEXAS, TO BE DIRECTOR OF THE INSTITUTE OF MUSEUM AND LIBRARY SERVICES.