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Senate

The Senate met at 12 noon and was called to order by the Honorable PAT ROBERTS, a Senator from the State of Kansas.

PRAYER

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

Gracious Lord, on Saturday we joyfully celebrated Saint Patrick's Day. We remember the words with which St. Patrick began his days. We pray them today as our prayer, ''I arise today, through God's might to uphold me, God's wisdom to guide me, God's eye to look before me, God's ear to hear me, God's hand to guard me, God's way to lie before me and God's shield to protect me.'' In Your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable PAT ROBERTS led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 19, 2001.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PAT ROBERTS, a Senator from the State of Kansas, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. ROBERTS thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 1 p.m., with Senators permitted to speak therein for up to 10 minutes each.

ORDER OF PROCEDURE

Mr. SPECTER. Mr. President, I ask unanimous consent that I be permitted to have the first 10-minute block of morning business.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

The distinguished Senator from Pennsylvania is recognized.

SCHEDULE

Mr. SPECTER. Mr. President, before being allotted my 10 minutes, I have been asked by the distinguished majority leader to make the following announcement.

Today, the Senate will be in a period of morning business until 1 p.m. Following morning business, the Senate will begin debate on S. 27, the campaign finance reform bill. Under the agreement, each amendment offered will have up to 3 hours of debate prior to a vote on or in relation to the amendment. Amendments are expected to be offered during today's session. However, any votes ordered will be stacked to occur later today. Senators will be notified as a vote time is scheduled. Members are encouraged to offer their amendments as soon as possible in order to complete the bill in a timely manner.

I thank my colleagues for their attention.

CAMPAIGN FINANCE REFORM

Mr. SPECTER. Mr. President, I have sought recognition in morning business to reference legislation on campaign finance reform which I originally offered on September 18, 1997, as S. 1191. I refer to it today because there are a number of specific provisions which may form the basis for amendments to S. 27. I wanted to give my colleagues express notice that I might be offering such.

My bill does six things: First, it eliminates soft money; second, defines express advocacy; third, requires affidavits for independent expenditures; fourth, adopts the Maine standby public financing provision; fifth, eliminates foreign transactions which funnel money into U.S. campaigns; sixth, limits and requires reporting of contributions to legal defense funds.

A major portion of debate will occur on the issue of soft money. The Supreme Court of the United States in Buckley v. Valeo defined advocacy and issue ads in a way which has been very perplexing and very troubling, and in Buckley v. Valeo the Supreme Court said:

In order to preserve the provision against invalidation on vagueness grounds, section 6608(e)(1) must be construed to apply only to expenditures for communications that in express terms advocate the election or defeat of a clearly identified candidate for Federal office.

And then the Supreme Court went on to amplify what express advocacy meant, saying vote for X or vote against X.

There have been decisions which have said that it is not mandatory to have a statement ''vote for'' or ''vote against'' in order to satisfy the requirements of express advocacy. It is my view that in the ensuing 25 years we have seen advertisements which were clear cut advocacy ads which did not contain any

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

magic words such as ''vote for'' or ''vote against.'' I would give two illustrations—one from the Democratic National Committee and a second from the Republican National Committee in the 1996 Presidential election.

A Democratic National Committee television commercial said:

American values. Do our duty to our parents. President Clinton protects Medicare. The Dole-Gingrich budget tried to cut Medicare $270 billion. Protect families. President Clinton cut taxes for millions of working families. The Dole-Gingrich budget tried to raise taxes on eight million of them. Opportunity. President Clinton proposes tax breaks for tuition. The Dole-Gingrich budget tried to slash college scholarships. Only President Clinton's plan meets our challenges. Protect our values.

Inexplicably, this has been viewed as an issue ad, but nothing could be clearer on its face than that it advocates the election of then-President Clinton and the defeat of then-candidate Senator Dole.

Then compare a Republican National Committee ad. The announcer comes on and says:

Compare the Clinton rhetoric with the Clinton record.

Then President Clinton comes on in a video tape saying:

We need to end welfare as we know it.

Then the announcer comes back and says:

But he vetoed welfare reform not once but twice. He vetoed work requirements for the able-bodied. He vetoed putting time limits on welfare, and Clinton still supports giving welfare benefits to illegal immigrants. The Clinton record hasn't matched the Clinton record.

Then President Clinton's face comes on and he says on a video tape:

Fool me once, shame on you. Fool me twice, shame on me.

Then the announcer comes on and says:

Tell President Clinton you won't be fooled again.

Here again the other side of the coin—inexplicably interpreted to be an issue ad and not an advocacy ad. In my judgment, Mr. President, those ads clearly constitute advocacy. And when the Supreme Court in Buckley v. Valeo said they needed to preserve the act against invalidation on vagueness grounds, I would suggest that what has happened in the intervening 25 years is that advocacy ads may now be defined legislatively. And as Justice Jackson said in one of his famous comments, when there are close issues and there is a congressional declaration, that is weighed very heavily by the Court on the consideration even of constitutional issues. The Supreme Court has ruled in Buckley v. Valeo on the critical issue of coordination, saying that when ''expenditures are controlled by or coordinated with the candidate and his campaign,'' that such control or coordinated expenditures are treated as contributions rather than expenditures.

So the Court said if you have coordination on soft money, it constitutes a contribution and would be governed by the limitations of the Federal election campaign law. But what has occurred is exactly the opposite. In a 6–0 vote on December 10, 1998, the Federal Election Commission rejected its auditor's recommendation that the 1996 Clinton and Dole campaigns repay $17.7 million and $7 million, respectively, because the national committee parties had closely coordinated their soft money issue.

Here we have the Supreme Court saying that where there is coordination, they count, but you have coordination and the rule is flouted by the Federal Election Commission, which again illustrates the need for a modification of what is advocacy, what is coordination, and what ought to be subject to campaign finance limitations.

In Buckley v. Valeo, the Supreme Court ruled that:

Even a significant interference with protected rights of political association may be sustained if the State demonstrates a sufficiently important interest and employs means closely drawn to avoid unnecessary abridgment of associational freedoms.

Then the Supreme Court goes on to talk about values to be preserved on the prevention of corruption and the appearance of corruption.

It is obvious at this stage, some 25 years after Buckley v. Valeo, with the public indignation as to what has happened with the avalanche of soft money and with the concurrence of much official action in a close time sequence with the avalanche of enormous sums of soft money, so that when the Supreme Court talks about the appearance of corruption, which of course is different from corruption—it is very difficult to prove a bribe, very difficult to prove a quid pro quo to establish the existence of corruption—but when the Court recognizes the ''appearance of corruption'' as a factor which justifies limitation on speech, then, with the 25 years of experience, it is my view that legislation directed at soft money and directed at a modification of the definitions of advocacy and issue ads would be upheld as being constitutional.

The legislation which I am introducing today with respect to soft money would prohibit the national committees or political parties from soliciting or receiving any contributions not subject to the provisions and caps of the Federal Election Campaign Act and provides further that State party committee expenditures that may influence the outcome of a Federal election may be made only from funds subject to the limitations and prohibitions imposed by Federal law.

The bill requires affidavits for independent expenditures for the individual making the so-called independent expenditure and affidavits from the candidate, the campaign manager, and the campaign treasurer that, in fact, those so-called independent expenditures were not made in coordination with the campaign. There is obviously a great deal more attention paid on individual conduct where that conduct is subject to an affidavit which is prosecutable under the substantial penalties for perjury. There is continuing suspicion that these so-called independent expenditures are, in fact, not independent.

The Supreme Court, in Buckley v. Valeo, has upheld independent expenditures saying that freedom of speech entitles someone to spend as much money as he or she may choose as long as it is not in coordination with the candidate or the campaign. In order to take a significant step forward in ascertaining and ensuring that so-called independent expenditures are really independent, my legislation calls for that kind of an affidavit.

The provision relating to the Maine standby public financing provision is an interesting one, which provides for public funding when an individual spends a phenomenal sum of money for his or her own campaign. It is an open secret that individuals are prepared to spend virtually unlimited sums of money, as illustrated by the past election, or by prior elections. I oppose public financing generally, but it seems to me that where that sort of excessive expenditure is made, there ought to be public financing which would come into play to match that enormous outpouring of an individual's wealth. If public financing were available, it is obvious that the individual wouldn't be inclined to spend all of his or her own money if it were to be matched by public funding. In a day when seats in the Senate are subject to purchase, the Maine standby provision is one which ought to be adopted as a matter of Federal law.

We are about to embark on the consideration of the McCain-Feingold, S. 27, at 1 o'clock. The provision of this legislation which I am submitting now, which, as I say, had been submitted on September 18, 1997, as then S. 1191, contains a number of revisions which are possibilities for my offering as amendments to S. 27. There is no doubt that we are going to become very deeply involved in the constitutional issue on what is an issue ad and what is an advocacy ad and how we deal with soft money.

In the 1996 Presidential elections, the line was blurred beyond recognition between party and candidate activities. There is substantial evidence that soft money was spent illegally during the 1996 campaign by both parties. According to a November 18, 1996, article in Time magazine, President Clinton's media strategists collaborated in the creation of a DNC television commercial. The article describes a cadre of Clinton-Gore advisors, including Dick Morris, working side by side with DNC operatives to craft the DNC advertisement which extolled the President's accomplishments and criticized Republican policies. Republicans did the same.

Such cooperation constitutes violation of the Federal Election Campaign Act [FECA] which provides:

Expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate. 2 U.S.C. 441a(a)(7)(B)(1)

Thus, if the alleged cooperation between the Clinton/Gore campaign and the DNC took place, then all of the money spent on those DNC advertisements constituted contributions to the Clinton campaign. Under FECA, such contributions would have to be reported upon receipt and would have to be included when calculating the campaign's compliance with FECA's strict contribution and expenditure limits. The failure to treat the expenditures as contributions would be a violation of FECA, and the knowing and willful failure to treat the expenditures as contributions would be a criminal violation of FECA.

There are indications that the Clinton/Gore campaign advisors did realize they were violating the law at the time. The Time article quotes one as saying, ''If the Republicans keep the Senate, they're going to subpoena us.''

The content of the DNC and RNC advertisements appears to have violated Federal election law. When an entity engages in issues advocacy to promote a particular policy, it is exempt from the limitation of FECA and can fund these activities from any source. When an entity engages in express advocacy on behalf of a particular candidate, it is subject to the limitations of FECA and is not permitted to fund such activities with soft money. Where the DNC and RNC advertisements did contain express advocacy, and funded these advertisements with soft money, then these committees violated FECA.

The FEC defines ''express advocacy'' as follows:

Communications using phrases such as ''vote for President,'' ''reelect your Congressman,'' ''Smith for Congress,'' or language which, when taken as a whole and with limited reference to external events, can have no other reasonable meaning than to urge the election or defeat of a clearly identified federal candidate. 11 CFR 100.22

In my judgment, both the DNC and RNC television advertisement crossed the line from issues advocacy to express advocacy. While the DNC and RNC ads did not use the words ''Vote for Clinton'' or ''Dole for President,'' these advertisements certainly urged the election of one candidate and the defeat of another. For example, the following is the script of a widely broadcast DNC television commercial:

American values. Do our duty to our parents. President Clinton protects Medicare. The Dole/Gingrich budget tried to cut Medicare $270 billion. Protect families. President Clinton cut taxes for millions of working families. The Dole/Gingrich budget tried to raise taxes on eight million of them. Opportunity. President Clinton proposes tax breaks for tuition. The Dole/Gingrich budget tried to slash college scholarships. Only President Clinton's plan meets our challenges, protects our values.

Does this advertisement convey any core message other than urging us to vote for President Clinton?

The RNC ads similarly crossed the line into express advocacy. The following is the script of a widely broadcast RNC television commercial:

(Announcer) Compare the Clinton rhetoric with the Clinton record.

(Clinton) ''We need to end welfare as we know it.''

(Announcer) But he vetoed welfare reform not once, but twice. He vetoed work requirements for the able-bodied. He vetoed putting time limits on welfare. And Clinton still supports giving welfare benefits to illegal immigrants. The Clinton rhetoric hasn't matched the Clinton record.

(Clinton) ''Fool me once, shame on you. Fool me twice, shame on me.''

(Announcer) Tell President Clinton you won't be fooled again.

Similarly, the Democrats, through their shared use of campaign consultants such as Dick Morris for Clinton-Gore 1996 and the Democratic National Committee, crossed the line into illegal contributions on television advertisements.

There has been substantial information in the public domain about the President's personal activities in preparing television commercials for the 1996 campaign. The activity of the President has been documented in a book by Dick Morris and in public statements by former Chief of Staff, Leon Panetta. There is no doubt—and the Attorney General conceded this in oversight hearings by the Judiciary Committee on April 30, 1997—that there would be a violation of the Federal election law if, and when the President prepared campaign commercials that were express advocacy commercials contrasted with issue advocacy commercials.

This bill will end the charade by providing a clear-cut statutory definition of express advocacy wherever the name or likeness of a candidate appears with language which praises or criticizes that candidate.

This bill would put teeth into the law to make independent expenditures truly independent. Current law requires political committees or individuals to file reports quarterly until the end of a campaign and to report expenditures of more than $1,000 within 24 hours during the final 20 days of the campaign. This legislation would require reporting for independent expenditures of $10,000 or more within 24 hours during the last 3 months of a campaign. This bill would require the individual making the independent expenditure or the treasurer of the committee making the independent expenditure to take and file an affidavit with the FEC that the expenditures were not coordinated with the candidate or his-her committee. Then, the Federal Election Commission would notify within 48 hours the candidate, campaign treasurer, and campaign manager of that independent expenditure. Those individuals would then have 48 hours to take and file affidavits with the FEC that the expenditures were not coordinated with the candidate or his/her committees.

Taking such affidavits coupled with the penalty for perjury would be significant steps to preclude illegal coordination.

Anyone who watched the Governmental Affairs hearings in 1997 knows the alarming role of illegal foreign contributions in our 1996 campaigns. This legislation would strengthen the existing law to better prevent transactions which effectively fund domestic political campaigns with foreign financing schemes.

Under current law, it is illegal for a foreign national to contribute money or anything of value, including loan guarantees, either directly or indirectly through another person, in connection with an election to any political office. Knowing and willful violations can result in criminal penalties against the offending parties.

Mr. Haley Barbour's testimony before the Governmental Affairs Committee in 1997 highlights the need to strengthen and more actively enforce the foreign money statute to ensure that foreign nationals do not circumvent this intended prohibition on foreign political contributions. This bill would clarify the law to cover all arrangements from foreign entities through third parties where funds from these transactions ultimately reach a U.S. political party or candidate.

In his testimony, Mr. Barbour acknowledged that the National Policy Forum [NPF], which he headed, received a $2.1 million loan guarantee in October 1994, from Young Brothers Development, the U.S. subsidiary of a Hong Kong company which provided the money. The loan guarantee served as collateral for a loan NPF received from a U.S. bank. Shortly thereafter, NPF sent two checks totaling $1.6 million to the Republican National Committee [RNC]. NPF ultimately defaulted on its loan with the U.S. bank and Young Brothers eventually ended up paying approximately $700,000 to cover the default.

The weak link in the existing law is that many people have argued that the Federal campaign finance law does not apply to soft money. Accordingly, there are those who would argue that the NPF transaction described above would be legal so long as only soft money was involved. We need to make it 100 percent clear that foreign nationals cannot contribute to U.S. political parties or candidates under any circumstances. My bill closes this potential loophole by explicitly stating that the foreign money provisions of the bill apply to all foreign contributions and donations, both soft and hard money.

The decision of the Supreme Court of the United States in Buckley versus Valeo prohibits legislation limiting the amount of money an individual may spend on his-her campaign. Maine recently enacted a statute designed to deal with this issue which provides a model for Federal legislation.

Under the Maine legislation, a voluntary cap is placed on the total amount that candidates can spend during their campaigns for public office. The law further provides that if one candidate exceeds the spending limit, an opponent who has complied with the limit will be given public matching funds in an amount equal to the amount by which the offending candidate exceeded the spending limit. With such matching funds available, it would be a real deterrent to prevent a candidate from exceeding the expenditure cap since that candidate would no longer receive an advantage from his or her additional expenditure. This provision would probably not result in significant public expenditures; and to the extent it did, it would be worth it.

This bill would subject contributions for legal defense funds to limits and mandatory disclosure for all Federal office holders and candidates. Testimony before the Governmental Affairs Committee in 1997 disclosed that Mr. Yah Lin ''Charlie'' Trie brought in $639,000 for President Clinton's legal defense fund. While those funds were ultimately returned, there was never any identification of the donors and the fact of those contributions was delayed until after the 1996 election.

Contributions to legal defense funds pose a public policy issue similar to campaign contributions.

This bill would impose the same limits on contributions to legal defense funds which are required for political contributions.

Mr. President, I ask unanimous consent that the legislation I introduced in 1997, along with an executive summary, be printed in the RECORD.

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

S. 1191

(Introduced September 18, 1997)

In lieu of the matter proposed to be inserted, insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Senate Campaign Finance Reform Act of 1998''.

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

TITLE I—SENATE ELECTION SPENDING LIMITS AND BENEFITS

SEC. 101. SENATE ELECTION SPENDING LIMITS AND BENEFITS.

(a) IN GENERAL.—The Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

''TITLE V—SPENDING LIMITS AND BENEFITS FOR SENATE ELECTION CAMPAIGNS

''SEC. 501. CANDIDATES ELIGIBLE TO RECEIVE BENEFITS.

''(a) IN GENERAL.—For purposes of this title, a candidate is an eligible Senate candidate if the candidate—

''(1) meets the primary and general election filing requirements of subsections (c) and (d);

''(2) meets the primary and runoff election expenditure limits of subsection (b); and

''(3) meets the threshold contribution requirements of subsection (e).

''(b) PRIMARY AND RUNOFF EXPENDITURE LIMITS.—The requirements of this subsection are met if—

''(1) the candidate and the candidate's authorized committees did not make expenditures for the primary election in excess of 67 percent of the general election expenditure limit under section 502(a); and

''(2) the candidate and the candidate's authorized committees did not make expenditures for any runoff election in excess of 20 percent of the general election expenditure limit under section 502(a).

''(c) PRIMARY FILING REQUIREMENTS.—

''(1) IN GENERAL.—The requirements of this subsection are met if the candidate files with the Commission a certification that—

''(A) the candidate and the candidate's authorized committees—

''(i) will meet the primary and runoff election expenditure limits of subsection (b); and

''(ii) will accept only an amount of contributions for the primary and runoff elections that does exceed those limits; and

''(B) the candidate and the candidate's authorized committees will meet the general election expenditure limit under section 502(a).

''(2) DEADLINE FOR FILING CERTIFICATION.—The certification under paragraph (1) shall be filed not later than the date the candidate files as a candidate for the primary election.

''(d) GENERAL ELECTION FILING REQUIREMENTS.—

''(1) IN GENERAL.—The requirements of this subsection are met if the candidate files a certification with the Commission under penalty of perjury that—

''(A) the candidate and the candidate's authorized committees—

''(i) met the primary and runoff election expenditure limits under subsection (b); and

''(ii) did not accept contributions for the primary or runoff election in excess of the primary or runoff expenditure limit under subsection (b), whichever is applicable, reduced by any amounts transferred to the current election cycle from a preceding election cycle;

''(B) at least one other candidate has qualified for the same general election ballot under the law of the candidate's State; and

''(C) the candidate and the authorized committees of the candidate—

''(i) except as otherwise provided by this title, will not make expenditures that exceed the general election expenditure limit under section 502(a);

''(ii) will not accept any contributions in violation of section 315; and

''(iii) except as otherwise provided by this title, will not accept any contribution for the general election involved to the extent that the contribution would cause the aggregate amount of contributions to exceed the sum of the amount of the general election expenditure limit under section 502(a), reduced by any amounts transferred to the current election cycle from a previous election cycle and not taken into account under subparagraph (A)(ii).

''(2) DEADLINE FOR FILING CERTIFICATION.—The certification under paragraph (1) shall be filed not later than 7 days after the earlier of—

''(A) the date on which the candidate qualifies for the general election ballot under State law; or

''(B) if under State law, a primary or runoff election to qualify for the general election ballot occurs after September 1, the date on which the candidate wins the primary or runoff election.

''(e) THRESHOLD CONTRIBUTION REQUIREMENTS.—

''(1) IN GENERAL.—The requirements of this subsection are met if the candidate and the candidate's authorized committees have received allowable contributions during the applicable period in an amount at least equal to the lesser of—

''(A) 10 percent of the general election expenditure limit under section 502(a); or

''(B) $250,000.

''(2) DEFINITIONS.—In this subsection:

''(A) ALLOWABLE CONTRIBUTION.—The term 'allowable contribution' means a contribution that is made as a gift of money by an individual pursuant to a written instrument identifying the individual as the contributor.

''(B) APPLICABLE PERIOD.—The term 'applicable period' means—

''(i) the period beginning on January 1 of the calendar year preceding the calendar year of the general election involved and ending on the date on which the certification under subsection (c)(2) is filed by the candidate; or

''(ii) in the case of a special election for the office of Senator, the period beginning on the date on which the vacancy in the office occurs and ending on the date of the general election.

''SEC. 502. LIMITATION ON EXPENDITURES.

''(a) GENERAL ELECTION EXPENDITURE LIMIT.—

''(1) IN GENERAL.—The aggregate amount of expenditures for a general election by an eligible Senate candidate and the candidate's authorized committees shall not exceed the greater of—

''(A) $950,000; or

''(B) $400,000; plus

''(i) 30 cents multiplied by the voting age population not in excess of 4,000,000; and

''(ii) 25 cents multiplied by the voting age population in excess of 4,000,000.

''(2) INDEXING.—The amounts determined under paragraph (1) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c), except that the base period shall be calendar year 1997.

''(b) PAYMENT OF TAXES.—The limitation under subsection (a) shall not apply to any expenditure for Federal, State, or local taxes with respect to earnings on contributions raised.

''SEC. 503. MATCHING FUNDS FOR ELIGIBLE SENATE CANDIDATES IN RESPONSE TO EXPENDITURES BY NON-ELIGIBLE OPPONENTS.

''(a) IN GENERAL.—Not later than 5 days after the Commission determines that a Senate candidate has made or obligated to make expenditures or accepted contributions during an election in an aggregate amount in excess of the applicable election expenditure limit under section 502(a) or 501(b), the Commission shall make available to an eligible Senate candidate in the same election an aggregate amount of funds equal to the amount in excess of the applicable limit.

''(b) ELIGIBLE SENATE CANDIDATE OPPOSED BY MORE THAN 1 NON-ELIGIBLE SENATE CANDIDATE.—For purposes of subsection (a), if an eligible Senate candidate is opposed by more than 1 non-eligible Senate candidate in the same election, the Commission shall take into account only the amount of expenditures of the non-eligible Senate candidate that expends, in the aggregate, the greatest amount of funds.

''(c) TIME TO MAKE DETERMINATIONS.—The Commission may, on the request of a candidate or on its own initiative, make a determination whether a candidate has made or obligated to make an aggregate amount of expenditures in excess of the applicable limit under subsection (a).

''(d) USE OF FUNDS.—Funds made available to a candidate under subsection (a) shall be used in the same manner as contributions are used.

''(e) TREATMENT OF FUNDS.—An expenditure made with funds made available to a candidate under this section shall not be treated as an expenditure for purposes of the expenditure limits under sections 501(b) and 502(a).

''SEC. 504. CERTIFICATION BY COMMISSION.

''(a) IN GENERAL.—Not later than 48 hours after an eligible candidate qualifies for a general election ballot, the Commission shall certify the candidate's eligibility for matching funds under section 503.

''(b) DETERMINATIONS BY COMMISSION.—A determination (including a certification under subsection (a)) made by the Commission under this title shall be final, except to the extent that the determination is subject to examination and audit by the Commission under section 505.

''SEC. 505. REVOCATION; MISUSE OF BENEFITS.

''(a) REVOCATION OF STATUS.—If the Commission determines that any eligible Senate candidate has received contributions or made or obligated to make expenditures in excess of—

''(1) the applicable primary election expenditure limit under this title; or

''(2) the applicable general election expenditure limit under this title,

the Commission shall revoke the certification of the candidate as an eligible Senate candidate and notify the candidate of the revocation.

''(b) MISUSE OF BENEFITS.—If the Commission determines that any benefit made available to an eligible Senate candidate under this title was not used as provided for in this title or that a candidate has violated any of the spending limits contained in this Act, the Commission shall notify the candidate, and the candidate shall pay the Commission an amount equal to the value of the benefit.''.

(b) TRANSITION PERIOD.—Expenditures made before January 1, 1998, shall not be counted as expenditures for purposes of the limitations contained in the amendment made by subsection (a).

TITLE II—REDUCTION OF SPECIAL INTEREST INFLUENCE

Subtitle A—Provisions Relating to Soft Money of Political Party Committees

SEC. 201. SOFT MONEY OF POLITICAL PARTY COMMITTEES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 301 et seq.) is amended by adding at the end the following:

''SEC. 324. SOFT MONEY OF POLITICAL PARTY COMMITTEES.

''(a) NATIONAL COMMITTEES.—A national committee of a political party (including a national congressional campaign committee of a political party, an entity that is established, financed, maintained, or controlled by the national committee, a national congressional campaign committee of a political party, and an officer or agent of any such party or entity but not including an entity regulated under subsection (b)) shall not solicit or receive any contributions, donations, or transfers of funds, or spend any funds, not subject to the limitations, prohibitions, and reporting requirements of this Act.

''(b) STATE, DISTRICT, AND LOCAL COMMITTEES.—

''(1) LIMITATION.—Any amount that is expended or disbursed by a State, district, or local committee of a political party (including an entity that is established, financed, maintained, or controlled by a State, district, or local committee of a political party and an agent or officer of any such committee or entity) during a calendar year in which a Federal election is held, for any activity that might affect the outcome of a Federal election, including any voter registration or get-out-the-vote activity, any generic campaign activity, and any communication that identifies a candidate (regardless of whether a candidate for State or local office is also mentioned or identified) shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

''(2) ACTIVITY NOT INCLUDED IN PARAGRAPH (1).—

''(A) IN GENERAL.—Paragraph (1) shall not apply to an expenditure or disbursement made by a State, district, or local committee of a political party for—

''(i) a contribution to a candidate for State or local office if the contribution is not designated or otherwise earmarked to pay for an activity described in paragraph (1);

''(ii) the costs of a State, district, or local political convention;

''(iii) the non-Federal share of a State, district, or local party committee's administrative and overhead expenses (but not including the compensation in any month of any individual who spends more than 20 percent of the individual's time on activity during the month that may affect the outcome of a Federal election) except that for purposes of this paragraph, the non-Federal share of a party committee's administrative and overhead expenses shall be determined by applying the ratio of the non-Federal disbursements to the total Federal expenditures and non-Federal disbursements made by the committee during the previous presidential election year to the committee's administrative and overhead expenses in the election year in question;

''(iv) the costs of grassroots campaign materials, including buttons, bumper stickers, and yard signs that name or depict only a candidate for State or local office; and

''(v) the cost of any campaign activity conducted solely on behalf of a clearly identified candidate for State or local office, if the candidate activity is not an activity described in paragraph (1).

''(B) FUNDRAISING.—Any amount that is expended or disbursed by a national, State, district, or local committee, by an entity that is established, financed, maintained, or controlled by a State, district, or local committee of a political party, or by an agent or officer of any such committee or entity to raise funds that are used, in whole or in part, to pay the costs of an activity described in subparagraph (A) shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

''(c) TAX-EXEMPT ORGANIZATIONS.—No national, State, district, or local committee of a political party shall solicit any funds for or make any donations to an organization that is exempt from Federal taxation under section 501(c) of the Internal Revenue Code of 1986.

''(d) CANDIDATES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no candidate, individual holding Federal office, or agent of a candidate or individual holding Federal office may—

''(A) solicit or receive funds in connection with an election for Federal office unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act; or

''(B) solicit or receive funds that are to be expended in connection with any election for other than a Federal election unless the funds—

''(i) are not in excess of the amounts permitted with respect to contributions to candidates and political committees under paragraphs (1) and (2) of section 315(a); and

''(ii) are not from sources prohibited by this Act from making contributions with respect to an election for Federal office.

''(2) EXCEPTION.—Paragraph (1) does not apply to the solicitation or receipt of funds by an individual who is a candidate for a State or local office if the solicitation or receipt of funds is permitted under State law for the individual's State or local campaign committee.''.

SEC. 202. STATE PARTY GRASSROOTS FUNDS.

(a) INDIVIDUAL CONTRIBUTIONS.—Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) (as amended by section 105) is amended—

(1) in subparagraph (B) by striking ''or'' at the end;

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following:

''(C) to—

''(i) a State Party Grassroots Fund established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $20,000;

''(ii) any other political committee established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $5,000;

except that the aggregate contributions described in this subparagraph that may be made by a person to the State Party Grassroots Fund and all committees of a State Committee of a political party in any State in any calendar year shall not exceed $20,000; or''.

(b) MULTICANDIDATE COMMITTEE CONTRIBUTIONS TO STATE PARTY.—Section 315(a)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)) is amended—

(1) in subparagraph (B), by striking ''or'' at the end;

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following:

''(C) to—

''(i) a State Party Grassroots Fund established and maintained by a State committee

of a political party in any calendar year which in the aggregate, exceed $15,000;

''(ii) to any other political committee established and maintained by a State committee of a political party which, in the aggregate, exceed $5,000;

except that the aggregate contributions described in this subparagraph that may be made by a multicandidate political committee to the State Party Grassroots Fund and all committees of a State Committee of a political party in any State in any calendar year shall not exceed $15,000; or''.

(c) OVERALL LIMIT.—

(1) IN GENERAL.—Section 315(a)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(3)) is amended to read as follows:

''(3) OVERALL LIMIT.—

''(A) ELECTION CYCLE.—No individual shall make contributions during any election cycle that, in the aggregate, exceed $60,000.

''(B) CALENDAR YEAR.—No individual shall make contributions during any calendar year—

''(i) to all candidates and their authorized political committees that, in the aggregate, exceed $25,000; or

''(ii) to all political committees established and maintained by State committees of a political party that, in the aggregate, exceed $20,000.

''(C) NONELECTION YEARS.—For purposes of subparagraph (B)(i), any contribution made to a candidate or the candidate's authorized political committees in a year other than the calendar year in which the election is held with respect to which the contribution is made shall be treated as being made during the calendar year in which the election is held.''.

(2) DEFINITION.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end the following:

''(20) ELECTION CYCLE.—The term 'election cycle' means—

''(A) in the case of a candidate or the authorized committees of a candidate, the period beginning on the day after the date of the most recent general election for the specific office or seat that the candidate seeks and ending on the date of the next general election for that office or sea; and

''(B) in the case of all other persons, the period beginning on the first day following the date of the last general election and ending on the date of the next general election.''.

(d) STATE PARTY GRASSROOTS FUNDS.—

(1) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 301 et seq.) (as amended by section 201) is amended by adding at the end the following:

''SEC. 325. STATE PARTY GRASSROOTS FUNDS.

''(a) DEFINITION.—In this section, the term 'State or local candidate committee' means a committee established, financed, maintained, or controlled by a candidate for other than Federal office.

''(b) TRANSFERS.—Notwithstanding section 315(a)(4), no funds may be transferred by a State committee of a political party from its State Party Grassroots Fund to any other State Party Grassroots Fund or to any other political committee, except a transfer may be made to a district or local committee of the same political party in the same State if the district or local committee—

''(1) has established a separate segregated fund for the purposes described in section 324(b)(1); and

''(2) uses the transferred funds solely for those purposes.

''(c) AMOUNTS RECEIVED BY GRASSROOTS FUNDS FROM STATE AND LOCAL CANDIDATE COMMITTEES.—

''(1) IN GENERAL.—Any amount received by a State Party Grassroots Fund from a State or local candidate committee for expenditures described in section 324(b)(1) that are for the benefit of that candidate shall be treated as meeting the requirements of 324(b)(1) and section 304(f) if—

''(A) the amount is derived from funds which meet the requirements of this Act with respect to any limitation or prohibition as to source or dollar amount specified in paragraphs (1)(A) and (2)(A) of section 315(a); and

''(B) the State or local candidate committee—

''(i) maintains, in the account from which payment is made, records of the sources and amounts of funds for purposes of determining whether those requirements are met; and

''(ii) certifies that the requirements were met.

''(2) DETERMINATION OF COMPLIANCE.—For purposes of paragraph (1)(A), in determining whether the funds transferred meet the requirements of this Act described in paragraph (1)(A)—

''(A) a State or local candidate committee's cash on hand shall be treated as consisting of the funds most recently received by the committee; and

''(B) the committee must be able to demonstrate that its cash on hand contains funds meeting those requirements sufficient to cover the transferred funds.

''(3) REPORTING.—Notwithstanding paragraph (1), any State Party Grassroots Fund that receives a transfer described in paragraph (1) from a State or local candidate committee shall be required to meet the reporting requirements of this Act, and shall submit to the Commission all certifications received, with respect to receipt of the transfer from the candidate committee.''.

(2) DEFINITION.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) (as amended by subsection (c)(2)) is amended by adding at the end the following:

''(21) STATE PARTY GRASSROOTS FUND.—The term 'State Party Grassroots Fund' means a separate segregated fund established and maintained by a State committee of a political party solely for the purpose of making expenditures and other disbursements described in section 325(a).''.

SEC. 203. REPORTING REQUIREMENTS.

(a) REPORTING REQUIREMENTS.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by section 232) is amended by adding at the end the following:

''(f) POLITICAL COMMITTEES.—

''(1) NATIONAL AND CONGRESSIONAL POLITICAL COMMITTEES.—The national committee of a political party, any congressional campaign committee of a political party, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period, whether or not in connection with an election for Federal office.

''(2) OTHER POLITICAL COMMITTEES TO WHICH SECTION 325 APPLIES.—A political committee (not described in paragraph (1)) to which section 325(b)(1) applies shall report all receipts and disbursements.

''(3) OTHER POLITICAL COMMITTEES.—Any political committee to which paragraph (1) or (2) does not apply shall report any receipts or disbursements that are used in connection with a Federal election.

''(4) TRANSFERS TO STATE COMMITTEES.—Any political committee shall include in its report under paragraph (1) or (2) the amount of any contribution received by a national committee which is to be transferred to a State committee for use directly (or primarily to support) activities described in section 325(b)(2) and shall itemize such amounts to the extent required by subsection (b)(3)(A).

''(5) ITEMIZATION.—If a political committee has receipts or disbursements to which this subsection applies from any person aggregating in excess of $200 for any calendar year, the political committee shall separately itemize its reporting for such person in the same manner as required in paragraph (3)(A), (5), or (6) of subsection (b).

''(6) REPORTING PERIODS.—Reports required to be filed under this subsection shall be filed for the same time periods required for political committees under subsection (a).''.

(b) REPORT OF EXEMPT CONTRIBUTIONS.—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended by adding at the end the following:

''(C) The exclusion provided in subparagraph (B)(viii) shall not apply for purposes of any requirement to report contributions under this Act, and all such contributions aggregating in excess of $200 shall be reported.''.

(c) REPORTS BY STATE COMMITTEES.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by subsection (a)) is amended by adding at the end the following:

''(g) FILING OF STATE REPORTS.—In lieu of any report required to be filed by this Act, the Commission may allow a State committee of a political party to file with the Commission a report required to be filed under State law if the Commission determines such reports contain substantially the same information.''.

(d) OTHER REPORTING REQUIREMENTS.—

(1) AUTHORIZED COMMITTEES.—Section 304(b)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(4)) is amended—

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

(B) by inserting ''and'' at the end of subparagraph (I); and

(C) by adding at the end the following new subparagraph:

''(J) in the case of an authorized committee, disbursements for the primary election, the general election, and any other election in which the candidate participates;''.

(2) NAMES AND ADDRESSES.—Section 304(b)(5)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(5)(A)) is amended—

(A) by striking ''within the calendar year''; and

(B) by inserting '', and the election to which the operating expenditure relates'' after ''operating expenditure''.

Subtitle B—Soft Money of Persons Other Than Political Parties

SEC. 211. SOFT MONEY OF PERSONS OTHER THAN POLITICAL PARTIES.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by section 203) is amended by adding at the end the following:

''(h) ELECTION ACTIVITY OF PERSONS OTHER THAN POLITICAL PARTIES.—

''(1) IN GENERAL.—A person other than a committee of a political party that makes aggregate disbursements totaling in excess of $10,000 for activities described in paragraph (2) shall file a statement with the Commission—

''(A) within 48 hours after the disbursements are made; or

''(B) in the case of disbursements that are made within 20 days of an election, within 24 hours after the disbursements are made.

''(2) ACTIVITY.—The activity described in this paragraph is—

''(A) any activity described in section 315(b)(2)(A) that refers to any candidate for Federal office, any political party, or any Federal election; and

''(B) any activity described in subparagraph (B) or (C) of section 315(b)(2).

''(3) ADDITIONAL STATEMENTS.—An additional statement shall be filed each time additional disbursements aggregating $10,000 are made by a person described in paragraph (1).

''(4) APPLICABILITY.—This subsection does not apply to—

''(A) a candidate or a candidate's authorized committees; or

''(B) an independent expenditure.

''(5) CONTENTS.—A statement under this section shall contain such information about the disbursements as the Commission shall prescribe, including—

''(A) the name and address of the person or entity to whom the disbursement was made;

''(B) the amount and purpose of the disbursement; and

''(C) if applicable, whether the disbursement was in support of, or in opposition to, a candidate or a political party, and the name of the candidate or the political party.''.

Subtitle C—Contributions

SEC. 221. PROHIBITION OF CONTRIBUTIONS TO FEDERAL CANDIDATES AND OF DONATIONS OF ANYTHING OF VALUE TO POLITICAL PARTIES BY FOREIGN NATIONALS.

Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) is amended—

(1) by striking the heading and inserting ''PROHIBITION OF CONTRIBUTIONS TO CANDIDATES AND DONATIONS OF ANYTHING OF VALUE TO POLITICAL PARTIES BY FOREIGN NATIONALS''; and

(2) in subsection (a)—

(A) by inserting ''or to make a donation of money or any other thing of value to a political committee of a political party'' after ''office''; and

(B) by inserting ''or donation'' after ''contribution'' the second place it appears.

SEC. 222. CLOSING OF SOFT MONEY LOOPHOLE.

Section 315(a)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(3)) is amended by striking ''contributions'' and inserting ''contributions (as defined in section 301) to a candidate or donations (including a contribution as defined in section 301) to political committees''.

SEC. 223. CONTRIBUTIONS TO DEFRAY LEGAL EXPENSES OF CERTAIN OFFICIALS.

(a) CONTRIBUTIONS TO DEFRAY LEGAL EXPENSES.—

(1) PROHIBITION ON MAKING OF CONTRIBUTIONS.—It shall be unlawful for any person to make a contribution to a candidate for nomination to, or election to, a Federal office (as defined in section 301(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(3))), an individual who is a holder of a Federal office, or any head of an Executive department, or any entity established on behalf of such individual, to defray legal expenses of such individual—

(1) to the extent it would result in the aggregate amount of such contributions from such person to or on behalf of such individual to exceed $10,000 for any calendar year; or

(2) if the person is—

(A) a foreign national (as defined in section 319(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e(b)); or

(B) a person prohibited from contributing to the campaign of a candidate under section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b).

(2) PROHIBITION ON ACCEPTANCE OF CONTRIBUTIONS.—No person shall accept a contribution if the contribution would violate paragraph (1).

(3) PENALTY.—A person that knowingly and willfully commits a violation of paragraph (1) or (2) shall be fined an amount not to exceed the greater of $25,000 or 300 percent of the contribution involved in such violation, imprisoned for not more than 1 year, or both.

(4) CONSTRUCTION OF PROHIBITION.—Nothing in this section shall be construed to permit the making of a contribution that is otherwise prohibited by law.

(b) REPORTING REQUIREMENTS.—A candidate for nomination to, or election to, a Federal office, an individual who is a holder of a Federal office, or any head of an Executive department, or any entity established on behalf of such individual, that accepts contributions to defray legal expenses of such individual shall file a quarterly report with the Federal Election Commission including the following information:

(1) The name and address of each contributor who makes a contribution in excess of $25.

(2) The amount of each contribution.

(3) The name and address of each individual or entity receiving disbursements from the fund.

(4) A brief description of the nature and amount of each disbursement.

(5) The name and address of any provider of pro bono services to the fund.

(6) The fair market value of any pro bono services provided to the fund.

Subtitle D—Independent Expenditures

SEC. 231. CLARIFICATION OF DEFINITIONS RELATING TO INDEPENDENT EXPENDITURES.

Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by striking paragraphs (17) and (18) and inserting the following:

''(17) INDEPENDENT EXPENDITURE.—The term 'independent expenditure' means an expenditure that—

''(A) contains express advocacy; and

''(B) is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate.

''(18) EXPRESS ADVOCACY.—

''(A) IN GENERAL.—The term 'express advocacy' means a communication that, taken as a whole and with limited reference to external events, makes positive statements about or negative statements about or makes an expression of support for or opposition to a specific candidate, a specific group of candidates, or candidates of a particular political party.

''(B) EXPRESSION OF SUPPORT FOR OR OPPOSITION TO.—In subparagraph (A), the term 'expression of support for or opposition to' includes a suggestion to take action with respect to an election, such as to vote for or against, make contributions to, or participate in campaign activity, or to refrain from taking action.

''(C) VOTING RECORDS.—The term 'express advocacy' does not include the publication and distribution of a communication that is limited to providing information about votes by elected officials on legislative matters and that does not expressly advocate the election or defeat of a clearly identified candidate.''.

SEC. 232. REPORTING REQUIREMENTS FOR INDEPENDENT EXPENDITURES.

(a) TIME FOR REPORTING CERTAIN EXPENDITURES.—Section 304(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(c)) is amended—

(1) in paragraph (2), by striking the undesignated matter after subparagraph (C);

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting after paragraph (2), as amended by paragraph (1), the following:

''(d) TIME FOR REPORTING CERTAIN EXPENDITURES.—

''(1) EXPENDITURES AGGREGATING $1,000.—

''(A) INITIAL REPORT.—A person that makes or obligates to make independent expenditures aggregating $1,000 or more after the 20th day, but more than 24 hours, before an election shall file a report describing the expenditures within 24 hours after that amount of independent expenditures has been made or obligated to be made.

''(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person filing the report shall file an additional report each time that independent expenditures are made or obligated to be made aggregating an additional $1,000 with respect to the same election as that to which the initial report relates.

''(2) EXPENDITURES AGGREGATING $10,000.—

''(A) INITIAL REPORT.—A person that makes or obligates to make independent expenditures aggregating $10,000 or more after the 90th day and up to and including the 20th day before an election shall file a report describing the expenditures within 24 hours after that amount of independent expenditures has been made or obligated to be made.

''(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person filing the report shall file an additional report each time that independent expenditures are made or obligated to be made aggregating an additional $10,000 with respect to the same election as that to which the initial report relates.

''(3) CONTENTS OF REPORT.—A report under this subsection—

''(A) shall be filed with the Commission;

''(B) shall contain the information required by subsection (c).''.

(b) AFFIDAVIT REQUIREMENT.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by subsection (a)) is amended—

(1) in subsection (c)(2)(B), by inserting ''(in the case of a committee, by both the chief executive officer and the treasurer of the committee)'' after ''certification''; and

(2) by adding at the end the following:

''(e) CERTIFICATION REQUIREMENTS.—

''(1) COMMISSION.—Not later than 48 hours after receipt of a certification under subsection (c)(2)(B), the Commission shall notify the candidate to which the independent expenditure refers and the candidate's campaign manager and campaign treasurer that an expenditure has been made and a certification has been received.

''(2) CANDIDATE.—Not later than 48 hours after receipt of notification under paragraph (1), the candidate and the candidate's campaign manager and campaign treasurer shall each file with the Commission a certification, under penalty of perjury, stating whether or not the independent expenditure was made in cooperation, consultation, or concert, with, or at the request or suggestion of, the candidate or authorized committee or agent of such candidate.''.

TITLE III—APPROPRIATIONS

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

The Federal Election Campaign Act of 1971 is amended—

(1) by striking section 314 (2 U.S.C. 439c) and inserting the following:

''SEC. 314. [REPEALED].'';

and

(2) by inserting after section 407 the following:

''SEC. 408. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this Act and chapters 95 and 96 of the Internal Revenue Code of 1986.''.

TITLE IV—SEVERABILITY; JUDICIAL REVIEW; EFFECTIVE DATE; REGULATIONS

SEC. 401. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance, shall not be affected thereby.

SEC. 402. EXPEDITED REVIEW OF CONSTITUTIONAL ISSUES.

(a) DIRECT APPEAL TO SUPREME COURT.—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory order or final judgment, decree, or order issued by any court ruling on the constitutionality of any provision of this Act or amendment made by this Act.

(b) ACCEPTANCE AND EXPEDITION.—The Supreme Court shall, if it has not previously ruled on the question addressed in the ruling below, accept jurisdiction over, advance on the docket, and expedite the appeal to the greatest extent possible.

SEC. 403. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by, and the provisions of, this Act shall take effect on January 1, 1999.

SEC. 404. REGULATIONS.

The Federal Election Commission shall prescribe any regulations required to carry out this Act not later than 9 months after the effective date of this Act.

THE CAMPAIGN FINANCE REFORM ACT OF 1997—EXECUTIVE SUMMARY

1. Spending Limits on Senate Campaigns.—The bill imposes the following voluntary limits on the amounts that a candidate can spend in a Senate primary and general election:

Primary—67% of the state's general election expenditure limit.

General—$400,000 plus an additional amount based upon the population of each state (with a floor of $950,000). Under this formula, New York would have a general election expenditure limit of $3,994,500, Pennsylvania would have a limit of $2,899,000 and Delaware would have a limit of $950,000.

2. Standby Public Financing.—Similar to the recently-enacted Maine statute, when a candidate exceeds the voluntary spending caps, his qualifying opponent(s) will receive public funding in the amount of the excess. This provisions should act primarily as a deterrent and should not result in significant public outlays.

3. Soft Money—Political Parties.—The bill prevents candidates for Federal office from using soft money (i.e. money not subject to the restrictions, caps and reporting requirements of FECA—the Federal Election Campaign Act) to fund their campaigns by doing the following:

Prohibits national committees of political parties (e.g. the DNC and the RNC) from soliciting, receiving or spending soft money.

Prohibits candidates for Federal office from soliciting or receiving soft money.

Prohibits state, district and local committees of political parties from spending or disbursing soft money for any activity that may affect the outcome of a Federal election.

Caps the amount any individual or entity may contribute to state parties for use in Federal elections at $20,000/year.

4. Foreign Money.—The bill clarifies Federal election law to provide that foreign nationals and other foreign entities may not make any contributions to Federal elections. This provision will make clear that the proscription on such contributions applies to soft money as well as hard money contributions.

5. Clarifying the Definition of Independent Expenditures.—The bill ensures that ''independent expenditures'' on behalf of a particular candidate by a third party will be truly independent from the candidate by providing that:

All entities which make independent expenditures relating to a candidate for Federal office will have to sign an affidavit stating whether or not such an expenditure was made in coordination with any candidate.

Within 48 hours of receipt of such a certification, the FEC shall notify the candidate to which the expenditure refers that such expenditure has been made.

Within 48 hours of such notice, the candidate (and his campaign manager and treasurer) will have to submit a signed affidavit stating whether or not the independent expenditure was made in coordination with the candidate.

6. Donations to Legal Defense Funds.—The bill seeks to control contributions to legal defense funds—the ''first cousin'' of campaign contributions—by imposing the following limitations and requirements:

No person can make a contribution of over $10,000 a year in the aggregate to the legal defense fund of a holder of Federal office or a candidate for Federal office.

A holder of Federal office or a candidate for Federal office that accepts contributions to a legal defense fund must file detailed quarterly reports on such contributions and the identity of the donors with the Federal Election Commission.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MURKOWSKI. Mr. President, will you advise me of the time available under the special orders?

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 12:30 p.m. was under the control of the Senator from Illinois. However, that time has arrived. Under the previous order, the time until 12:50 p.m. will be under the control of the Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair.

ENERGY

Mr. MURKOWSKI. Mr. President, I call the attention of my colleagues to a release by OPEC on Friday where OPEC indicated it was cutting the production of oil approximately 1 million barrels a day, to approximately 24.2 million barrels a day. This follows a cut in February of 1.5 million barrels a day. I am sure many will not reflect on the significance of this action, but as we go into the summer season, the realization, again, that we are dependent on OPEC warrants a little consideration this afternoon.

Many people forget that in 1973, when we had the Arab oil embargo and the Yom Kippur war, we were approximately 37 percent dependent on imported oil. Today we are 56 percent dependent on imported oil.

It is not that there is necessarily a shortage of oil in the world, but because of our increased dependence on OPEC and their awareness that they are better off tightening up the supply and keeping the price high, we have seen a rather curious and significant effect associated with our dependence on OPEC and our economy.

What has happened is the OPEC nations have decided it is better to curtail the supply and keep the price high than to continue to produce oil. As a consequence, we are seeing fourth quarter earnings of the Fortune 500 dramatically affected by the cost of energy, and particularly oil. It is estimated that in the last 18 months, one of the major contributors to a decline in our economy, and hence a decline in the stock market, is the cost of energy.

We have seen OPEC operate over the years in a rather undisciplined fashion. That has changed dramatically. Today we see an organized OPEC, a group of countries that actually set a cartel in the sense of setting a price, something that would be inappropriate and subject to antitrust laws in the United States. They got together and decided they were going to maintain a floor and ceiling on the price of oil. That floor was going to be about $22, and the ceiling was going to be about $28. So each time the price begins to fall, OPEC reduces its supply. As a consequence, we are seeing oil prices now about $25 a barrel. About 18 months ago, we were seeing oil prices at $10 a barrel.

OPEC fears, obviously, any slowdown in economic growth that will lead to an oil glut, so they simply reduce the supply. Any reduction in world supply does affect our economy as well as the world's economy and makes higher prices for energy.

There are those who suggest there might be another OPEC cut on the horizon that might be up to 2 million barrels per day if a continued slowdown in the economy actually prevails.

What does this mean for the American consumer? The Energy Information Agency predicts that prices of gasoline this summer may run from $1.60 to as high as $2.10 a gallon for the rest of this year. The reason for that, obviously, is supply and demand: our increasing demand and our increasing dependence on imports.

I indicated we were looking at about 56 percent dependence on OPEC, but it gets worse. The Department of Energy has suggested that by the year 2004 to 2005—somewhere in that area—we will be close to 60 percent dependent. In the year 2010, we will be somewhere in the area of 65 percent dependent.

What we really have to do is begin to spotlight how we can decrease our dependence on imported energy supplies, reduce reliance on foreign oil imports. That is rather amusing to me as we

look at the facts associated with what is happening in our economy and the energy crisis that, for all practical purposes, with the exception of what is happening in California, we have chosen to ignore, in spite of the fact that last week the Wall Street Journal came out with an article indicating that the State of New York will have to increase its production generating capacity of energy somewhere in the range of 25 percent in the next year to avoid brownouts, blackouts, and shortages.

It is a funny thing because unless the wheel really squeaks, we do not maintain any attention to take the necessary steps to avoid that. We just simply assume it will not happen or it probably will occur on somebody else's watch or somehow we will get through.

Let me share with you what has changed. In 1988, U.S. consumption of oil was 13.2 million barrels a day. In January of this year, it was 14.6 million barrels a day. Consumption has gone up dramatically—roughly 1.3 million barrels a day.

The offset to that is production. What is our production in the United States? Our production in 1988 was 8.1 million barrels, and it has dropped. In January, production in the U.S. was 5.9 million barrels a day. We are down over 2 million barrels of U.S. daily production. That equates, obviously, to a dependence on more imports.

What are our imports? In 1989, they were 5.1 million barrels a day. In January of this year, they were 8.6 million barrels a day. So approximately 3.35 million barrels a day more is imported into this Nation than back in 1998. As I indicated, our foreign dependence in 1998 was about 39 percent; today it is 59 percent. The price of crude oil in 1998 was $18 compared to $29, $27 today. Adjusted for inflation for the year 2001, that is $26 vis-a-vis $35 a day. That is what has changed.

Let's talk a little bit about the national security interests of this country. I said many times on this floor it is rather ironic we should have a foreign policy that depends to a significant degree on imported oil from Iraq, our good friend Saddam Hussein. We fought a war in 1991. We lost 147 lives. We had 437 wounded, 23 taken prisoner. I don't want to even estimate the cost to the American taxpayer. That was a war over oil. Make no mistake about it. It was to ensure that Saddam Hussein did not invade Kuwait and go on into Saudi Arabia and control the world's supply of oil. We fought that war. We won that war.

But what are we doing today? We are importing 750,000 barrels of oil from Iraq, our good friend Saddam Hussein. Isn't that ironic?

Let me go a step further. It gets worse. We have flown 234,000 individual sorties—airplane flights to enforce the no-fly zone over Iraq—since 1992. What are we doing? One could simplify the debate and suggest we are taking that 750,000 barrels of oil, putting it in our airplanes, and then bombing.

Let's go a little further. What is he doing with the money we pay for that oil? He is taking care of his Republican Guards. No question about that. Then instead of taking care of the needs of his people, he is developing a missile delivery capability of biological and chemical capability. At whom is he aiming? One of our greatest allies—Israel. Maybe I am oversimplifying that, but if you boil it down, that is what it amounts to. Rather ironic. We just seem to shrug our shoulders and say that is the way it is.

I will ask the question of our national security interests. At what point do we reach a degree of dependence on imports where we compromise our national security?

There was a report prepared a few weeks ago by the Center for Strategic and International Studies. It took about 3 years to complete that report. It launched its strategic energy initiatives and began to examine at what point we began to compromise our national security. The bottom line is we are already there.

Some of the highlights of this report deserve some examination. The report assesses the international energy supply and demand relationship likely to prevail in the first two decades of the 21st century—in other words, the next 20 years—and is identifying what effect it will have on global markets between 2000 and 2020 in that study. The energy outlook to 2020 is not very bright. It suggests during the next 20 years, provided there is no extended global economic dislocation, energy demand is projected to expand more than 50 percent. Further, it states the growth will be unevenly distributed with demand increasing in the industrialized world by some 23 percent while more than doubling from a much lower base in the developed world, with Asia accounting for the bulk of the increase. It is not just the United States. We think the world revolves around us. There are developing nations; there is China.

Further, it states that central to the geopolitics of energy is the fact that energy demand will be met in essentially the same way it was met at the end of the 20th century, fossil fuels—mainly oil—providing the bulk of global energy consumption, rising marginally from 86 percent in 2000 to an 88-percent share in 2020.

And oil will dominate global energy use. They identify from where the oil will come. The Persian Gulf will remain the key marginal supplier of oil to the world markets, with Saudi Arabia in an unchallenged lead, and if estimates are correct, the Persian Gulf will expand oil production during that time of 2000 to 2020. That is from where it will come.

It further states that U.S. net imports will continue their steady growth. It further states that electricity will continue to be the most rapidly growing sector of energy demand in developing countries in Asia, central South Africa, and South America showing the greatest increase.

Then it goes into the geopolitics—this is on what every member of this body should reflect—the continuing domestic fragility of key energy producing states. We will be relying on oil from unstable countries and regions throughout much of the century. By the year 2020, fully 50 percent of the estimated total global oil demand will be met from countries that pose a high risk of internal instability.

Further, the growing fact of nonstate actors will be evident in three distinct areas: First, employing new information technologies, nongovernment organizations—NGOs will play a growing role in defining the ways energy is produced and consumed. Second, terrorist groups, with access to the same technologies, will be in a position to inflict greater operational damage on increasingly complex energy infrastructures. Radical activists will be in a position to disrupt operation infrastructures through cyberterrorism. The potential for armed conflict in energy-producing nations will remain high.

I recommend each member review this CSIS report because it stresses the vulnerability of the United States to increasing dependence on energy.

I conclude with one reference. A number of my colleagues are on a bill to put an area known as ANWR, in my State of Alaska, into a wilderness. We have a chart showing a map of the area in question. It is appropriate to recognize a few facts. They are often misstated. ANWR is 19 million acres. ANWR is not at risk because ANWR has already been foreclosed into a wilderness in this area, 8.5 million acres, and 9 million acres is set off as a refuge and is an undisturbed area. There is a village, Katovik, with 227 people. There are people in it who live their lives there. We have a picture of the village. You can see the ocean, the radar, the village homes, the airport, and so forth. My point in bringing this up is to shatter the myth that somehow this is an unoccupied area.

It is beyond my comprehension why some Members would object to our energy bill, which has ANWR in it as a relief, if you will, to reduce our dependence. I ask unanimous consent to speak for 5 more minutes.

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

Mr. MURKOWSKI. In conclusion, let me bring up the reality that we have an energy bill that is about 303 pages long. It covers increasing energy efficiency, alternate fuels, and increasing our own domestic resources. It seems that all the interested parties, including the media, are concerned with one small portion, and that is the portion that suggests we reduce our dependence on imports and imported energy. That is one of the objectives in the bill—to reduce our imports of foreign energy to less than 50 percent by the year 2010.

To get back to this area, because it is the area of dispute, we are looking at a

lease-sale in this coastal plain. The reason that is the area is that it is estimated approximately 10 billion to 16 billion barrels of oil are mainly in this area. If it is within the estimate of 16 billion barrels, it will be the largest oilfield found in the world in the last 40 years.

Here is Prudhoe Bay, which has been 20 percent of America's production for the last 27 years, and the pipeline, 800 miles long, traverses this area. There are some in this body who want to put it into wilderness. Some are proposing they filibuster the bill. That is like fiddling while Rome burns.

We have an energy crisis in this country. We are looking for relief. We have an area where we have identified a significant likelihood of a major discovery that would relieve our dependence on imported oil, and some Members want to put it into wilderness, some Members want to stop discussion of the bill, some Members want to filibuster. When will we learn from experience? The experience is, if you are looking for oil, you go where you are most likely to find it. The geologists tell us this is the place. The infrastructure and an 800-mile pipeline are already there. But the environmentalists say no. They don't have any scientific evidence to suggest it cannot be done, they simply say no because it gives them a cause, membership dollars, and so forth.

People are concerned about the caribou. Here is a picture of the caribou. You have seen it before, Mr. President. They are wandering around Prudhoe Bay, they are not disturbed, they are very comfortable. These are real, Mr. President, they are not stuffed.

I can show you another picture. This happens to be 3 bears going for a walk. They happen to be walking on a pipeline because it is easier than walking in the snow. There is a compatibility here. I am not suggesting there is not change, but I am suggesting we have the technology to do it safely.

Here is a chart with the new technology. This came out of the New York Times science section. This shows how drilling occurs today, with 3–D seismic. You can directionally drill and find these pockets of oil.

Lastly, the technology of how it is done with the ice roads. We develop no gravel roads. We put down chipped ice. This is a platform in Prudhoe Bay area, but it is the same in the ANWR area. You can see cars—not cars, these are pickup trucks, traversing to supply this. When this is gone, what you will see in the 2½ months of summer is a picture looking like this. That is the technology. There is absolutely no scientific evidence to suggest we cannot do it safely.

Finally, do we really care where our energy comes from? Virtually all the oil produced in Alaska is consumed in California, Washington, and Oregon. If it does not come from Alaska, they are going to get it. Do you know where it is going to come from? It is going to come in foreign ships, because every single drop of oil that moves from Alaska has to flow in a vessel owned by a U.S. company with U.S. crews, built in a U.S. shipyard, because that is what the Jones Act mandates regarding the movement of goods and services between two American ports.

California should concern itself, and so should Washington, because otherwise that oil will be coming in in foreign vessels, owned by foreign companies that do not have the deep pockets of an *Exxon-Valdez*.

I will be talking about this at other times, but I implore my colleagues to reflect on reality. We have some relief here if we have the gumption and commitment to recognize the scientific capability and technology that we now have to do it right.

Mr. President, I ask unanimous consent the portion of the executive summary of the CSIS study on the vulnerability of this Nation to imported energy be printed in the RECORD.

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

EXECUTIVE SUMMARY

The Center for Strategic and International Studies (CSIS) launched its Strategic Energy Initiative (SEI) in mid-1998 on the premise that the benign global energy situation that had prevailed since the late 1980s masked two dangers.

First, it obscured significant geopolitical shifts both ongoing and forthcoming that could affect future global energy security, supply, and demand.

Second, it led to complacency among policymakers and the public about the need to incorporate long-term global energy concerns into near-term foreign policy decisions.

By midyear 2000 the state of the world oil market had undergone considerable turbulence, marked by rapidly rising oil prices as oil-exporting countries were benefiting from staged reductions in production that had been initiated more than two years earlier. The delicate balance between supply and demand was demonstrated once again.

Instead of dwelling on the oil market turbulence in 2000, however, this report assesses the international energy supply-and-demand relationships likely to prevail in the first two decades of the twenty-first century, highlighting the different ways that geopolitical developments could affect global energy markets between 2000 and 2020. In light of the world's future energy needs, this report series also points out the contradictions inherent in certain of the energy objectives and foreign policies pursued by the United States and other Western governments. Finally, the report offers policy considerations that, if implemented, could help ensure that energy supplies are adequate to meet projected worldwide demand, are not excessively vulnerable to major interruptions, and are produced in ways that minimize damage to the environment.

It may appear that parts of this assessment are unduly pessimistic, that positive factors have been overlooked. These SEI assessments do stress prospects for instability and for interference in energy supplies, but only to alert policymakers about the fragility of reliable and timely supplies.

ENERGY OUTLOOK TO 2020

During the next 20 years, providing there is no extended global economic dislocation, energy demand is projected to expand more than 50 percent. This growth will be unevenly distributed, with demand increasing in the industrialized world by some 23 percent while more than doubling, from a much lower base, in the developing world, with Asia accounting for the bulk of this increase. At some point during this period, the developing world will begin to consume more energy than the developed world. Energy supply will need to be expanded substantially to meet this demand growth. Although the Persian Gulf will remain the key marginal oil supplier, all producing countries must contribute to supply to the extent they can.

Central to the geopolitics of energy during 2000–2020 is the fact that energy demand will be met in essentially the same ways as it was met at the end of the twentieth century. Fossil fuels will provide the bulk of global energy consumption, rising marginally from an 86 percent share in 2000 to an 88 percent share in 2020. Although oil will dominate global energy use and coal will retain its central role in electricity generation, natural gas use will increase noticeably. Indeed the relative contributions of oil and coal to world energy consumption will actually decline whereas only natural gas will demonstrate a growth in both absolute and relative terms. Nuclear power will decline in both relative and absolute terms; renewables, including hydropower, and alternative energy sources, while growing in absolute terms, will not capture a greater relative share of the market.

Development of oil and gas reserves is judged sufficient to meet projected global demand well beyond this period. The most noticeable trend during 2000–2020 will be the growing mutual dependencies between energy suppliers and consumers. Key aspects of this trend, which are set out below, may appear rather obvious—and they are; how to respond in today's changing environment is much less so.

The Persian Gulf will remain the key marginal supplier of oil to the world market, with Saudi Arabia in the unchallenged lead. Indeed, if estimates of future demand are reasonably correct, the Persian Gulf must expand oil production by almost 80 percent during 2000–2020, achievable perhaps if foreign investment is allowed to participate and if Iran and Iraq are free of sanctions.

While the Persian Gulf's share of world oil production continues to expand, the share of North America and Europe, the world's most stable regions, is projected to decline.

The share of world oil production from the Soviet Union is projected to increase from 9 percent to almost 12 percent. But, as had been the case in earlier years, this oil will follow the market, not attempt to lead it.

The Caspian oil contribution to world supply will be important at the margin but not pivotal.

Asian dependence on Persian Gulf oil will rise significantly, and the resulting necessity for longer tanker journeys will put more oil at risk in the international sea lanes.

European dependence on Persian Gulf oil will remain significant.

The European need for natural gas will be covered by a handful of suppliers, Russia being the most significant, which underscores a worrisome dependency.

U.S. net oil imports will continue their steady growth.

Anticipated growth in the use of natural gas—in considerable part engendered as a fuel for electric power stations—raises a new series of geopolitical issues, leading to new political alignments.

Electricity will continue to be the most rapidly growing sector of energy demand; developing economies in Asia and in Central and South America will show the greatest

increase in consumption. The choice of primary fuel used to supply power plants will have important effects on the environment.

Technological change and improvements in energy efficiency have made their mark on recent energy supply-and-demand balances. Future energy supply and demand must reflect not only a continuation of these successes but an acceleration wherever possible.

GEOPOLITICS AND ENERGY: A SYMBIOTIC RELATIONSHIP

How Might Geopolitics Affect Energy?

Four main geopolitical trends are likely to influence energy supply and demand during the years ahead.

The continuing domestic fragility of key energy-producing states. The world drew some portion of its energy supplies from unstable countries and regions throughout much of the twentieth century. By 2020, fully 50 percent of estimated total global oil demand will be met from countries that pose a high risk of internal instability. A crisis in one or more of the world's key energy-producing countries is highly likely at some point during 2000–2020.

Globalization. Economic globalization will impose new competitive and political pressures on many of the world's leading energy producers and consumers. It will serve as a spur for growth in global energy supply and demand. It could also lead to serious swings in energy prices and demand because country-specific or regional recessions or other influencing events can now be transmitted quickly around the world. In such a globalized world, energy producers and consumers will become ever more sensitive to their mutual interdependence.

The growing impact of nonstate actors. This impact will be evident in three distinct areas. First, adroitly employing new information technologies, non-governmental organizations (NGOs) will play a growing role in defining the ways that energy is produced and consumed. Second, terrorist groups, with access to the same technologies, will be in a position to inflict great operational damage on increasingly complex energy infrastructures. Third, radical activists will be in a position to disrupt operational infrastructure through cyberterrorism.

Conflict and power politics. The potential for armed conflict in energy-producing regions will remain high. Early in the twenty-first century, as a result, a weakening of U.S. alliance relationships in Europe, the Persian Gulf, or Asia could have major impacts on global energy security. U.S. concerns over the proliferation of weapons of mass destruction (WMD) and the desire to promote democratization and market liberalization around the world will also have a significant effect on key energy exporters. The future viability of the energy-producing states in the Caspian and Central Asia will be shaped by the competing objectives or interests of Russia, the United States, and adjacent regional powers.

How Might Energy Affect Geopolitics?

There are five main ways in which energy may affect geopolitical outcomes:

Swings in energy demand. A dramatic decline in global energy consumption, brought on by economic recession, could trigger instability in many of the world's major energy-exporting countries. Conversely, continued economic growth, accompanied by rising energy demand, would place more power in the hands of the exporters.

Swings in energy supply. Just as demand is vulnerable to sharp shifts up or down, so is supply. If discovery and development of new reserves and the addition of producing capacities match demand growth, an acceptable balance between supply and demand can be maintained. But a number of factors must be satisfied if supply growth is to be encouraged, including an attractive host-country investment climate and the opportunity for acceptable investment returns. At the same time, political events and logistical interruptions can interfere with supply.

Competition for energy in Asia. As countries in Asia seek to secure growing levels of energy imports, two geopolitical risks emerge. First, historical enmities might boil over into armed conflict for control of specific energy reserves in the region. Second, the rising dependence of China on Persian Gulf oil could well alter political relationships within and outside the region. For example, China might seek to build military ties with energy exporters in the Persian Gulf in ways that would be of concern to the United States and its allies.

Energy and regional integration. Energy infrastructure projects may serve to strengthen bilateral economic and political ties in certain instances. In Asia, for example, energy networks, along with trade liberalization, could serve to reduce historical tensions and place Asian economic growth on a firmer footing. Similar forces might come into play in Europe, linking Russia to the European Union (EU); in South Asia, drawing Bangladesh and India closer together; and in the Far East, linking Russia and China.

Energy and the environment. Environmental concerns will have an increasingly important geopolitical bearing on energy decisionmaking by governments, by producers, and by consumers in the next decades. Should governments pursue aggressive strategies for reducing carbon emissions, a new political fault line could emerge between developed and developing countries.

POLICY CONTRADICTIONS AND CONSIDERATIONS

The interplay of geopolitics and energy early in the twenty-first century is at the root of an array of complex policy challenges that governments around the world must now confront. The three interlocking policy challenges are to ensure that (1) in the long term, supplies will be adequate to meet the world's energy needs; (2) in the short term, those supplies are reliable and not subject to serious interruptions; and (3) at all times, energy is produced and consumed in environmentally acceptable ways.

Energy Availability

U.S. policy today contains a fundamental contradiction. Oil and gas exports from Iran, Iraq, and Libya—three nations that have had sanctions imposed by the United States or international organizations—are expected to play an increasingly important role in meeting growing global demand, especially to avoid increasing competition for energy with and within Asia. Where the United States imposes unilateral sanctions (Iran and Libya), investments will take place without U.S. participation. Iraq, subjected to multilateral sanctions, may be constrained from building in a timely way the infrastructure necessary to meet the upward curve in energy demand. If global oil demand estimated for 2020 is reasonably correct and is to be satisfied, these three exporters should by then be producing at their full potential if other supplies have not been developed.

History has demonstrated that unilateral sanctions seldom are successful in persuading nations to alter their behavior. Multilateral sanctions provide a broader front and a greater guarantee of success. Multilateral sanctions test the ability and willingness of enforcing nations to hold together for the duration, however, while both multilateral and unilateral sanctions are viewed as targets of opportunity for the entrepreneurial trader.

Western governments should avoid the indiscriminate use of sanctions. The value of multilateral sanctions should be weighed against the value of engagement and dialogue. When the use of sanctions is deemed admissible in the support of international interests, governments should adopt a graduated approach and make every effort to ensure that the coverage of the sanctions is as targeted as possible. This should include a cost-benefit analysis of whether curtailing investment in, or revenue from, energy production will genuinely dissuade the target government from the specific behavior that provoked the imposition of sanctions.

Despite a limited success record, sanctions will continue to be used as a tool of foreign policy—as a means of rejecting the conduct of a particular nation—simply because there are no acceptable alternative courses of action. The world will have to live with the inherent limitations of the sanctions.

Policy consideration: Avoid the indiscriminate use of sanctions. The value of multilateral sanctions should be weighed against the value of engagement and dialogue. When the use of sanctions is deemed admissible in the support of international interests, ensure that the coverage of sanctions is as targeted as possible. Unilateral sanctions are not an effective policy tool.

A similar contradiction exists in U.S. policy toward the Caspian region and Central Asia, where the United States is committed to reinforcing the newly independent states but where contrasting U.S. policies toward Iran, Turkey, and Russia are likely to influence, rightly or wrongly, the construction of commercially viable pipelines for the export of Caspian oil and gas. A policy approach that ties exports primarily to one pipeline route—with the goal of avoiding Iran and Russia as transit states—before the political and economic viability of that route is known may undercut the pace of energy development in the region, to the dismay of both producing states and potential transit states.

Oil and gas exports from the Caspian region and Central Asia hold the prospect of becoming a valuable additional source of energy supply. Even as the U.S. government works to make feasible an East-West transportation corridor that bypasses Russia and Iran, the United States should not obstruct the development of alternative routes that would ultimately offer exporters a diverse and economically attractive set of options for transporting oil and gas to foreign markets, especially those markets in Asia and the Far East.

Policy consideration: Do not obstruct the development of economic routes that would ultimately offer Caspian and Central Asian exporters a diverse set of options for transporting oil and gas to foreign markets.

Beyond these contradictions, if Western governments are to ensure adequacy of supply early in the twenty-first century, policies must be framed toward encouraging energy-producing countries to open their energy sectors to greater foreign investment. This would include provisions for the enforcement of contracts, guarantees for private property, anticorruption measures, and stable fiscal regimes. Increased private investment must occur as early as possible in exploration and production facilities and in transportation infrastructure, especially in Asia, if the world's energy supplies are to reach markets in sufficient quantities during the 2010–2020 period.

Policy consideration: Encourage energy-producing countries to ensure that their energy sectors attract and support greater foreign investment.

Given the continuing importance of a small group of energy-producing and -exporting countries to the future health of the

global economy, it is vital that the United States and other Western governments place diplomatic relations, trade policies, and foreign assistance programs with each of these countries at or near the top of policy priorities.

It is in the self-interest of the United States and other Western governments to support China—rapidly emerging as a major oil importer—as it diversifies its sources of and forms of imported energy and encourage China to not rely excessively on the Persian Gulf. China is considering development of an infrastructure to support oil and gas imports from Russia and Central Asia and also for transit onward to other countries in the Far East. Collaborative cross-national energy infrastructure projects can play an important role in lessening the risks of future conflict over energy resources. However, such energy linkages may not always be in the best political interests of the United States.

Energy Reliability

In the early decades of the twenty-first century, because burgeoning energy demand must be met largely by a small number of oil and gas suppliers and because supply routes are lengthening, the risk posed by supply interruptions will be greater than it was at the end of the twentieth century.

Military conflict will remain a threat to most energy-producing regions, particularly in the Middle East where almost two-thirds of the world's oil resources are located. In addition, domestic turmoil within the key energy-producing countries constitutes another threat to reliability of energy supplies. At least 10 of the 14 top oil-exporting countries run the risk of domestic instability in the near to middle term.

The United States should retain as far as possible its ability to defend open access to energy supplies and international sea lanes. At a time when the administration faces myriad competing demands for military and peacekeeping interventions, this mission should be considered a strategic priority and may call for greater emphasis on, and increased investment in, appropriate military capabilities.

Policy consideration: The United States should retain as far as possible its ability to defend open access to energy supplies and international sea lanes.

Some observers are concerned that the United States may seek relief from its self-imposed responsibility as the protector of the world's sea lanes, which are used for the transport of fuels and are becoming more crowded. U.S. allies in Europe and Asia should be prepared to shoulder a greater share of the financial cost of protecting energy supply, including sea-lane protection.

Policy consideration: U.S. allies in Europe and Asia should be prepared to shoulder a greater share of the financial cost of protecting energy supply, including sea-lane protection.

No protector comparable with the U.S. role on the high seas exists for the increasingly important long-distance pipeline infrastructure. At a government-to-government level, international agreements to protect pipeline systems might have a deterrent effect. Governments must also find ways to work with the private sector to minimize the vulnerability of all energy infrastructures to sabotage or terrorist attack. Cyberterrorism may well pose the greatest threat during the time period under review.

Policy consideration: Governments must find ways to work with the private sector to minimize the vulnerability of energy infrastructure to sabotage or terrorist attack, including cyberterrorism.

The more feasible approach in the near to medium term to mitigate the risks of gas-supply interruptions is to encourage importing countries to promote diversity among suppliers and delivery routes. European governments, particularly in view of their high dependence on Russian gas, should look closely at how security of gas supply might be enhanced.

To meet these challenges to reliable supply, importing nations must engage in contingency planning. The practice of holding government-financed strategic petroleum reserves is one essential method of limiting the impact of supply interruptions, provided that the stocks held are truly reserved for the intended purpose and not for manipulating domestic prices. Governments should maintain and, where appropriate, expand government-financed and -controlled strategic petroleum reserves. This could include extending the International Energy Agency (IEA) emergency preparedness program to nonmember countries that will become major oil importers and supporting the concept of regional stabilizing initiatives. For the foreseeable future, however, it would appear to be impractical and prohibitively expensive to hold strategic natural gas reserves.

Policy consideration: Governments should maintain and, where appropriate, expand government-financed and -controlled strategic petroleum reserves, reserving their use for supply interruptions.

Energy and the Environment

Energy production and use have become linked to environmental concerns. Air pollution, oil spills, and their impact on habitats are among the many challenges confronting government and the energy industry.

However, the energy industry's primary source of international friction may revolve around the issue of global climate change, as amply demonstrated by the contentious debate over the cost and benefits of the Kyoto Protocol.

The United States is unlikely to ratify the Kyoto Protocol in its present form. Clearly, global climate change can potentially have major implications for the economies of the world. Continued research and understanding of the facts are imperative for progress on this issue.

By 2020, energy consumption by the developing countries of the world is expected to exceed energy consumption by the developed countries. This may hold particular implications for the environment. Technologies must be made available to help ensure that, for developing countries, the burning of fossil fuels releases minimal pollutants. Moreover, fuel choices must be broadened to include cost-competitive nuclear electric power.

There will be no easy solutions. Clean-coal technology stands beyond the economic reach of most developing countries. Switching from coal to natural gas will take time inasmuch as deliveries will be dependent on the availability of costly long-distance natural gas pipelines and liquefaction and regasification facilities for the export and import of liquefied natural gas.

Policy consideration: Economically and environmentally sound technologies must be made available to help developing countries meet increasing energy demands.

Nuclear power is emissions free but poses its own set of competing policy concerns, ranging from reactor safety to waste disposal and nuclear weapons proliferation. Western governments should assess the conditions under which nuclear power could make a significant contribution to electricity supply in the developing world by first assessing those conditions under which nuclear power could make a continuing contribution to their own supply.

Developing country decisionmakers would have to ask themselves, ''Is this the most sensible answer to our power problems, and is this option reasonably affordable?'' Three essential criteria for a fourth-generation nuclear power reactor, suitable above all for use in developing countries, would have to be met.

Modular construction, with a generating capacity of approximately 100 MW;

Cost competitive compared with fossil-fuel generating plants; and

Proliferation resistant.

Policy consideration: Western nations should assess the conditions under which nuclear power could make a significant contribution to electricity generation in the developing world.

A major challenge for the future is quite evident: how to produce, transport, and burn fossil fuels in massive amounts but in an environmentally friendly manner. Is that possible only through technological breakthrough? Because in democratic countries the regulation and deregulation process can involve lengthy legislative and executive interaction and a complex public vetting process, simply recommending that policymakers eliminate those regulations that inhibit bringing technological innovation to market is meaningless. Instead, Organization for Economic Cooperation and Development (OECD) governments should expand basic research leading to more efficient fuel use and to viable alternative fuels. At the same time, governments should fashion regulatory processes and standards that favor the market success of environmentally friendly innovative energy technology.

Countries should review the extent to which subsidies for domestic energy sectors are inconsistent with their global energy policies.

Policy consideration: OECD governments should expand basic research on energy technologies; concurrently, policymakers should eliminate those environmental regulations that inhibit bringing technological innovation to market. All governments should review the extent to which domestic energy subsidies are inconsistent with global energy policies.

THREE BROAD CONCLUSIONS

Three broad conclusions can be drawn from this analysis of geopolitics of energy into the twenty-first century.

The United States, as the world's only superpower, must accept its special responsibilities for preserving worldwide energy supply.

Developing an adequate and reliable energy supply to realize the promise of a globalized twenty-first century will require significant investments, and they must be made immediately.

Decisionmakers face the special challenge of balancing the objectives of economic growth with concerns about the environment. This challenge has multiple parts: finding ways to increase security and reliability of supply; ensuring greater transparency in energy commerce; and strengthening the role of international institutions in matters of energy and the environment.

One of the ironies at the turn of the century is that, in an age when the pace of technological change is almost overwhelming, the world will remain dependent, during 2000–2020 at least, essentially on the same sources of energy—fossil fuels—that prevailed in the twentieth century. Political risks attendant to energy availability are not expected to abate, and the challenge for policymakers is how to manage these risks.

What's New?

The influence of nongovernmental organizations (NGOs) on public and private energy-

related policy decisions is perceived to be expanding.

Projected energy consumption in developing countries will begin to exceed that of developed countries, a change that will carry political, economic, and environmental considerations.

The spread of information technology and use of the Internet dramatically change the way business is conducted, and this change carries with it a new set of vulnerabilities.

The prospects of cyberterrorist attacks on energy infrastructure are very real; such attacks may be the greatest threat to supply during the years under review.

Global warming is attracting growing attention, and that attention will likely shape debate on future energy policies; it is hoped that debate will reflect sound science and factual analysis.

Security of Supply

If U.S. military power is committed to a limited but extended protection effort in Northeast Asia, the capacity to respond to a crisis like that of 1990 in the Persian Gulf will be severely limited. The United States will need to rebalance its security relations.

Policy Contradictions

The greater need for oil in the future is at odds with current sanctions on oil exporters Libya, Iraq, and Iran.

The United States deals with energy policy in domestic terms, not international terms; U.S. energy policy is therefore at odds with globalization.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 1 p.m. shall be under the control of the distinguished Senator from Wyoming.

Mr. THOMAS. Mr. President, we have 5 minutes remaining in our time; is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. THOMAS. I thank the chairman of the Energy Committee, the Senator from Alaska, for the work he has done on the energy problem. Clearly, we have one; there is no question. The question is, How do we best resolve it?

We are in desperate need of a national energy policy. We have not had one for a number of years. We need to have some direction with respect to domestic production—how much we want to let ourselves become dependent on OPEC and other such issues. It seems there are a number of issues about which the chairman has talked.

We need to talk about diversity. We have all kinds of things we can go on: We can go on oil, on gas, on coal—which is one of our largest reserves. We need to make it more clean. Of course, we can do that. We can take another look at nuclear, look again at our storage problems. It is one of the cleanest sources we have. Hydro needs to be maintained and perhaps improved. We need to go to renewables, where we can use wind and sunlight and some of the other natural sources.

I will always remember listening to someone back in Casper, WY, a number of years ago, saying we have never run out of a source of fuel; what we have done is found something that worked a little better. So we need to continue research to find ways to do that.

We need to have access to public lands. That doesn't mean for a minute we are not going to take care of those public lands and preserve the resources and the environment. But we can do both. We have done that in Wyoming for a number of years. We have been very active in energy production, and at the same time we have been able to preserve the lands. That is not the choice, either preserve it or ruin it. That is not the choice we have.

We also need to do some more research on clean coal, one of our best energy sources.

I was just in Wyoming talking to some folks who indicated we need to find ways to get easements and move energy. If it is in the form of electricity, it has to be moved by wholesale transmission. We need a nationwide grid to do that, particularly if we are going to deregulate the transmission and the generation side, which we are planning to do.

We have to have gas pipelines. California has become the great example. They wanted to have more power. Their demand increased and production went down. Then they said: We will deregulate. So they deregulated the wholesale cost and put a cap on resale cost. Those things clearly don't work.

We have to have some incentives to produce—tax incentives, probably, for low-production wells.

We need to eliminate the boom-and-bust factor so small towns are not living high one day and in debt the next.

Finally, we need to take a look at conservation, of course. You and I need to decide how we can use less of that energy and still maintain our kind of economy and way of life.

I again thank the chairman of the Energy Committee for all he is doing and urge him to continue so we can set the right direction for this country in order to have the energy we need and save our national resources as well. I am persuaded we can do both.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. LINCOLN). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

BIPARTISAN CAMPAIGN REFORM ACT OF 2001

The PRESIDING OFFICER. Under the previous order, S. 27 is discharged from the Committee on Rules and Administration, and the clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 27) to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform.

The Senate proceeded to consider the bill.

Mr. MCCONNELL. Madam President, I ask unanimous consent the time between 1 and 3:15 p.m. today be equally divided for debate only between the chairman and ranking member. I further ask unanimous consent that at 3:15 today I be recognized to offer an amendment.

Mr. MCCAIN. Madam President, reserving the right to object—I will not object—that would not in any way preclude Members from coming down for opening statements. We want to make sure everyone can make their opening statements. I know there are a lot of Members who would like to make opening statements on the bill.

Mr. MCCONNELL. Madam President, I believe that is what the time is for. I concur with the Senator from Arizona.

Mr. MCCAIN. There may be more than 2 hours, and Members may come down afterwards since some Members are coming back late this afternoon. I would like to make that clear.

Mr. DODD. Madam President, reserving the right to object—I will not object—I urge Members who have opening statements to make on this bill to come to the floor between now and 3:15. Obviously, later in the day during consideration of amendments Members can make whatever statements they wish. But to have some coherency to the remarks, this would be the appropriate time to do so. We urge Members to come to the floor.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Madam President, reserving the right to object, I am wondering if anyone knows that there is going to be a vote this afternoon. That was talked about last week.

Mr. MCCONNELL. Madam President, it is my understanding that there was a plan to have a vote at 6:15.

The PRESIDING OFFICER. Is there objection to any of the requests? Without objection, it is so ordered.

The Senator from Kentucky.

Mr. MCCONNELL. Madam President, we are in business for opening statements, if anyone would like to proceed.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Madam President, I yield 30 minutes to the distinguished Senator from Wisconsin, Mr. FEINGOLD.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Thank you, Madam President.

Mr. MCCAIN. Madam President, may I say to my distinguished colleague, my statement would be 5 minutes long.

Mr. FEINGOLD. As always, I defer to my commander on this, the senior Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Madam President, I thank my friend, Senator FEINGOLD, for his partnership and for his friendship.

Today we begin the first open Senate debate in many years on whether or

not we should substantially reform our campaign finance laws. I want to thank Senators LOTT and DASCHLE for their commitment to allowing a fair and open debate, and for their assurance that the Senate will be allowed to exercise its will on this matter and vote on the legislation that emerges at the end of the amendment process.

Mr. REID. Madam President, may I ask my friend to yield?

Mr. MCCAIN. No.

Mr. REID. Parliamentary inquiry.

Mr. MCCAIN. I am into my statement. After 5 minutes, I will be privileged to do so.

Madam President, I want to thank as well, Senator MCCONNELL, our steadfast and all-too-capable opponent, who honestly and bravely defends his beliefs, for agreeing to the terms of this debate, a debate that we hope may settle many of the questions, held by advocates and opponents of reform, that have yet to be resolved by this body.

I, of course, want to thank from the bottom of my heart, all the co-sponsors of this legislation for their steadfast support, and for proving to be far more able and persuasive advocates of our cause than I have had the skill to be.

Most particularly, I want to thank my partner in this long endeavor, Senator RUSS FEINGOLD, a man of rare courage and decency, who has risked his own career and ambitions for the sake of his principles. To me, Madam President, that seem a pretty good definition of patriotism.

I want to thank the President of the United States for engaging in this debate, and for his oft stated willingness to seek a fair resolution of our differences on this issue for the purpose of providing the people we serve greater confidence in the integrity of their public institutions. Too often, as this debate approached, our differences on this issue have been viewed as an extension of our former rivalry. I regret that very much. For he is not my rival. He is my President, and he retains my confidence that the country we love will be a better place because of his leadership.

Lastly, I wish to thank every Member of the Senate—especially Senator HAGEL, my friend yesterday, my friend today, my friend tomorrow—for their cooperation in allowing this debate to occur so early in what will surely be one of the busier congressional sessions in recent memory. I thank all my colleagues for their patience, a patience that has been tried by my own numerous faults far too often, as I beg their indulgence again. Please accept my assurance that no matter our various differences on this issue, and my own failings in arguing those differences, my purpose is limited solely to enacting those reforms that we believe are necessary to defend the government's public trust, and not to seek a personal advantage at any colleague's expense.

I sincerely hope that our debate, contentious though it will be, will also be free of acrimony and rancor, and that the quality of our deliberations will impress the public as evidence of the good faith that sustains our resolve.

The many sponsors of this legislation have but one purpose: to enact fair, bipartisan campaign finance reform that seeks no special advantage for one party or another, but that helps change the public's widespread belief that politicians have no greater purpose than our own reelection. And to that end, we will respond disproportionately to the needs of those interests that can best finance our ambition, even if those interests conflict with the public interest and with the governing philosophy we once sought office to advance.

The sad truth is that most Americans do believe that we conspire to hold onto every single political advantage we have, lest we jeopardize our incumbency by a single lost vote. Most Americans believe that we would let this Nation pay any price, bear any burden for the sake of securing our own ambitions, no matter how injurious the effect might be to the national interest. And who can blame them? As long as the wealthiest Americans and richest organized interests can make the six and seven figure donations to political parties and gain the special access to power that such generosity confers on the donor, most Americans will dismiss the most virtuous politician's claim of patriotism.

The opponents of reform will ask if the public so distrusts us and so dislikes our current campaign finance system why is there no great cry in the country to throw us all out of office? they will contend—and this point is disputable—that no one has ever lost or won an election because of their opposition to or support for campaign finance reform. Yet public opinion polls consistently show that the vast majorities of our constituents want reform, and believe our current system of campaign financing is terribly harmful to the public good. But, the opponents observe, they do not rank reform among the national priorities they expect their Government to urgently address. That is true, but why is it so?

Simply put, they don't believe it will ever be done. They don't expect us to adopt real reforms and they defensively keep their hopes from being raised and their inevitable disappointment from being worse.

The public just doesn't believe that either an incumbent opposing reform or a challenger supporting it will honestly work to repair this system once he or she has been elected under the rules, or lack thereof, that govern it. They distrust both. They believe that whether we publicly advocate or oppose reform, we are all working either openly or deceitfully to prevent even the slightest repair of a system they believe is corrupt.

So they avoid investing too much hope in the possibility that we could surprise them. And they accommodate their disappointment by basing their pride in their country on their own patriotism and that of their neighbors, on the civilization that they have built and defended, and not on the hope that politicians will ever take courage from our convictions and not our campaign treasuries.

Our former colleague, Senator David Boren of Oklahoma, recently reminded me of a poll that Time magazine has conducted over many years. In 1961, 76 percent of Americans said yes to the question, ''Do you trust your government to do the right thing?'' This year, only 19 percent of Americans still believe that. Many events have occurred in the last 30 years to fuel their distrust. Assassinations, Vietnam, Watergate, and many subsequent public scandals have squandered the public's faith in us, and have led more and more Americans from even taking responsibility for our election. But surely frequent campaign finance scandals and their real or assumed connection to misfeasance by public officials are a major part of the problem.

Why should they not be? Any voter with a healthy understanding of the flaws of human nature and who notices the vast amounts of money solicited and received by politicians cannot help but believe that we are unduly influenced by our benefactors' generosity.

Why can't we all agree to this very simple, very obvious truth: that campaign contributions from a single source that run into the hundreds of thousands or millions of dollars are not healthy to a democracy? Is that not self-evident? Is it to the people, Madam President. It is to the people.

Some will argue that there isn't too much money in politics. They will argue there is not enough. They will argue that soft money, the huge, unregulated revenue stream into political party coffers, is necessary to ensure the strength of the two-party system. I find this last point hard to understand considering that in the 15 years or so that soft money has become the dominant force in our elections the parties have grown appreciably weaker as independents become the fast growing voter registration group in the country.

Some will observe that we spend more money to advertise toothpaste and yogurt in this country than to conduct campaigns for public office. I don't care, Madam President. I am not concerned with the costs of toothpaste and yogurt. We aren't selling those commodities to the public. We are offering our integrity and our principles, and the means we use to market them should not cause the consumer to doubt the value of the product.

Some will argue that the first amendment of the Constitution renders unlawful any restrictions on the right of anyone to raise unlimited amounts of money for political campaigns. Which drafter of the Constitution believed or anticipated that the first amendment would be exercised in political campaigns by the relatively few at the expense of the many?

We have restrictions now that have been upheld by the courts; they have simply been circumvented by the rather recent exploitation of the so-called soft money loophole. Teddy Roosevelt signed a law banning corporate contributions. Harry Truman signed a law banning contributions from labor unions. In 1974, we enacted a law to limit contributions from individuals and political action committees directly to the candidates. Those laws were not found unconstitutional and vacated by the courts. They were judged lawful for the purpose of preventing political corruption or the appearance of corruption.

Those laws were rendered ineffectual not unlawful by the ingenuity of politicians determined to get around them who used an allowance in the law that placed no restrictions on what once was intended essentially to be a building fund for the State parties. That fund has run to the billions of dollars, and I haven't noticed the buildings that serve as our local and State party headquarters becoming quite that magnificent.

Ah, say the opponents, if politicians will always find a way of circumventing campaign finance laws, what is the point of passing new laws? Do I believe that any law will prove effective over time? No, I do not. Were we to pass this legislation today, I am sure that at some time in the future, hopefully many years from now, we will need to address some new circumvention. So what. So we have to debate this matter again. Is that such a burden on us or our successors that we should simply be indifferent to the abundant evidence of at least the appearance of corruption and to the public's ever growing alienation from the Government of this great Nation, problems that this system has engendered? I hope not, Madam President. I hope not.

The supporters of this legislation have had differences about what constitutes the ideal reform, but we have subordinated those differences to the common good, in the hope that we might enact those basic reforms that Members of both parties could agree on. It is not perfect reform. There is no perfect reform. It could be improved, and we hope it will be during this debate. We have tried to exclude any provision that could be viewed as placing one party or the other at a disadvantage. Our intention is to pass the best, most balanced, most important reforms we can. All we ask of our colleagues is that they approach this debate with the same purpose in mind.

I beg my colleagues not to propose amendments intended only to kill this legislation or to seize on any change in this legislation that serves our basic goal as an excuse to withdraw your support. The sponsors want to have votes on all relevant issues involved in campaign finance reform and will support amendments that strengthen the bipartisan majority in favor of reform and that do not prevent us from achieving our fundamental goal of substantially reducing the influence of big money on our political system.

If we cannot agree on every aspect of reform; if we have differences about what constitutes genuine and necessary reform, and we hold those differences honestly—so be it. Let us try to come to terms with those differences fairly. That is what the sponsors of this legislation have tried to do, and we welcome anyone's help to improve upon our efforts as long as that help is sincere and intended to reach the common goal of genuine campaign finance reform.

I hope we will, for the moment, forget our partisan imperatives and take a risk for our country. Perhaps that is a hopelessly naïve aspiration. It need not be. I think the good men and women I am privileged to serve with are perfectly capable of surprising a skeptical public, and maybe ourselves, by taking on this challenge to the honor of the profession of which we are willing and proud members.

Real campaign finance reform will not cure all public cynicism about modern politics. Nor will it completely free politics from influence peddling or the appearance of it. But I believe it will cause many Americans who are at present quite disaffected from the machinations of politics to begin to see that their elected officials value their reputations more than their incumbency. And maybe that recognition will cause them to exercise their franchise more faithfully, to identify more closely with political parties, to raise their expectations for the work we do. Maybe it will even encourage more of them to seek public office, not for the privileges bestowed upon election winners, but for the honor of serving a great Nation.

I yield the floor.

Mr. DODD. Madam President, how much time remains of the original request?

The PRESIDING OFFICER. Fifty minutes remain under the original request.

Mr. DODD. My colleague from Wisconsin, I believe, yielded time to the Senator from Arizona. Of the 30 minutes that were yielded to the Senator from Wisconsin, 15 minutes remain.

The PRESIDING OFFICER. That is correct.

Mr. FEINGOLD. I yield my time to the Senator from Connecticut and then ask if I could speak after him.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, today the Senate begins debate on a defining issue in American politics—the question of whether unlimited, unregulated contributions to political campaigns are forwarding democracy or undermining it.

In this Senator's mind, the answer to that question is quite clear: no democracy can thrive—if indeed survive—if it is awash in massive quantities of money:

Money that threatens to drown out the voice of the average voter of average means; money that creates the appearance that a wealthy few have a disproportionate say over public policy; and money that places extensive demands on the time of candidates—time that they and the voters believe is better spent discussing and debating the issues of the day.

The McCain-Feingold legislation before the Senate today is a good first start toward reform of a campaign system that is broken, plain and simple. I, for one, would like to have public financing of our Federal Campaigns. I would like to see free or reduced-rate TV and radio time for candidates during the peak of the campaign season. I would like for any negative ad to display the face and voice of the candidate on whose behalf that ad is aired.

The McCain-Feingold legislation is not as comprehensive as some of us would prefer. But it does address two of the most pressing deficiencies in our system of campaign finance: Undisclosed soft money contributions, and sham issue ads.

I have consistently supported this legislation. Today I call on my colleagues, and President Bush, to work with us to restore accountability to our system of campaign finance and confidence in our system of representative democracy.

Let me be absolutely clear on one essential point. Unlike previous debates, this time we have an opportunity to pass meaningful campaign finance reform.

We can reclaim our system of financing campaigns by cutting off the flow of unregulated and unlimited soft-money. We must end it, and not just mend it.

Like many of my colleagues on both sides of the aisle, I feel strongly about the need for reform, and I am frustrated at this body's continued inability to move forward with legislation to address this problem.

Time and again we have seen thoughtful, appropriate and, I must emphasize, bipartisan efforts to stop the spiraling money chase that afflicts our political system, only to see a minority of the Senate block further consideration of the issue.

It is almost as if the opponents of reform are heeding the humorous advice of Mark Twain, who once said, ''Do not put off until tomorrow what you can put off until the day after tomorrow.''

It is now long past the day after tomorrow, and we simply cannot afford to wait any longer to do something about the tidal wave of money that is drowning our system of government and eroding the public's confidence in the integrity of our democracy.

With that said, I strongly support S. 27, known as the McCain-Feingold legislation. Why do I support it? Because it is ''real'' reform, not ''sham'' reform. And I congratulate my two colleagues for their persistence and tenacity in pursuing it.

This bill accomplishes critically important goals. It closes the most serious loopholes in our current campaign finance system. The bill shuts down the system of unlimited, unregulated, and undisclosed soft money; bans direct or indirect contributions from foreign nationals; requires disclosure of electioneering communications masquerading as issue ads; and prohibits fund-raising by Federal officials on Federal property.

There are those of my colleagues who would argue that when it comes to political campaigns, money is speech and speech should be unlimited.

Let me be clear—I cannot agree more that political speech should be unlimited. The free flow of information and ideas is the hallmark of a democracy. But to equate speech with money is not only a false equation, it is also a dangerous one to our democracy.

When that speech and those ideas are paid for overwhelmingly by a few wealthy individuals or groups or foreign nationals or anonymous groups or by undisclosed contributors, the speech is neither free nor democratic. It is encumbered by the unknown special interests who have paid for it. And it minimizes or excludes the speech of those who lack substantial resources to counter it.

This special interest speech—paid for with unlimited, undisclosed soft money—creates, at a minimum, the appearance of undue influence, if not an implied quid pro quo by the contributor.

Does anyone seriously believe that corporations and associations contribute millions of dollars in soft money just because they are good citizens and want to encourage free speech? Let us be serious.

It cannot be argued that such special interest soft money contributions were made to promote political speech and better public policy without any expectation of consideration in return.

That expectation of special consideration, or an unspoken quid pro quo, is the very appearance of undue influence that the Supreme Court has repeatedly upheld as a compelling reason for limiting campaign contributions.

Unlimited contributions simply do not equate to free speech. Although the final statistics on the total amount of money contributed in the 2000 election cycle is not yet complete, we do know the overall estimate for expenditures on federal elections in the 1999–2000 election cycle is between $2.4 and $2.5 billion. That is a conservative total.

Let me put that in perspective for my colleagues. The average expenditures necessary for a winning Senate candidate increased from $609,000 in 1976 to over $7 million in the 1999–2000 election cycle. At that amount, the average Senate candidate would have to raise the equivalent of $3,000 per day, seven days a week, for the entire six-year Senate term.

It is past time to restore sanity, and accountability, to our system of financing elections.

I welcome this debate and look forward to amendments offered to both improve the McCain-Feingold legislation and restore the integrity of the manner in which we finance elections.

This debate is one of the most significant and important ones we will have, not only in this session of Congress but at any time in recent memory. I welcome the debate and look forward to the arguments.

How much time have we consumed of that 30 minutes?

The PRESIDING OFFICER. The Senator has consumed 7 minutes.

Mr. DODD. I will withhold my time. Does the Senator want 7 minutes?

The PRESIDING OFFICER. The Senator has consumed 7 minutes.

Mr. FEINGOLD. How much time remains?

The PRESIDING OFFICER. There are 43 minutes of time.

Mr. DODD. I yielded 30 minutes to the Senator from Wisconsin and yielded time to the Senator from Arizona. I am told the Senator from Arizona used about 15 minutes of that. I presumed——

The PRESIDING OFFICER. Six minutes.

Mr. FEINGOLD. Madam President, I will yield back my time to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Madam President, in 1986 I was elected to the Senate. I can remember during the last week or 2, maybe 3 weeks of that campaign, I woke up one morning to learn that all over the State of Nevada there were signs placed by my opponent—4-by-8 signs. I thought, how foolish for him to be spending these dollars on this—money for signs. It had to cost tens of thousands of dollars to put those signs all over Nevada.

Little did I realize this was the beginning, from my perspective, of the loosening of campaign laws, because I learned that if you looked at these signs, they were paid for by the State Republican Party—thousands and thousands of dollars spent by the State Republican Party which benefited my opponent. Had my opponent had to pay for those out of the money he raised, he could not have afforded it.

I filed a complaint with the Federal Election Commission, and many months later they were saying it was OK. That was confirmed sometime later by the U.S. Supreme Court, saying there is, in effect, unlimited money that can be spent by State parties.

As we know, these issue advocacy ads all over the country have become part of the way it is done in America today. That is how campaigns are run.

The State of Nevada then was a very small State, with about a million people. I got up on the Senate floor in 1987 and talked about what happened to me and how this must not take place in the future. I could not believe we would not change the law, and we have not changed the law. It has gotten worse every year. I have been through two reelection cycles, and it has gotten worse. In 1998, Nevada was a State with fewer than 2 million people—about a million and a half people. In that race, my good friend JOHN ENSIGN and I spent over $20 million—$4 million with our campaign money and $6 million issue advocacy ads by the State Republican Party and the Republican Party—a State as small as Nevada, $20 million. And that doesn't count the independent expenditures that were made.

In Nevada, probably $23 million was spent in the race between Senator REID and Senator ENSIGN. Neither spent more money than the other. We both spent a lot of money. The independent expenditures were run against JOHN ENSIGN and were run against me.

I say to my friend from Wisconsin, I am depending on him to try to work through all this. I think I understand the law, what is being done. He has been a master at this. I admire and appreciate very much what he has done. I have said to my staff and to my friends, it can't be any worse than what it is now. We need to change the law. How in the world can you spend in the State of Nevada more than $23 million? People don't like to acknowledge it, but, of course, we are involved in raising the soft money, going to people and asking them for these huge amounts of money.

So I commend and applaud my friend from Wisconsin. I admire his tenacity, his courage, and I admire his ability to persevere through big obstacles. But also he should recognize that we as Democrats have stuck with him through thick and thin. I was here when Senator BYRD—I think we hold the record for attempts to invoke cloture: seven times on campaign finance. When Senator BYRD was leader, he tried to do that. I also say I am glad to see some Republicans coming aboard now. Previously, it was basically Senator MCCAIN alone on campaign finance reform; now there are others.

I know there is a lot of talk about, do we really need campaign finance reform. I want this record to pronounce to everyone within the sound of my voice, things cannot be worse than what they are now. We need to get back to the way it used to be, where you had to raise money from individuals and they would give you money unsolicited. This present system is not working, in my opinion, and it should be changed.

Mr. DODD. How much time remains?

The PRESIDING OFFICER. The Senator from Connecticut has 2 minutes of the original 30.

Mr. DODD. I yield to the Senator from Wisconsin.

Mr. FEINGOLD. Madam President, in the beginning, when nobody jumped for the ball, I was happy to commence my talk. But it is music to my ears to hear leaders such as Senators DODD and REID come out here in the beginning of the debate and talk about the importance of this issue. They have been with us every step of the way.

As Senator REID has indicated, I am extremely grateful for the kind of support we have had. This is when we need it, more than any other time. This is a great way to begin. I will give my longer statement later. It is better to get into the process.

Mr. DODD. Madam President, I commend RUSS FEINGOLD and JOHN MCCAIN. This has been a long battle, going back years now. Nobody is claiming perfection. We are sailing into uncharted waters when we engage in the reform of a campaign financing system, but I underscore what Senator REID of Nevada has said: A system that has over $23 million spent to win the votes of a State with a million and a half people is a system totally out of control.

These two Senators have taken the lead. I think America appreciates what they are trying to do. Our fervent hope is that before this debate concludes, either later this week or at the end of next week, this body, for the first time in more than a quarter century, will have substantially reformed a political process—not made it perfect. We should not hold that out as a possibility, but we can certainly make it better than it presently is.

Mr. MCCONNELL. Madam President, I assure my colleagues on the other side of this debate that we are not going to be too restrictive about time. There are more speakers on the other side, which is often the case in this debate. I want to make sure Senator HAGEL gets the time he needs. I will take the time I need. Unless someone else in our general orbit here on this subject comes, we will try to accommodate people on the other side. I know Senator COCHRAN is looking for an opportunity to speak. I hope we can accommodate him out of my time.

Having said that, Madam President, how much does the Senator from Nebraska desire?

Mr. HAGEL. I would like 15 minutes.

Mr. MCCONNELL. I yield 15 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HAGEL. Madam President, the Senate is about to engage in an open and full debate on campaign finance reform. It is time for this debate.

My friends, JOHN MCCAIN and RUSS FEINGOLD, deserve much credit for getting the Senate to this point. They have been passionate in their efforts to reform the system. If the Senate passes a campaign finance reform bill—and I believe we can—it will be largely due to their efforts and leadership.

We have an opportunity to achieve something relevant and meaningful. My hope, my goal, for the outcome of these 2 weeks is to get a bipartisan bill approved by the Senate that brings reform to the system, is constitutional, and that President Bush will sign.

Whatever we do, we must look to expand, not constrict, opportunities for people to participate in our democratic process.

We must be careful not to abridge the rights of Americans to participate in our political system and have their voices heard. Political parties, individuals, and organizations that represent millions of Americans all have rights guaranteed by the first amendment to the Constitution. These rights guarantee that they can express themselves politically and participate in the electoral process.

Democracy is messy. We are going to hear a number of examples of how messy and unfair democracy is over the next 2 weeks. Our system is imperfect, but our Government works because of the rights of all people to participate in this democracy. We should take steps to encourage greater participation in the process. We should expand the ability of the American people to get involved. We must not weaken political parties or other important political institutions of our system.

Over the next 2 weeks, we will need to guard against taking actions that will have unintended consequences. The answer to reforming our system is not to shut people out or diminish the abilities of our institutions and individuals to participate in the process.

We must also guard against impugning each other's motives on the floor of the Senate. No Senator has the high moral ground over any other Senator. There are and will be differences on campaign finance reform. Let us debate these differences without assigning sinister motives to our opponents. The Nation and the world will be peeking in through their television windows to witness this Senate debate. Will they see dignity, respect for others' opinions, honest discourse, and elevated debate? I believe so. Our country deserves it, and we owe it to our fellow citizens.

This is a historic moment for the Senate to rise above the shrill political rhetoric of our time. How do we best change our campaign finance system? For me, the core of campaign finance reform must begin with accountability, openness, and disclosure. These are the essential components of reform.

I start from a fundamental premise that the problem in the system is not the political party; the problem is not the candidate's campaign; the problem is the unaccountable, unlimited outside moneys and influence that flows into the system where there is either little or no disclosure. That is the core of the issue we will debate beginning today.

The political parties are and have been a vital component for our system, especially for a challenger to take on a well-financed, entrenched incumbent. Who else is there to support that challenger, be that challenger a Democrat or a Republican, unless the challenger is self-financed? It is the party who activates the base and gets out the vote and helps give that challenger a forum to get his or her message out. That is good. That is helpful. That is important to democracy.

Political parties encourage participation. They promote participation. They are about participation. They educate the public. They ensure the viability of all in the system. Their activities are open, accountable, and disclosed.

Have there been abuses? Oh, yes, there have been abuses. By the way, abuses in the political system did not just begin with so-called soft money or non-Federal money. It is instructive for all of America to go back into the mid-1800s and look at some of the Harper's Weekly magazines.

Ask yourself the question: Is our political system cleaner today, is it more open today, is it more honest today than it was in the 1800s, early 1900s? Oh, yes, it is; absolutely it is. So there must be some frame of reference that we come from with an educated debate on campaign finance reform.

Any reform that weakens the parties will weaken the system. It will lead to a less accountable system. It will lead to a system less responsive to and accessible by the American people.

Why do we want to ban soft money to political parties, that funding which is now accountable and reportable? This ban would weaken the parties and put more money and control in the hands of wealthy individuals and independent groups who are accountable to no one.

If any one of us in America wishes to find out who is running a television or a radio spot for a candidate or against a candidate, you cannot now find that information. Why is that? Because it is not disclosable. I know that is difficult for many in this country to believe but that is the case.

When you take power away from one group, it will expand power for another group. I do not believe, as well, that our problems lie with candidates for public office and their campaigns. Their campaigns are fully open to the public. All dollars raised and expended are disclosed. The voters can hold them responsible and should and must hold candidates accountable.

Have we had bad players in the system? Do we have bad players now in the system? The American public will make that judgment.

Recent years have been ripe with accounts of those who dance on the pin head of technicality and who skirt the law because there is no controlling legal authority, but I do not know how you legislate ethical behavior. Of course, if it was just a matter of laws and regulations, then we would have no crime in America. Why? Because we have laws against murder, we have laws against robbery, we have laws against everything. If it was that simple—just pass another law—the world would be just fine.

We cannot allow our outrage at the morally questionable actions of a few lead us to tamp down the system so tightly that we shut out the involvement of the overwhelming majority. What sense does that make?

The more money that is pushed outside the reportable system of candidates and political parties, the less

control candidates will have over their own campaigns. Voters can hold candidates responsible for their conduct. They cannot hold outside groups and wealthy individuals accountable.

I believe the greatest threat to our political system today is those who operate outside the bounds of openness and accountability, not those who operate inside the bounds of accountability and reportability and disclosure.

In recent years, we have seen an explosion of multimillion-dollar advertising buys by outside organizations. These groups and wealthy individuals come into an election, spend unlimited sums of money, and leave without anyone knowing who they are or how much they spent or why. They can have a major impact on the outcome of any election—any election—especially in small States.

Do they have a right to participate? Of course they have a right to participate, but their actions must be disclosed.

In the fall of 1999, I introduced a bipartisan bill to reform our campaign finance system. I reintroduced that legislation this year with several Democratic and Republican colleagues. I am pleased to report that more and more of my colleagues have come on as cosponsors to this legislation in the last couple of days.

The components of our legislation will genuinely improve the way Federal campaigns are financed. We increase disclosure requirements for candidates, parties, independent groups, and individuals. The current system provides no disclosure for the activities of outside groups or individuals. We ensure that the name of the individual, the organization, its officers, addresses, phone numbers, and the amount of money spent are all made public immediately.

Our legislation limits soft money contributions to political parties to $60,000 per year. That is far below the unlimited millions—unlimited millions—that are now pouring into the system with no accountability, no disclosure. This is a significant limit.

The Wall Street Journal reported Friday that two-thirds of all the soft money contributions in the last election cycle came from those who gave more than the $120,000 limit for a 2-year cycle, which is part of our bill. Two-thirds of the soft money contributors in the last cycle would have been subject to this cap. I say to those who question the cap, whether it is relevant, important, or whether it does anything, I think the Wall Street Journal numbers address that issue. We limit soft money but do not ban it so political parties are not disadvantaged by wealthy individuals and independent organizations. This is particularly important because it is at the State level of our politics, State party organizations that have the responsibility of getting out the vote, of organizing the vote, the registration drives, the grassroots participation. In the process, that very vitality is the core of representative government. Why cut that off, that accountable disclosure of money, to make the system more a part of every citizen's opportunity to participate?

As originally provided for in the Federal Election Campaign Act of 1974, soft money, non-Federal money, in fact, can be used by political parties for various activities over the course of an electoral process. I hear some talk that this is a new phenomenon. If this is new, why, since 1974, has the Federal Election Commission had 7 pages of regulations as to how to use soft money? It isn't new. These are legitimate, worthy, and important functions of the political parties and should not be inhibited by a total ban on soft money. I do believe we need to tighten the definition on the uses of soft money. This should be part of any reform bill we pass, and we can do that and should.

Today's hard money contribution limits are worth less than one-third of their value when the 1974 act was passed. This funding goes directly to candidates' campaigns and political parties and is the most accountable method of political financing. Every dollar contributed, every dollar spent, is fully reported to the Federal Election Commission. Everybody knows who is making that contribution. The individual limit of $1,000 in 1974 equates to $3,300 today. Our bill raises this limit to $3,000 and indexes it for inflation. By doing this, we ensure individuals have the same ability to participate as they were granted in the groundbreaking 1974 legislation.

Furthermore, we believe our campaign finance reform proposals would all pass constitutional muster. This is a legitimate concern—whether, in fact, we pass a bill that will withstand appropriate constitutional scrutiny and protect the rights of the first amendment.

I believe the constitutional issues are as critical as any we will debate over the next 2 weeks. The Constitution is the foundational document of our Nation. The rights guaranteed within that document cannot be dismissed because of political expediency, regardless of how noble the motive of the reform effort. Our system is imperfect. Representative government is imperfect, but certainly we can expect a higher standard from our political leaders than we have seen in the past. Personal accountability is the core of political accountability.

Congress has a genuine opportunity to work with President Bush to achieve real reform. The President supports campaign finance reform. I look forward to working with all my colleagues during this debate to get a constitutional, bipartisan campaign finance reform bill passed, one that the President will sign, that will genuinely reform our system. That would be an achievement of which we all would be proud.

Mr. M4CCONNELL. HOW MUCH TIME REMAINS?

The PRESIDING OFFICER (Mr. CORZINE). The Senator from Kentucky controls 43 minutes.

Mr. MCCONNELL. I thank the distinguished Senator from Nebraska for outlining the alternative he will be offering some time during the course of this debate. There is no question this is a constitutional amendment. There is no question the changes it seeks to achieve are constitutional. It is very thoughtful. I congratulate him for his fine statement.

I congratulate the Senator from Arizona. We are all in the business of looking at public opinion. We know the American people are interested in the energy crisis; they are interested in education; they are interested in tax relief. They are not particularly interested in campaign finance reform. I have often said it ranks with static cling as one of the great concerns among the American people. Through the sheer tenacity of the senior Senator from Arizona, we are here today beginning a debate over the next 2 weeks on a subject of very little interest to the American people. I give him credit for his tenacity and aggressiveness in pushing this item forward on the floor of the Senate early in this new administration.

I like the tone of the discussion I have heard so far. I have noticed there hasn't been any discussion about corruption. We had that discussion a year and a half ago and there has not been a single bit of proof offered. I like the restraint I sense in the Chamber today. Hopefully we will not have any unsubstantiated charges of corruption. Hopefully any Senator who makes such a charge will prove it. The absence of unsubstantiated charges of corruption, it seems to me, is also a step in the right direction in having a civil debate, and lowering our voices and pursuing this discussion in the way the President would like for us to pursue it with lower voices and in a civil manner.

The self-styled and media-pronounced reformers are captives of a Catch-22 that is titled ''campaign finance reform.'' By the way, my favorite definition of ''special interest'' is a group against what I am trying to do. I love those groups that are for what I am trying to do. That is a group of outstanding Americans trying to achieve a worthwhile purpose. To truly achieve their professed goals, reduction of special interests means foreclosing all opportunities for participation in politics. Some of our Democratic allies have actually done that. I remember 10 years or so ago when we thought the Japanese had done everything right. We were afraid they were buying up all of the American property and there was a great fear that the Japanese somehow had gotten the better of us in world competition. In Japan, they have been concerned about the influence of money and politics and they have squeezed it all the way out. In Japan,

where they are unimpeded, unfettered by anything such as the First Amendment we have, the Japanese Government limits the number of days you can campaign, the number of speeches you can give, the types of places you can speak, the number of handbills and bumper stickers you can print, and the number of megaphones you can buy—one. Each candidate is entitled to one megaphone.

This was passed in order to deal with money in politics. They wanted to get it all out of politics, and they have. In the desire to get money out of politics, it was designed to improve the image of the politicians and the Parliament, so they squeezed all the money out of politics, got them down to one megaphone per candidate, and ''no confidence'' in the legislators has risen to 70 percent and voter turnout has continued to decline.

That is just one example. There are others of our democratic allies around the world who have been into this issue much further than we have gone, at least so far, and they have all had the same results: Squeeze the money out of politics, quiet all the voices, the cynicism continues to rise, the turnout continues to go down; and the reason for that of course is that cynicism and turnout are not related to this issue at all; they are related to whether or not there is a belief that the legislators are tackling the real challenges confronting the country.

The original recipe of McCain-Feingold, back in 1995 and 1997, tried to do a lot of what I have just described they have done in Japan: It had candidate spending limits; it had a ban on PACs—eliminate them; it had a bundling ban; it had a party soft money ban and an all-encompassing restriction on citizens groups who engaged in issue advocacy and independent expenditures. In other words, the entire universe of political participation—with, of course, the glaring exception of the media, where political activism is conveniently carved out of the existing campaign finance law under which we operate today, as well as on page 15 of the current McCain-Feingold bill. The media we always sort of carve out of these restrictions because the presumption, I guess, is they have a greater right to the First Amendment than any of us.

In 1997, McCain-Feingold sponsors capitulated on the crown jewel of campaign reformers, and that was spending limits on campaigns themselves. Thus, those of us who approached this issue as the Supreme Court does, from a constitutional perspective, considered that a battle won. Candidate spending limits were gone. It was the belief—certainly my belief—that members of my party would be strenuously disadvantaged by spending limits, so we were happy they were gone. But prior to that, we had been told time and time again there could be no reform without spending limits. But candidate spending limits are gone. I am glad about that, and we consider that a victory.

Since that time, those advocating reform have been in retreat in one form or another. Having first waved the white flag on these previously nonnegotiable candidate spending limits, we stand here today with a very different kind of bill and, I must say, a brighter outlook than 8 years ago at the outset of the last big floor engagement, when we had lots and lots of amendments.

Eight years ago, campaign spending limits were on the verge of enactment and would have extinguished any chance of sustained success of my party in congressional elections. We Republicans have to spend millions every election just to get a fair shake and counter the liberal bias so prevalent in the news and entertainment media.

So candidate spending limits mercifully are off the table. That means our direct campaigns are not on the hook, and we rejoice in that.

The PAC and bundling bans were jettisoned from McCain-Feingold as well, and I must say I am happy about that. I don't think there is anything wrong with people banding together in order to pool their resources and support candidates of their choice. That is as constitutional as apple pie and ought not to be restricted.

A few months later, in 1998, the citizens group restrictions were altered and a new—and, I would argue, also unconstitutional—bright line was drawn by the Snowe-Jeffords provision where an unconstitutionally vague line had been in the original McCain-Feingold. But that did not get anywhere either, inviting vehement opposition from citizens groups who would be affected, and disdained and ridiculed by constitutional experts who would litigate if it were ever enacted, such restrictions already having been struck down in Federal court over 20 times.

Let me just take a moment on this. None of us really likes the degree to which outside groups get involved in our campaigns. We don't like it. We would like to control these campaigns. But under the First Amendment, the campaign is not ours to control, and be it ever so irritating when some group who hates us comes in and starts talking about us in proximity to an election, that doesn't mean we can legislate it out of existence through our votes in this Chamber.

It irritates us, but there are a lot of things you have to endure in public life, from media criticism to outside issue groups who irritate us. But just because it irritates us doesn't mean there is any constitutional basis for eliminating it. In fact, the courts over 20 times since Buckley—over 20 times since Buckley—have struck down various efforts by State and local governments to hamper, inhibit, make it more difficult for outside groups to criticize us in proximity to an election. So the chances of that being upheld are slim to none.

In 1999, McCain-Feingold was peeled back even further, and the last vote we had on this issue provided only two features: A party soft money ban and what we would have to charitably call a bogus Beck provision which actually eviscerates current worker protections rather than codifies them as the McCain-Feingold subtitle purports.

So the last time we had a vote on this issue in the Senate, a cloture vote, was on a party soft money ban only, with a bogus Beck provision. What we have before us now is a beefed-up McCain-Feingold, again with the party soft money ban plus various efforts to restrict the voices of outside groups.

One of the issues we are going to be dealing with here in the course of the debate is the so-called nonseverability clause. It is in the President's statement of principles. Why is it there? It is there because we have an obligation not to pass laws that are clearly unconstitutional.

I hear that some of the proponents of this year's version of McCain-Feingold oppose a nonseverability clause, and I really find that mystifying. If they are so confident that the bill is constitutional, what is wrong with a nonseverability clause to guarantee that the bill either rises or falls together? They should have had a nonseverability clause back in 1974. What happened then was legislation passed that had spending limits for campaigns and contribution limits for individuals. The spending limits got struck down, the contribution limits got upheld, were not indexed, and we have today a situation in which we are left with $1,000 contribution limits set at a time when a Mustang cost $2,700 and candidates, particularly in big States, who were not fortunate enough to be wealthy, have to spend—well, there is not enough time. There is not enough time. If you are running in California and you do not have the advantage of being already well known or extraordinarily rich, 2 years is not long enough to pool together enough resources at $1,000 a contributor to be competitive.

One of the single biggest problems we have is the failure to index the hard money contribution limit back in the 1970s. Why do you think parties are relying more on soft money? Because there isn't enough hard money. Nobody capped the cost of the media at the 1974 level. I hear that we may have an amendment to deal with the question of availability of media. I think that is a good idea. I look forward to taking a look at the details of it.

We ought to be dealing with the real problem here. The real problem is not that there is too much money in politics; there is too little money in politics—particularly hard money—all of which is limited and disclosed and it is given directly to parties and candidates to expressly advocate the election or defeat of a candidate. Yet nobody on the so-called ''reform side'' is trying to deal with the single biggest problem that we have. I hope during the course of this debate that problem will be taken care of.

The only way to get at the core of this problem, if Senators believe the influence of money and politics is so pernicious, is to change the First Amendment.

You have to go right to the core of the problem. The junior Senator from South Carolina, Mr. FRITZ HOLLINGS, will offer that amendment at some point as he has periodically over the years. He deserves a lot of credit for understanding the nub of the problem. The nub of the problem is you can't do most of these things as long as the First Amendment remains as it is.

So Senator HOLLINGS, at some point, I think under the consent agreement, will probably at the end of the debate offer a constitutional amendment so the Federal and all 50 State governments can have the unfettered latitude to regulate, restrict, and even prohibit any expenditures ''by, in support of, or in opposition to a candidate for public office.'' It would carve and etch out of the First Amendment, for the first time since the founding of our country and the passage of the Bill of Rights, giving to the government at the Federal and State level the ability to control political speech in this country. It is worth noting that would also apply to the media.

One of the world's largest defense contractors, such as General Electric, could even be prohibited from owning America's No. 1 television station such as NBC, and a news anchor, such as Tom Brokaw, could even be prohibited from mentioning a candidate's name within 60 days of an election. This is a serious proposal. This will be offered once again on the floor of the Senate.

Barring such a wholesale repeal of constitutional freedom, a lot of what we are going to be doing in the next 2 weeks will probably fall well short of the constitutional mark. But I hope that Senators will take their responsibilities seriously and not just vote for anything, hoping the courts will at some point save us from ourselves.

A good deal of this is not in question. Virtually the exact language of the so-called Snowe-Jeffords language designed to make it more difficult for outside groups to criticize any of us in proximity to an election has been struck down within the last year and a half.

That is pretty clear evidence that this particular language is not constitutional.

As we go through these amendments, if they are clearly Federal court cases on point, I hope Members of the Senate will not ignore that. We swore to uphold the Constitution. I know sometimes it is hard to figure out what that means in the context of a given vote. But on some of these issues, it is not that unclear. There will be a decision on point.

I want to make another point about non-Federal money.

Senator HAGEL was talking about his proposal to cap but not completely eliminate non-Federal money. I do not know what I think about that. But I think it is important to get the record straight about non-Federal money.

The average soft money contribution to the Republican Senatorial Committee last cycle was $520. That is less than one-tenth of 1 percent of the money that the Republican Senatorial Committee raised.

If you look at the Republican National Committee and the Republican Senatorial Committee, the largest contribution either of us got during the course of the year was $250,000. Admittedly, that is a very large contribution, but any one of those $250,000 contributions would have represented less than one-half of 1 percent of the total money raised by either the Republican Senatorial Committee or the Republican National Committee.

You can make a case, as Senator HAGEL has made and will make again when he offers his substitute, that it ought to be capped. But I think you can't make a case that it ought to be eliminated. Why should the Republican National Committee or the Democratic National Committee have to finance their efforts on behalf of mayoral candidates in Omaha, NE, with Federal dollars? This is a Federal system. Under McCain-Feingold, the Republican Governors' Association would be obliterated, eliminated, gone; the Democratic Governors' Association, gone. Why? Because they don't operate with Federal money.

We have national political parties. We already have a scarcity of Federal hard dollars even to do the job for our Federal candidates. And under this proposal with that same sort of finite source of Federal hard dollars, the great national party committees would have to operate on behalf of Federal candidates and everybody else out of the same pool of resources. Regretfully, the bill does not take the money out of politics. It takes the parties out of politics. In what way is that a step in the right direction?

Yesterday, the Washington Post had a big article that included soft money contributions to the national political parties. It was pretty significant—the suggestion being that if we pass McCain-Feingold that money wouldn't be spent.

It would be spent all right. It just wouldn't be given to the parties.

Each of those interests who care about what we are doing here, who believe that it may have an impact on their business or their interest, cannot be constitutionally restricted from speaking. Maybe some court somewhere would let us completely federalize the national parties and completely eliminate their ability to operate in State and local races with Federal dollars. Maybe some court would let us do that. But no Federal court in America is going to let us quiet the voices of all these interests that have a perfect right to go out and engage in issue advocacy up to and including the day of the election. There isn't any serious person who knows anything about the First Amendment who believes that we could do that.

The proposal before us is designed to inhibit the ability of the political parties and would have no impact whatsoever on outside groups, nor should it.

They are entitled in this free society to have their say.

Mr. President, I have a series of newspaper editorials and columns from columnist George Will that I want to have printed in the RECORD. He has been particularly active in writing about this subject. I ask unanimous consent to have them all printed seriatim in the RECORD. I will add to the record in the next few days additional articles on this subject.

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

[From Newsweek, Mar. 19, 2001]

JAMES MADISON REMEMBERED

MADISONIAN DOCTRINE TODAY HAS ITS OPPOSITE—CALL IT MC CAINISM, AN ANTIPLURALIST POPULISM

(By George F. Will)

There is no monument to James Madison in Washington, There is a tall, austere monument to the tall (6'2''), austere man for whom the city is named, a man of Roman virtues and eloquent reticence. There is a Greek-revival memorial to Madison's boon companion, the tall (6'2'') elegant, eloquent Jefferson, who is to subsequent generations the most charismatic of the Founders. But there is no monument to the smallest (5'4″) but subtlest of the Founders, without whose mind Jefferson's Declaration and Washington's generalship could not have resulted in this republic.

So this Friday, as an insufficiently grateful nation gives scant notice to the 250th anniversary of Madison's birth, pause to consider what he wrought, such as the Constitution, and the first 10 amendments, called the Bill of Rights. Pretty good work, that, but not more impressive than Madison's thinking that was the Constitution's necessary precursor. He became the Father of the Constitution only because he was the founder of modern democratic thought.

Before Madison produced his revolution in democratic theory, there had been a pessimistic consensus among political philosophers: If democracy were to be possible, it would be only in small societies akin to Pericles' Athens or Rousseau's Geneva—''face to face'' societies sufficiently small and homogeneous to avoid the supposed threats to freedom—''factions.'' In turning this notion upside down—that is what a revolution does—Madison taught the world a new catechism of popular government:

What is the worst result of politics? Tyranny. To what form of tyranny is democracy prey? Tyranny of the majority. How can that be avoided? By preventing the existence of majorities that are homogenous, and therefore stable, durable and potentially tyrannical. How can that be prevented? By cultivating factions, so that majorities will be unstable and short-lived coalitions of minorities. Cultivation of factions is a function of an ''extensive'' republic.

Which brings us to what can be called Madison's sociology of freedom, explained in his contributions to the most penetrating and influential newspaper columns ever penned—the Federalist Papers, to which Alexander Hamilton and John Jay also contributed.

In Federalist 10 Madison wrote that ''the extent'' of the nation would help provide ''a

republican remedy for the diseases most incident to republican government.'' He said: ''Extend the sphere, and you take in a greater variety of parties and interests; you make it less probable that a majority of the whole will have a common motive to invade the rights of other citizens.'' Because ''the most common and durable source of factions'' is ''the various and unequal distribution of property,'' the ''first object of government'' is ''protection of different and unequal faculties of acquiring property.''

The maelstrom of interestedness that is characteristic of Madisonian democracy often is not a pretty spectacle. However, Madison knew better than to judge politics by esthetic standards. He saw reality steadily and saw it whole, and in Federalist 51 he said people could trace ''through the whole system of human affairs'' the ''policy of supplying by opposite and rival interests, the defect of better motives.''

Madison's 250th birthday comes at a melancholy moment. A banal and middle-headed populism—call it McCainism—is fueling an assault this month on Madison's First Amendment freedoms of speech and association. In the name of political hygiene, advocates of ''campaign-finance reform'' are waging war against the Madisonian pluralism of American politics.

Madisonian doctrine considers factions inevitable and potentially healthy and useful. McCainism stigmatizes factions as ''special interests'' whose rights to associate and speak politically for their interests should be strictly limited and closely regulated by government. Madison's First Amendment says, ''Congress shall make no law . . . abridging the freedom of speech . . . or the right of the people . . . to petition the government for a redress of grievances.'' McCainism advocates speech rationing by the multiplication of government-imposed limits on the right of individuals and groups to spend money for the dissemination of political speech.

McCainism says money ''taints'' politics. Madisonian theory asks: What would politics consist of if it were ''untainted'' by the vigorous, unfettered participation of factions on whose interests government impinges? McCainism aims to crimp the activities of political parties by banning contributions of ''soft money'' (used for party building, not for particular candidates' campaigns or for expressly advocating the election of defeat of specific candidates).

The Founders did not anticipate the necessity of political parties. However, Madison quickly came to think that parties could moderate factions by channeling and disciplining them. Campaign-finance reformers are always unpleasantly surprised by the unintended consequences of their reforms. Were they to succeed in banning soft money, they would be startled by an utterly predictable result of the hydraulics of political money: Money banned from the parties would flow instead to other—often wilder—factions.

Then the reformers, who cannot see a freedom without calling it a ''loophole'' that needs closing, would try to extend government regulation of political speech to the speech of those factions. Madison, wise about the untidiness of freedom, would respond by reminding the reformers of his reform—the First Amendment.

Madison undertook the thankless task of explaining the implications for democracy of the unflattering fact that men are not angels, and posterity has not thanked him with the sort of adulation bestowed upon Jefferson. However, in 1981 the Library of Congress, which began with Jefferson's donation of his library, needed a new building and named it after the most supple intellect among the Founders—the James Madison Memorial Building. Perhaps that would suffice as a monument to Madison. Or maybe his monument is our constitutional government, which proves the possibility of liberty under law in an extensive—a continental—republic.

[From the Washington Post, Mar. 4, 2001]

. . . LET US HOPE NOT

(By George F. Will)

Disquieting rumors persist that some of President Bush's advisers are eager to sign a campaign finance ''reform'' bill, or at least to avoid vetoing one. Bush should beware of what Edmund Burke called ''the irresistible operation of feeble councils.''

And he should be aware of the Colorado case argued before the Supreme Court last Wednesday. If the court affirms the judgment of two lower courts in that case, the McCain-Feingold bill is patently unconstitutional.

Although a plain statement of the salient fact seems preposterous, the unvarnished truth is that McCain-Feingold's premise is: There is something inherently corrupt about the relationship between political parties and their candidates. Thus the bill would ban ''soft money'' contributions to parties—unregulated money that can be spent for party-building, voter turnout, issue advocacy and other purposes, but not to ''directly influence'' the election of candidates for federal offices.

Last week, a quarter of a century after the Buckley v. Valeo ruling, which struck down much of the 1974 campaign finance law, the court for the first time heard arguments about whether it is constitutional for the government to limit a party's direct expenditures—''hard dollars''—for its candidates. In Buckley, the court held that limits on political money—contributions and expenditures—implicate ''the most fundamental First Amendment activities,'' and therefore government bears a heavy burden of demonstrating a compelling need to limit those activities. The only such justification the court considers sufficient is the need to prevent corruption or the appearance thereof.

Well. In 1986 the Colorado Republic Party ran ads criticizing a Democratic congressman who was considering running for the Senate. It did this before the Republican Senate candidate had been chosen. Nevertheless, the Federal Election Commission charged that this expenditure violated federal limits on party expenditures for candidates. Ten years later the U.S. Supreme Court ruled against the FEC, saying the ads were ''independent expenditures'' and thus not subject to the ''hard dollar'' limits.

The Supreme Court remanded the case for the lower courts to consider whether those ''hard dollar'' limits themselves are constitutional at all. In response, the district court and the 10th Circuit have both said they are not. Last Wednesday the FEC asked the Supreme Court to say they are. But how can it without saying preposterously, that there is a substantial risk of parties corrupting their own candidates by supporting them?

As the district court said on remand: ''The FEC seeks to broaden the definition of corruption to the point that it intersects with the very framework of representative government.''

The FEC is a bureaucracy. Bureaucracies have a metabolic urge to maximize their missions. The FEC's mission is to regulate political discourse. A president's primary mission, stated in his oath of office, is different—to defend the Constitution. Bush understands the conflict between his duty and the FEC's urge.

Around 7 a.m., Jan. 23, 2000, the day before the Iowa caucuses, candidate Bush was in Des Moines preparing to appear on ABC's ''This Week.'' One of those who was to question him (this columnist), not wanting to ambush him with unfamiliar material, and wanting from him a considered judgment, took the unusual step of telling Bush he would be asked if he agreed with a particular proposition from an opinion written by Justice Clarence Thomas. The proposition, given to Bush on a 3-by-5 card, was:

''There is no constitutionally significant distinction between campaign contributions and expenditures. Both forms of speech are central to the First Amendment.''

Asked if he agreed that there is something ''inherently hostile to the First Amendment'' in limiting participation in politics by means of contributions by individuals (Bush favors banning ''collective speech'' by corporations, or by unions without members' prior written consent), he briskly replied: ''I agree.'' And asked if he thinks a president has a duty to make an independent judgment about the constitutionality of bills and to veto those he considers unconstitutional, he replied: ''I do.''

This puts Bush on a collision course with much of the political class and most of the media. It may become the first disruption of his serene relations with them, but there eventually must be a first, and the stake—the First Amendment—is worth a fight.

Bush has served himself and the country well by his congeniality efforts, but he will serve neither by continuing them until it costs him respect. It will cost him that if he signs McCain-Feingold.

Genius, said Bismarck, involves knowing when to stop. He had in mind waging war, but the same is true of waging niceness.

[From the Washington Post, Mar. 8, 2001]

SECOND THOUGHTS ABOUT SOFT MONEY

(By George F. Will)

In ''Murder in the Cathedral,'' T.S. Eliot, a better poet than moral philosopher, has a character say,

The last temptation is the greatest treason:

To do the right thing for the wrong reason.

Actually, in Washington it is good enough when people do the right thing for any reason. So it is gratifying, if not notably noble, that some Democrats, having recalibrated their self-interest in the light of last year's elections, are rethinking their enthusiasm for eviscerating the First Amendment in the name of campaign finance reform.

Prior to the last election cycle, they favored banning ''soft'' money—the money contributed to political parties for uses other than for particular federal candidates, and not used expressly to advocate the election or defeat of a candidate. However, having done well in the 1999–2000 soft-money sweepstakes, and lagging behind Republicans in hard dollars—conditions to political parties that are limited but can be spent for particular candidates—Democrats are having second thoughts.

Those Democrats whose controlling principle is the pursuit of short-term party advantage will have third thoughts if convinced that their party's success at raising soft money was contingent on control of the presidency. But some Bush advisers may begin favoring a ban on soft money if many Democrats become wary of a ban. Tactical considerations always dominate when the political class writes laws limiting communication about—and competition against—itself.

In 1897 Nebraska, Tennessee, Missouri and Florida banned corporate contributions because, in the 1896 presidential race, such contributions helped William McKinley defeat the man who carried those states, William

Jennings Bryan. In 1974 Congress enacted spending limits (declared unconstitutional by the Supreme Court in 1976) for House races of $75,000 (about $200,000 in today's dollars), far below what challengers must spend to threaten an incumbent. The Senate limits, also declared unconstitutional, would have protected incumbents. The limits started at a base of $250,000 and varied with a state's population, and included not just the candidate's direct spending but any spending ''relative to a clearly identified candidate.''

Arguments for more regulation of political speech are fueled by hyperbole about supposed ''torrents'' of money pouring into politics. Such hyperbole probably has been heard ever since George Washington, at age 25, first ran for the Virginia House of Burgesses in 1757, spending 39 pounds for 160 gallons of rum and other beverages for the 391 eligible voters—more than a quart of drink, at a cost of (in today's currency) $2, per voter.

However, since the Voting Rights Act (1965) and the 26th Amendment (1971) greatly expanded the electorate, spending per eligible voter in congressional races, in today's dollars, has hovered in a range from approximately $2.50 to $3.50 per eligible voter, inching up slightly in the highly competitive elections of 1994 and 1996 and reaching approximately $4 in the competitive elections of 1998—a bit more than the cost of one video rental.

If spending in the two-year 1999–2000 cycle for all candidates for all offices—federal, state and local—reached the ''obscene'' (as critics call it) total of $3 billion, that was $15 per eligible voter, And $3 billion—$2 billion less than Americans spend annually on Halloween snacks—is five-one-hundredths of one percent of GDP.

So writes Bradley Smith in ''Unfree Speech: The Folly of Campaign Finance Reform'' (Princeton University Press), which surely will be this year's most important book on governance, Smith, now serving on the Federal Election Commission, warns that if reformers succeed in getting the First Amendment thought of as a mere ''loophole'' in a comprehensive regime of speech rationing, they will have legitimized perpetual tinkering with the regulation of political speech for partisan advantage after every election cycle has been analyzed.

It is arguable whether, or how much, the First Amendment should protect obscenity, pornography, this or that ''expressive activity'' (e.g., topless dancing, flag burning), ''fighting words'' or commercial speech. However, no serious person disputes that the amendment's core concerns is political speech. And the Supreme Court says, incontrovertibly, that in modern society, political speech depends on political spending.

As to whether limits on political spending abridge freedom of political speech, consider the Supreme Court's analogy: Would the constitutional right to travel be abridged if government limited everyone to spending only enough for one tank of gasoline? Or would the First Amendment right of free exercise of religion be abridged if government limited the right to spend money for church construction or for proselytizing?

The First Amendment—freedom—is the right reason for opposing ''reforms'' designed to regulate, and diminish, political discourse. But if only tactical considerations can cause Democrats to do the right thing, the wrong reason will be welcome.

[From the Washington Post, Mar. 11, 2001]

FENDING OFF THE SPEECH POLICE

[By George F. Will)

The coming debate on campaign fiance ''reforms'' that would vastly expand government regulation of political communication will measure just how much jeopardy the First Amendment, and hence political freedom, faces. Recent evidence is ominous.

In 1997, 38 senators voted to amend the First Amendment to empower government to impose ''reasonable'' restrictions on political speech. Dick Gephardt has said, ''What we have is two important values in direct conflict: freedom of speech and our desire for healthy campaigns in a healthy democracy.'' Bill Bradley has proposed suppressing issue advocacy ads of independent groups by imposing a 100 percent tax on such ads. John McCain has said he wishes he could constitutionally ban negative ads—ads critical of politicians.

The basis of political-speech regulation is the 1971 Federal Election Campaign Act. Bradley Smith, a member of the Federal Election Commission and author of ''Unfree Speech: The Folly of Campaign Finance Reform,'' calls the act ''one of the most radical laws ever passed in the United States.'' Because of it, for the first time Americans were required to register with the government before spending money to disseminate criticism of its officeholders.

Liberals eager for more regulation of political speech should note the pedigree of their project. The act's first enforcement action came in 1972, when some citizens organized as the National Committee for Impeachment paid $17,850 to run a New York Times ad criticizing President Nixon. His Justice Department got a court to enjoin the committee from further spending to disseminate its beliefs. Justice said the committee had not properly registered with the government and the committee's activities might ''affect'' the 1972 election, so it was barred from spending more than $1,000 to communicate its opinions. After the expense of reaching a federal appellate court, the committee defeated the FEC, but only because the committee had not engaged in ''express advocacy'' by explicitly urging people to vote for or against a specific candidate.

In 1976 some citizens formed the Central Long Island Tax Reform Immediately Committee, which spent $135 to distribute the voting record of a congressman who displeased them. Two years later this dissemination of truthful information brought a suit from the Federal Election Commission's speech police, who said the committee's speech was illegal because the committee had not fulfilled all the registering and reporting the campaign act requires of those who engage in independent expenditure supporting or opposing a candidate. The committee won in a federal appellate court, but only because it had not engaged in ''express advocacy.''

In 1998, with impeachment approaching, Leo Smith, a Connecticut voter, designed a Web site urging support for Clinton and defeat of Rep. Nancy Johnson (R-Conn.) When the campaign of Johnson's opponent contacted Smith, worried that his site put him and their campaign in violation of the act, he sought a commission advisory opinion.

Although Smith neither received nor expended money to create this particular Web site, the Commission said the law's definition of a political expenditure includes a gift of ''something of value,'' and the commission noted that his site was ''administered and maintained'' by his personal computer, which cost money. And that the ''domain named Web site'' was registered in 1996 for $100 for two years and for $35 a year thereafter. And ''costs associated with the creation and maintaining'' of the site are considered an expenditure because the site uses the words that bring on the speech police—it ''expressly advocates'' the election of one candidate and the defeat of another.

The commission advised Smith that if his site really was independent, he would be ''required to file reports with the commission if the total value of your expenditures exceeds $250 during 1998.'' If his activity were not truly independent, his ''expenditures'' would have to be reported as an in-kind contribution to Johnson's opponent. Smith ignored the commission, which, perhaps too busy policing speech elsewhere, let him get away with free speech.

Today Internet pornography is protected from regulation, but not Internet political speech. And campaign finance ''reformers' aspire to much, much more regulation because, they say, there is ''too much money in politics.''

Actually, too much money that could fund political discourse is spent on complying with the act's speech regulations. To cover compliance costs, the Bush and Gore campaigns combined raised more than $15 million. And Bradley Smith notes that because of the law's ambiguities and the commission's vast discretion, litigation has become a campaign weapon: Candidates file charges to embarrass opponents and force them to expend resources fending off the speech policy. Consider this legacy of ''reforms'' during this month's debate about adding to them.

[From the Washington Post, Mar. 18, 2001]

SKIRTING WHAT THE FIRST AMENDMENT SAYS

(By George F. Will)

With this week's beginning of Senate debate on campaign finance reform, we will reach the most pivotal moment in the history of American freedom since the civil rights revolution 3½ decades ago. The debate concerns John McCain's plan to broaden government limitations on political spending in order to intensify government supervision of political speech, which depends on that spending.

McCain's attempt to expand government abridgement of the First Amendment's core concern comes in the context of rapidly multiplying rationales for vitiating First Amendment protection of political speech. In recent years law school journals have featured many professors' theories about why the amendment—''Congress shall make no law . . . abridging the freedom of speech''—should not be read as a limit on government. Rather, they argue, the amendment empowers—indeed, in today's world it requires—government to regulate, limit and even ''enhance'' political speech.

Consider a symptomatic new book, ''Republic.com,'' by University of Chicago law professor Cass Sunstein, whose ingenuity deserves better employment. He vigorously attacks a nonexistent problem, to which he proposes a solution that is only, but very, useful as an illustration of the hostility that a portion of the professoriate has toward the plain text of the First Amendment.

The supposed problem that Sunstein wants government to address is a maldistribution of information and opinion. He begins with a truism, that a heterogeneous society needs the glue of a certain level of common experiences. Then he postulates a problem. It is that the very richness of today's information and opinion environment—the Internet, cable, etc.—allows people to design a personalized menu of communications, deciding what they want to encounter and what they want to filter out of ''a communications universe of their own choosing.''

Sunstein says unplanned, unanticipated, even—perhaps especially—unwanted encounters are ''central to democracy.'' They help us understand one another and prevent social fragmentation and the extremism that ferments in closed cohorts of the like-minded hearing only ''louder echoes of their own voices.'' Sunstein worries especially that the Internet, by bestowing on individuals the

power to customize what they encounter, enables people to bypass ''general interest intermediaries'' such as newspapers and magazines.

Not so long ago, intellectuals worried that mass media where homogenizing American culture into uniform blandness. Now Sunstein worries about new technologies allowing people to ''wall themselves off'' from differences of opinion, forming isolated enclaves.

What makes Sunstein's book pertinent to campaign finance reformers' current assaults on the First Amendment is not the plausibility of his diagnosis—who in cacophonous contemporary America feels insufficiently exposed to differences? But note the audacity of his prescription. He would have government use various measures—from ''must carry'' requirements for broadcasters to mandatory links connecting Web sites to others promoting different views—to manage ''the scarce commodity'' of the public's attention. Government, he thinks, should actively ''promote exposure to materials that people would not have chosen in advance.''

Now, never mind the many practical problems implicit in Sunstein's theory, such as how government will decide which views are insufficiently noticed, and how government will ''trigger'' (Sunstein's word) public interest in them. But mind this:

Sunstein is an ardent campaign finance reformer for the same reason he recommends government management of the information system. He thinks the First Amendment mandates this. He does not read the amendments as a ''shall not'' stipulation that proscribes government interference with individual rights. Rather, he reads it as a mandate for active government management of the public's ''attention.''

To Sunstein, and to many similar academic advocates of speech-management through campaign finance reform, what is important about the First Amendment is not its text but the ''values'' they say the amendment represents. They say those values—vigorous debate; deliberative democracy; political heterodoxy—require that the amendment's text be ignored as an anachronism that modern life (the Internet, the costs of campaigning in the age of broadcasting, etc.) has rendered inimical to the amendment's values.

Politicians who, in the name of campaign finance reform, favor increased government supervision of political communication are not motivated by such recondite reasoning. They simply want to tilt the system even more toward the protection of incumbents, or of their ideological interests, or of their ability to control their campaigns by controlling the ability of others to intervene in the political discourse.

However, campaign finance reformers depend on academic theories about why it is acceptable to act as though the First Amendment does not mean what it says.

Mr. MCCONNELL. Let me just wrap it up for the time being by imagining for a moment the world envisioned by this legislation before us. That is a world where political parties are attacked by their own, beaten down, stripped of their constitutional rights, and ultimately left as shells of their former selves.

In his book ''The Party's Just Begun,'' University of Virginia political science professor Larry Sabato writes a section entitled ''A World Without Parties'' where he imagines a world with weak and feeble parties. The national parties today are stronger than they have ever been in my lifetime. They may have been stronger in the previous century—the 19th century—but they are now stronger than they have ever been and more useful for services provided to candidates up and down the Federal scale than ever. What would life be like without a strong two-party system? Surely even the parties' severest critics would agree that our politics would be poorer from any further weakening of the party system. We have only to look at who and what gains as parties decline in influence. The first big gainers: Special interest groups and PACs. Their money, labels, and organizational power can serve as a substitute for parties. Yet instead of fealty to national interest or a broad coalition party platform, the candidate's loyalties would be pledged to narrow special interest agendas.

Bear in mind what he is talking about here.

When a PAC contributes to a party, that money then becomes part of the broad party appeal. But a PAC, operating only on its own, has a very narrow concern. Who else gains? Wealthy candidates and celebrity candidates gain. Their financial resources or their fame can provide name identification or, for that matter, simply replace party affiliation as a voting cue. Already, at least a third of the Senate seats are filled by millionaires. And the number of inexperienced but successful candidates drawn from the entertainment and sports worlds seems to grow each year.

So again, as you reduce the influence of parties, who benefits? Special interests and PACs, wealthy candidates, celebrity candidates.

Who else gains? Why, incumbents, of course. The value of incumbency increases where party labels are absent or less important since the free exposure incumbents receive raises their name identification level. There would also be extra value for candidates endorsed by incumbents or those who ran on slates with incumbents.

Who else benefits as the parties decline in influence? The news media, particularly television news, gains. Party affiliation is one of the most powerful checks on the news media, not only because the voting cue of the party label is in itself a countervailing force but also because the perceptual screen erected by party identification filters media commentary.

Who else gains? Why, political consultants gain. The independent entrepreneurs of the new campaign technologies—such as polling, television advertising, and direct mail—secure more influence in any system when the parties decline. Already they have become, along with some large PACs, the main institutional rivals of the parties, luring candidates away from their party moorings and using the campaign technologies to supplant parties as the intermediary between candidates and volunteers.

I say to my colleagues, that is not a pretty picture. That is not a pretty picture. Remember, as I conclude my remarks here for the moment, that this bill before us at the beginning of this debate targets political parties. It purports to do a few other things, but no serious constitutional scholars believe that that can be done or, if we did, it would be upheld in court.

So make no mistake about it, this targets the political parties. Of what value is it, in our American political system, to weaken the parties, the one entity out there that will always support challengers, no matter what?

Boy, I tell you, there are some advantages to incumbency. PACs tend to like you. Individual contributors tend to like you. You get more coverage. On whom can a challenger depend? Either his own pocketbook, if he is lucky enough to have a lot of money, or the political party, the one entity there to go to bat for a challenger in American political competition.

So I welcome the debate. This is going to be an interesting debate. None of us has any real idea how it is going to end, which makes this a good deal different from the discussions we have had on this issue in recent years. We are going to have a lot of fine amendments. The first amendment will be offered by Senator DOMENICI of New Mexico. It will be laid down at 3:15.

I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. I see my colleague from Mississippi here.

How much time does the distinguished Senator need? Five minutes?

Mr. COCHRAN. Mr. President, 5 minutes would be ample.

Mr. DODD. I yield 5 minutes to the distinguished Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, first of all, I commend the principal sponsors of this bill, the distinguished Senator from Arizona, Mr. MCCAIN, and the distinguished Senator from Wisconsin, Mr. FEINGOLD, for their leadership and for their perseverance.

This day has been a long time coming, but the time has finally come for campaign finance reform. I am pleased to be a cosponsor of this bill as it was reintroduced at the beginning of this Congress in January. I am convinced it is time for the Senate to take action to reform the way Federal election campaigns are financed which are, in effect, overwhelmingly dominated by the huge amounts of unregulated and undisclosed money being spent by organizations, unions, corporations, and wealthy individuals to influence the outcome of Federal election campaigns.

It is time to ensure that those who do try to influence the outcome of Federal elections will have to report their expenditures so the general public will know who is trying to influence the

outcome of political campaigns and how they are spending their money to do so.

I also commend the Senate leaders, Mr. LOTT and Mr. DASCHLE, for scheduling the debate on this bill so the Senate has an opportunity to work its will. Amendments can be offered by any Senator, with ample time for debate and consideration of any suggestions for changing or improving this legislation.

This bill, S. 27, in my view, strikes the right balance that we are trying to accomplish. I may support some of the amendments that are offered. As a matter of fact, I am hopeful that I will be able to offer an amendment of my own to strengthen the disclosure requirements. I think it will improve the bill as it now stands. I think the public has a right to know clearly who is spending the money that affects the outcome of Federal elections and how they are spending it.

We all see the ads. We are overwhelmed by the total number of television ads and other mailings that are sent out during a political campaign these days in House races, in Senate races, and even the Presidential election this past year. Voters have to be confused. Who is running the ads? It says ''The Good Government Committee,'' but who is that? Or it says something else that sounds really good, as though they are on the side of right and justice and right thinking. So they put the ad up that suggests or insinuates that one or the other of the candidates isn't on the right track, either on one subject or just generally speaking, it isn't good for the State or the district or the country, or suggests that there may be something in the background of the candidate that is suspicious, that needs to be looked at very carefully. The insinuation, the misleading tone, the negative aspect of political campaigns is fueled by the huge amounts, the juggernaut, an almost imperceptible amount of influence being brought to bear on these campaigns by who knows what source, who knows who is behind the spending.

I am hopeful we will work hard to get a bill reported out and passed by the Senate. We have a wonderful opportunity to do so. The time to act is now. Some of the raising and spending of the money, I am prepared to suggest, looks more like money laundering operations than aboveboard political campaigns that would reflect credit on the political system of our country. That needs to be changed. This is the vehicle to change it.

I am hopeful the Senate will work its will and pass this legislation.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Connecticut has 30 minutes.

Mr. DODD. I yield 25 minutes to the Senator from Wisconsin, coauthor of the bill.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I again thank the Senator from Connecticut. I am extremely pleased to come to the floor today to begin the debate on the McCain-Feingold-Cochran bill. Of course, the Senator from Arizona has been the original inspiration on this issue and the person who was able to make this issue and this bill, in particular, something of national attention and something that actually was important in the discussions in the Presidential debates last year. I have greatly enjoyed these 6 years of working with JOHN MCCAIN on this issue.

Let me also say, if I could have picked one Senator from the other side to sort of put us over the top, to change the dynamic of this, somebody whom I have always respected, although we have rarely agreed on the issues, that person is Senator THAD COCHRAN of Mississippi. His credibility and the respect of the Members of this body for him are so profound that when he became a major sponsor of this bill, it made it possible for us to have this debate. It is because he joined us, and I am grateful.

This debate has been a long time coming. It is our first truly open debate on campaign finance reform in many years. We are no longer limited to a few days of speeches or parliamentary wrangling and a cloture vote or two. Instead, we are going to have an open amending process, a vigorous debate, and, in the end, I think we can pass a bill for which this body and the country can be proud.

We have a rare opportunity before us. We also face a great test. The opportunity is clear. In the next few weeks we can take a major step toward closing the loopholes that have made a mockery of our campaign finance laws. We have the power to close these loopholes, and we have the duty to close them. The American people will be watching this floor over the coming days and weeks. They want to know whether we can finally do what is right. Can we finally close the door on the soft money system that leaves us so vulnerable to the appearance of corruption.

The Senator from Kentucky was happy that so far in the debate the word ''corruption'' had not been mentioned. I am sorry, but the choice of the word ''corruption'' is not my choice. It is the standard that the U.S. Supreme Court has said we have to deal with if we are going to legislate in this area. It is not JOHN MCCAIN'S word. It is not my word. It is the word of the Court. The Court said, in Nixon v. Shrink Missouri Government PAC:

> Buckley demonstrates that the dangers of large, corrupt contributions and the suspicion that large contributions are corrupt are neither novel nor implausible. The opinion noted that the deeply disturbing examples surfacing after the 1972 election demonstrate that the problem of corruption is not an illusory one.

I am sorry the Senator from Kentucky does not want us to talk about it, but the Court says we can't do a bill about it unless we do talk about it. So we are going to talk about it. We are going to talk about corruption, but, more importantly, what is much more obvious and much more relevant is the appearance of corruption. It is what it does to our Government and our system when people think there may be corruption even if it may not exist.

Can we finally say, together, as legislators, as representatives of the people, that soft money isn't worth that risk, that it isn't worth risking the appearance of corruption to keep this big soft money system? That is the test we are about to take. This debate will test whether we can pull back from the soft money status quo to which we have become so accustomed over the past few years. This debate will ask whether we think this is really how our democracy is supposed to be.

The public has already answered that question. The vast majority of Americans are outraged by the soft money system. They look at us and wonder why year after year, Congress after Congress, we let the soft money system chip away at our integrity. Day by day, with every vote we cast, people wonder was it the money. They doubt us, and we all know that. We see it every day. We open up the newspaper and read another story about how a powerful industry pushed through this bill or a union used a contribution to win this provision or a wealthy individual got special treatment on an amendment. It is getting to the point where it is difficult to debate any issue, any issue at all where these questions are not raised.

Our parties raise unlimited money with one hand, and we cast our votes with the other. And we dare the public to doubt us every time we miss an opportunity to fix this system such as the one before us today. We cannot afford to keep taking this risk with the public's trust. The public's patience is not limitless, and it should not be. We have a moment here, a rare moment, to regain the public's trust. I know it won't be easy. Real change never is. But the time is right and the will of the people is behind this reform.

All eyes are on this Senate. Either we rise to the occasion and meet the test before us or we let the American people down again. Either we finally ban soft money in the next few weeks or we let them conclude that we are so addicted to this system, so tainted by corruption or at least the appearance of corruption that, once again, we cannot change.

As my colleagues know, the centerpiece of this bill is the ban on soft money. In this regard, let me especially thank my colleague, the Senator from Maine, Ms. COLLINS, for her tireless effort in working with me to meet with individual Senators to persuade them to join us on the bill and with some significant success. As she and I

know, the rise of soft money has been so recent and so rapid that one has to sort of take a minute and look at how rapid it has been.

When I came to the Senate in 1992, I wasn't even sure what soft money was, or at least I didn't know everything that could be done with it. After a tough race against a very well-financed incumbent who spent twice as much as I did, I was mostly concerned when I came here with the difficulties of people running for office who were not wealthy. I am still concerned about that and still think we need to address it, and we should get on to it after we do this.

My commitment to campaign finance reform was forged from that experience. Since I came to this distinguished institution, soft money has exploded, with far-reaching consequences for our elections and the functioning of the Congress.

As the chart I have shows, soft money first arrived on the scene of our national elections in the 1980 elections after a 1978 FEC ruling opened the door for parties to accept contributions from corporations and unions who are barred from contributing to Federal elections. The ruling intended these donations to be used for what the FEC termed ''party building,'' meaning purposes that are unrelated to influencing Federal elections. The best available estimate is that the parties raised under $20 million in soft money in the 1980 cycle, and it didn't change much in 1984. The loophole remained pretty much dormant.

In 1988, soft money nearly doubled when both parties began raising $100,000 contributions for both the Bush and the Dukakis campaigns, an amount that was unheard of prior to 1988. By the 1992 election, the year I was elected to this body, soft money fundraising by the major parties had doubled yet again, rising to $86 million. Of course, the $86 million raised in 1992 was a lot of money. It was nearly as much as the $110 million that the two Presidential candidates were given in 1992 in public financing from the U.S. Treasury. There was growing concern about how the money was spent.

Despite the FEC's decision that soft money could be used for activities such as ''get out the vote'' and voter registration campaigns without violating the Federal election law's prohibition on corporate and union contributions in connection with Federal elections, the parties sent much of their soft money to be spent in States where the Presidential election between George Bush and Bill Clinton was close or where there were key contested Senate races. Still, even in 1992, soft money was far from the central issue in our debate over campaign finance reform in 1993 and 1994. And then in 1995, when Senator MCCAIN and I first introduced the McCain-Feingold bill, our bill included a ban on soft money, but it wasn't even close to being the most controversial provision of our bill, and actually nobody paid any attention to it in 1995.

Then, as we all know, came the 1996 election and the enormous explosion of soft money fueled by the parties' decision to use the money on phony issue ads supporting their Presidential candidates. As you can see from the chart, the total soft money fundraising skyrocketed as a result of that judgment. When the parties had raised $262 million in soft money in 1996, that was appropriately considered an incredible sum. And it was. There were 219 people who gave $200,000 or more in soft money in that cycle, 1996.

But today, if you can believe it, only 4 years later, 1996 looks like a small-time operation compared to the 2000 cycle. I think they are still counting from the year 2000. But I believe we know now that the parties raised $487.5 million in soft money in the year 2000. That dwarfs the amount raised in 1992, and it comes close to doubling the amount raised in 1996. The Wall Street Journal reported the other day—and I say this in response to the comments of the Senator from Kentucky about the average soft money contribution being $500—that nearly two-thirds of that gigantic total I showed you of nearly $500 million was given by just 800 donors who gave at least $120,000 each. That is a far cry from an average of $500—800 donors, giving an average of $120,000 each. That is what was the core of the last election.

This chart shows the huge growth of the megadonors over time. It is exponential. A select group of wealthy people, unions, and corporations whom the parties have come to depend on for these huge sums of money is who is dominating this fundraising.

That brings us right back to the item we have to talk about—even though some don't want us to talk about it—and that is the perception of corruption. People are uncomfortable with the parties and, by extension, all of us, relying on a concentrated group of wealthy donors for a significant part of our fundraising. The American people are troubled by that, and so are many of us.

Recently, our colleague, Senator MILLER from Georgia, wrote an opinion piece in the Washington Post on his deep misgivings about the current fundraising system. He wrote that he doesn't sleep as easy as he used to when campaigns weren't defined by how money can be raised and spent.

I would like to read a passage from Senator MILLER's op-ed, where he describes what fundraising is like today:

> I locked myself in a room with an aide, a telephone, and a list of potential contributors. The aide would get the ''mark'' on the phone, then hand me a card with the spouse's name, the contributor's main interest, and a reminder to ''appear chatty.'' I'd remind the agribusinessman that I was on the Agriculture Committee; I'd remind the banker I was on the Banking Committee.
>
> And then I'd make a plaintive plea for soft money—that armpit of today's fundraising. I'd always mention some local project I got-ten—or hoped to get—for the person I was talking to. Most large contributors understand only two things: what you can do for them and what you can do to them.
>
> I always left that room feeling like a cheap prostitute who'd had a busy day.

These are Senator MILLER's words. Those are powerful words, and they are hard to stomach. I deeply admire the Senator from Georgia for many reasons, but especially for being willing to write what we all know to be true. Many colleagues have told me privately they are uncomfortable with this system. One Senator told me here on the floor that he felt like taking a shower after he had made a call for a $250,000 contribution.

We have Senators who can't sleep; we have Senators who feel they have to take a shower after doing fundraising calls. We have a pretty bizarre system. This system cheapens all of us. The people in this body are good people; I know that. They care deeply for this country. We have to get rid of this soft money system before it drives the good people away from public service and drives the public even further away from its elected leaders.

Senator MILLER also wrote in his op-ed that while he supports McCain-Feingold, he thinks it is not enough, that it is only a step in the right direction. I agree. After we pass this bill, I hope we will do more, and I look forward to working with the Senator from Georgia and others on broader reform.

Senator MILLER's words are brutally honest. I think when we are honest with ourselves about what our system has become, real change can't be far behind. Money should not define this democracy, and it doesn't have to. We don't have to pick up the paper and read headlines such as ''Influence Market: Industries that Backed Bush Are Now Seeking Return On Investment.'' That headline ran in the March 6 Wall Street Journal. I think we all know what that means, and so does everyone else.

The assumption that we can be bought, or that the President of the United States can be bought, has completely permeated our culture. The lead of this article reads:

> For the businesses that invested more money than ever before in George W. Bush's costly campaign for the Presidency, the returns have already begun.

This is a new administration. It is a new start. And then you have to read that, which is quite an accusation. But it is one that people don't hesitate to make these days. Whether we are Democrat or Republican, we should all be saddened by such an accusation, perhaps angry at it, but we can't ignore it or just blame the media for it.

There is an appearance problem here, Mr. President. No one can deny that. But the newspapers didn't create it; we did. I am reminded what the great Senator Robert La Follette, from my home State of Wisconsin, said in response to those who argued that the press of his day, the early 1900s, was spreading

hysteria about the power of the railroads over the Congress. He said:

It does not lie in the power of any or all of the magazines of the country or of the press, great as it is, to destroy, without justification, the confidence of the people in the American Congress. It rests solely with the United States Senate to fix and maintain its own reputation for fidelity to the public trust. It will be judged by the record. It can not repose in security upon its exalted position and the glorious heritage of its traditions. It is worse than folly to feel, or to profess to feel, indifferent with respect to public judgment. If public confidence is wanting in Congress, it is not of hasty growth, it is not the product of ''jaundiced journalism.'' It is the result of years of disappointment and defeat.

Mr. President, I think Senator La Follette had it right. It is not the media or the public's fault if what goes on here looks corrupt. It is our fault. We have to do something about it. In the next 2 weeks, we have a golden opportunity to do something about it.

Here's another recent example of the public's distrust of our work: ''Tougher Bankruptcy Laws—Compliments of MBNA?'' That headline appeared in Business Week magazine on February 26th. The article goes on to say, ''MBNA is about to hit pay dirt. New bankruptcy legislation is on a fast track. Judiciary panels in the House and Senate have held perfunctory hearings, and a bill could be on the House and Senate floors as early as late February.'' Again, the implication is clear. It is widely assumed that the credit card issuers called the shots on the substance of the bankruptcy bill that we passed last Thursday. Isn't it troubling that people are so quick to assume the worst about the work we do here on this floor? I think it's a real crisis of confidence in our system. And that's why we are taking up this bill—because we have to repair some of that public trust. Our reputation is on the line. We aren't going to get a pass from the American people on this one, and we don't deserve one.

The appearance of corruption is rampant in our system, and it touches virtually every issue that comes before us. that's why I have Called the Bankroll on this floor 30 times in less than two years. Because I think it's important for us to acknowledge that millions of dollars are given in an attempt to influence what we do. Because that's why people give soft money, and I don't think anyone would even try to dispute that. I won't detail every bankroll here—because that would take all day. But let me just review some of the issues they addressed, to show how far reaching this problem really is.

I have Called the Bankroll on mining on public lands, the gun show loophole, the defense industry's support of the Super Hornet and the F–22, the Y2 K Liability Act, the Passengers' Bill of Rights, MFN for China, PNTR for China, and the tobacco industry. I have talked about agriculture interests lobbying on an agriculture appropriations bill, telecommunications interest lobbying on a tower-siting bill, and railroad interests lobbying on a transportation appropriations bill. I have talked about contributions surrounding the Financial Services Modernization Act, nuclear waste policy, the Arctic National Wildlife Refuge, and the ergonomics issue. I have also Called the Bankroll on the Patients' Bill of Rights—twice, the Africa trade bill—twice, the oil royalties amendment to the fiscal year 2000 Interior appropriations bill—twice, and I have Called the Bankroll on three tax bills, and four separate times on the bankruptcy reform legislation that we just passed.

People give soft money to influence the outcome of these issues, plain and simple. And as long as we allow soft money to exist, we risk damaging our credibility when we make the decisions about the issues that the people elected us to make. They sent us here to wrestle with some very tough issues. They have vested us with the power to make decisions that have a profound impact on their lives. That's a responsibility that we take very seriously. But today, when we weigh the pros and cons of legislation, many people think we also weigh the size of the contributions we got from interests on both sides of the issues. And when those contributions can be a million dollars, or even more, it seems obvious to most people that we would reward our biggest donors.

That is the assumption people make, and we let them make it. Every time we have had the chance to close the soft money loophole, this body has faltered. If we can't pass this bill, history will remember that this Senate faced a great test, and we failed. That the people accused us of corruption, and in our failure to pass a real reform bill, we confirmed their worst fear.

The bill before us today offers a different path. If we can support the modest reforms in this bill, we can show the public that we understand that the current system doesn't do our democracy justice. This is just a modest bill. It is not sweeping. It is not comprehensive reform. It only seeks to address the biggest loopholes in our system.

The soft money ban is the centerpiece of this bill. Our legislation shuts down the soft money system, prohibiting all soft money contributions to the national political parties from corporations, labor unions, and wealthy individuals. State parties that are permitted under State law to accept these unregulated contributions would be prohibited from spending them on activities relating to Federal elections. And Federal candidates and officeholders would be prohibited from raising soft money under our bill. That's a very significant provision because the fact that we in the Congress are doing the asking is what gives this system an air of extortion, as well as bribery.

McCain-Feingold-Cochran also addresses the issue ad loophole, which corporations and unions use to skirt the federal election law. This provision, originally crafted by Senator SNOWE and Senator JEFFORDS, treats corporations and unions fairly and equally. I want to be clear here. Snowe-Jeffords does not prohibit any election ad, nor does it place limits on spending by outside organizations. But it will give the public crucial information about the election activities of independent groups and it will prevent corporate and union treasury money from being spent to influence elections.

Under the bill, labor unions and for-profit corporations would be prohibited from spending their treasury funds on radio or TV ads that refer to a clearly identified candidate and appear within 30 days of a primary or 60 days of a general election. 501(c)(4) non-profit corporations can make electioneering communications only as long as they use only individual contributions. Disclosure is significantly increased for these (c)(4) advocacy groups, and across the board for anyone who spends over $10,000 in a calendar year on these kinds of ads.

I'm sure Senators SNOWE and JEFFORDS will describe this provision of the bill in greater detail as we go forward, and we will have a spirited debate about whether it should be strengthened or even removed from the bill altogether. Let me just say that I believe the Snowe-Jeffords provisions is a fair compromise and the right balance. It fairly balances legitimate first amendment concerns with the goal of enforcing the law that prohibits unions and corporations from spending money in connection with Federal elections.

In this bill, we also codify the Beck decision and strengthen the foreign money ban. The bill strengthens current law to make it clear that it is unlawful to raise or solicit campaign contributions on Federal property, including the White House and the United States Congress. We also bar Federal candidates from converting campaign funds for personal use, such as a mortgage payment or country club membership.

I recognize that some of our colleagues are concerned about the coordination provision, which specifies circumstances in which activities by outside groups or parties will be considered coordinated with candidates. I want to let our colleagues know that we are listening, and we are working on a modification of that section of the bill. We will offer an amendment during this debate that I hope will satisfy most of the concerns that have been raised.

Throughout this process, we have welcomed the input and suggestions of our colleagues, and we will continue to do so throughout this debate. Over the next two weeks, every Member of the Senate will have an opportunity to contribute to this debate, and I hope each of us will. There are 100 experts on campaign finance law in this body. We've all lived under this system. We

know how campaigns work. The success of this reform depends on a vigorous and informed debate, and I think we will have it.

Mr. President, I'm sure most of my colleagues are aware of the serious political crisis underway as we speak in the nation of India. Journalists posing as arms dealers shot videos with hidden cameras on which politicians and defense officials were seen accepting cash and favors in return for defense contracts. Those pictures have caused a huge scandal. The Indian Defense Minister has resigned, and we don't know yet now great the repercussions will be.

One thing that struck me as I read the news reports of these events was two of the people caught on tape were party leaders, including the leader of the ruling party, the BJP, Mr. Bangaru Laxman. Let me read from an AP story of March 16:

> Laxman denied that the journalists identified themselves to him as defense contractors or discussed weapons sales. He said they were presented as businessmen and that accepting money for the party is not illegal in India.

I am not going to say that what is happening in India is the same as the system we have in the United States, and I'm certainly not going to comment on the guilt or innocence of any party leader or political official in that sovereign country. But the government of India is hanging by a thread based on possibly corrupt payments of a few thousand dollars by people posing as defense contractors. We have literally hundreds of millions of dollars flowing to our political parties from business and labor interests of all kinds. And our defense, like Mr. Laxman's is, ''it's legal.'' We have a system of legalized bribery, a system of legalized extortion, in this country. But legal or not, like the videotaped payments in India, this system looks awful.

The eyes of the Nation are on this Chamber. This group of 100 Senators can prove to the public that we are the Senate that the people want us to be. But the public's patience is wearing very thin. We cannot pick up the phone to raise soft money with one hand, and cast our votes with the other for much longer. The harm to the reputation of the Congress is simply too great. If we fail to pass real reform, we choose soft money over the public trust. That's a risk we cannot afford to take. We have a rare opportunity before us, and a great test. Let us seize the opportunity for reform, and meet the test before us with a firm commitment to restoring the public's faith in us and the work we do. The public doubts whether we can do it, Mr. President, but I believe that we can, and I believe that we must.

I yield the floor.

Mr. DODD. How much time remains on the Senator from Connecticut.

The PRESIDING OFFICER. There are 13 minutes remaining.

Mr. DODD. Mr. President, the Senator from California requests how much time?

Mrs. BOXER. How much time do you have?

Mr. DODD. There are 13 minutes remaining. Why not take 6 of it.

Mrs. BOXER. That would be great.

Mr. President, I wish to start out by thanking Senators MCCAIN and FEINGOLD for their hard work on this very important piece of legislation. I know it is hard to challenge the status quo. I commend them both for their courage and their commitment to this cause. My own commitment goes back to my early days as a candidate for political office 25 years ago. I have supported such efforts to change our campaign finance system whenever I have gotten the opportunity. I thank my friends for getting us this opportunity. It wasn't easy to do it. They worked hard and they got it.

When I ran for the Senate, I became even more of a rabid supporter of campaign finance reform, as I learned I had to raise $12 million at that time in 1992.

After my second run for the Senate, in which I had to raise $20 million, I became so supportive of campaign finance reform that I am truly ready to clamp down on this obscene situation. Yes, if there are some unforeseen consequences, I am willing to take a look at how to fix it, but today we must support this change regarding soft money.

I want to give my colleagues some figures. For someone from California who does not have independent wealth, in order to raise $12 million—and that is an old number; it is probably going to be up to $30 million the next time—just $12 million, I would have to raise $10,000 a day 7 days a week for 6 years. What a way to be a Senator when you are consistently worried about how you are going to raise this money.

I say to my friends, RUSS FEINGOLD and JOHN MCCAIN, that I liked their other versions better than this one because they went further; they did more. They included an incentive to lower the amount of money we could spend. I liked it better. They allowed you to get lower prices for TV and mailings.

This version is not my favorite one, but it is the only game in town that does something about clamping down on the soft money abuses. Therefore, I will be supporting it.

I want to talk a minute about the broadcast industry. What a situation. When I ran the last time, to get a 30-second spot on prime time, it cost $50,000 to get one ''Barbara Boxer for Senate'' spot on TV. I always thought we owned the airwaves. Isn't there a way we can do better than this? In other words, the people of the country should be able to get our message, but why should it cost these obscene amounts of money?

The fact is, the Court, as my friend, Senator MCCONNELL, has said so often, has equated money and speech. I respectfully disagree. It means someone with wealth has more free speech than I do because they can spend their own money. That is not right. I think our founders would turn in their graves thinking about that one. We are all supposed to be equal. We are all supposed to have free speech. Why should one of us have more free speech than another?

I think the Buckley case ought to be reheard, but that is a debate for another day, and in 6 minutes I could never go into all its nuances.

There are three proposals essentially before us. One is the McCain-Feingold bill which I support, one is the Hagel bill which I do not support, and one out there is a vague proposal by President Bush which, to me, is a total sham, and I will explain why I think that way.

I truly think CHUCK HAGEL is trying hard to come up with an alternative. I do not agree with it because I think it opens the floodgates of hard money and does not do enough to cap soft money. I know he is trying hard to put something forward that he thinks will hold up.

I want to talk a minute about the President's approach. First, he wants to punish working people by making them sign off before a dollar can be used by a union. I always thought this was a free society. People join unions freely, and if they do not like their union leadership, they can vote them out.

The President knows what he is doing. He is after working men and women in this country. Just look at his tax cut. He does not do anything to help them. They are in the dog house, so he is going to hurt working men and women by this so-called Paycheck Protection Act that makes no sense. This idea of having the shareholders check off every time somebody wants to make a contribution is just absolutely unworkable. Then he puts a little caveat in there that puts the entire issue at risk because we think it will be struck down by the courts. It is a cynical ploy.

How much time do I have, Mr. President?

The PRESIDING OFFICER. The Senator has 30 seconds.

Mrs. BOXER. Mr. President, I ask my friend if I can have an additional minute in addition to the 30 seconds.

Mr. DODD. I yield 1 additional minute.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, there is a tie-in between what we do here and the large contributions that come into this arena. Let's look at the President.

The President likes things as they are. He gets these big unregulated contributions. So what has he done? He has only been in office a couple of months: International gag rule, a payback to the far right that gave him a lot of money; repeal of the ergonomics workplace protection rule, a payback against working men and women; bankruptcy reform aimed at helping banks and credit card companies, a payback; plans to open up the Alaska wildlife refuge for drilling, a payback

to the oil companies; reversal of his campaign pledge on CO_2, carbon dioxide emissions, a payback to the coal industry; tax cuts aimed at the richest people—those are the only ones who make out on this one; they walk away and smile all the way to the bank—a payback to his contributors.

His campaign finance position is a payback to all those folks. I hope we will support McCain-Feingold. I think it is worthy of passage.

I thank the Chair, and I thank Senator DODD for the time.

Mr. DODD. Mr. President, I am happy to yield 3 minutes—5 minutes, whatever my colleague from Michigan——

Mr. LEVIN. Mr. President, 5 minutes if the Senator has it.

Mr. DODD. I yield 5 minutes to my colleague from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, first, I commend Senators MCCAIN and FEINGOLD for bringing us to this point, to this moment of truth. I also commend our leadership, both the majority leader and the Democratic leader and the chairman and ranking member of the Rules Committee, for helping to organize a time period which will allow us to have a free-wheeling and open debate.

This is finally the moment of truth on campaign finance reform. The next few weeks will help us determine whether we recapture the faith which is at the heart of our democracy or whether we let it again slip from our grasp.

Decades have transpired since our predecessors enacted the current campaign finance laws. It was not easy. It took a scandal of momentous proportions—the financial irregularities associated with the 1972 Presidential campaign—to bring Congress to action, but act it did.

Now it is our moment of truth, our moment to decide whether we rescue the law which our predecessors had the good sense and courage to enact, or whether the moment is drowned in a sea of excuses.

Let's begin with some basic truths.

Truth No. 1: There are contribution limits embodied in our law, meaningful limits, and if the law were followed and interpreted as originally intended, we would not be here today. Let's look at those limits in the system which we put in place 25 years ago.

Individuals are not supposed to give more than $1,000 to a candidate per election, $5,000 to a political action committee, $20,000 a year to a national party committee, $25,000 total in any 1 year for all contributions combined.

Corporations and unions are prohibited from contributing anything to a candidate except through carefully prescribed political action committees. The limit of a corporate or union PAC contribution is $5,000 per candidate.

Presidential campaigns are supposed to be financed just with public funds.

Those are the laws on the books today.

Truth No. 2: The Supreme Court has upheld the legality and constitutionality of those contribution limits in a number of cases, including Buckley v. Valeo and Nixon v. Missouri Government Shrink PAC. In those cases, the Supreme Court held that limits on contributions do not violate free speech.

Truth No. 3: The soft money loophole has effectively destroyed those contribution limits. The loophole is huge. Since you cannot give more than a limited amount to a candidate, give all you want to his or her party and, of course, the party turns around and spends that money helping the candidate win election. Soft money has blown the lid off the contribution limits of our campaign finance system. As many commentators, colleagues, and constituents have said, practically speaking, there are no limits.

The truth is, the public is offended by this spectacle of huge contributions, and well they should be, and we should be, too.

Just one reason why we should not enjoy the spectacle—and the public certainly does not—is that in order to get these large contributions, access to us is openly and blatantly sold. We sell lunch or dinner with ''the committee chairman of your choice'' for $100,000. This is a bipartisan problem. Both parties do it.

From an RNC, 1997 annual gala: For $100,000, you get a luncheon with the Senate and House leadership and the Republican House and Senate committee chairmen of your choice.

We sell access to insiders meetings, strategy sessions, participation in congressional advisory groups, or trade missions. The open solicitation of campaign contributions in exchange for access to people with the power to affect the life or livelihood of the person being solicited creates an appearance of impropriety and a misuse of power.

From the Democratic National Committee, for $100,000, you get a meeting with the President, you go on a trade mission with leadership as they travel abroad to examine current and developing political and economic issues, and a whole lot of other benefits—large contributions in exchange for access.

The moment of truth is now. We must not let this moment pass without doing what we believe is right and necessary to restore public confidence in ways in which campaigns are financed and run.

I thank both Senators MCCAIN and FEINGOLD for their extraordinary courage, their determination, their grit. I thank also our leadership and the chairman and ranking member of the Rules Committee for helping to schedule this debate in a way in which I think we can resolve this festering problem.

The PRESIDING OFFICER (Ms. SNOWE). The Senator from Kentucky has 13 minutes.

Mr. MCCONNELL. There are other speakers on the other side awaiting the arrival of Senator DOMENICI. I am happy to dole out some of my time.

Mr. DODD. This has been helpful. I commend my colleagues from Arizona and Wisconsin, and my colleague from Michigan, who always gives an eloquent statement, along with HARRY REID and the Senator from Mississippi. I commend Senator HAGEL and Senator MCCONNELL for expressing their points of view on one of the most significant debates we are apt to have in this Congress; that is, over the very issue of how we raise the necessary dollars to campaign for the very offices which we hold and which we seek reelection to not only here but in the other body.

It has been fascinating to note over the last 25 years that we have had public financing for Presidential races; every single candidate, both Democrat and Republican, going back to the late 1970s, has supported and used public financing, along with the limits imposed as a result of accepting public dollars to campaign for the Presidency of the United States. We are not yet debating a public financing mechanism for races in the House and the Senate. Depending on the outcome of this debate, at some future date that may be the case.

I have supported public financing in the past and believe it is the way we can end up without any constitutional question of limiting the amount of dollars that come into campaigns and other restrictions we may believe appropriate on how we conduct our efforts to seek Federal office in this country.

The bottom line is clear. Whether you agree with public financing or not, the point articulated by the Senator from Wisconsin, the Senator from Arizona, and others is that this system is broken. It is a failed system. When you have to spend the hours we do every day for 6 years conducting a Senate campaign—and I don't envy candidates from New York, California, Florida, Texas, Illinois, where the cost of seeking a Senate seat in those States has moved to $15-, $20-, $30 million—when you must raise, as the Senator from California pointed out, $10,000 a day, 7 days a week, 52 weeks a year for 6 years in order to compete for the Senate seat in that State, and if someone turns around and says there is not enough money in politics, I wonder on what planet they are living. If you have to raise $10,000 a day, plus being a Senator to represent your State, go to your committee hearings, meet constituency groups, answer the phone, send out the mail, the system is not broken? The system is not flawed? This is incredible.

It has been said by the authors of the bill, it is not a perfect proposal. I regret it is not the earlier McCain-Feingold proposal. There is some unevenness in the bill in applying provisions where this is applicable to some groups and organizations and not others. I am told that is the political reality. I am not comfortable with that as a reason why we don't have a level playing field for all groups.

This is the one chance we will have to do something about this system. It is the one chance remaining to try to make meaningful changes in the law. If it is not perfect, if there are unintended consequences, we can come back and arrange or correct that. But we shouldn't not do anything and leave the system as it presently is constructed.

It is hard enough to get people to vote today, to participate, to support those who seek public office. I am not going to suggest that automatically we are going to have some great conversion on the road to Damascus where all of a sudden the mass of the American voting public will collectively say, hallelujah, the system has been cleaned up and we can now all engage in the support of our candidates because McCain-Feingold is adopted. That is naive.

But I do believe the American public will respond favorably if this Senate in these next 2 weeks adopts the McCain-Feingold legislation and says: While we haven't dramatically changed the system, we have improved it dramatically. That is my hope.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Senator DOMENICI is here. He will be recognized at 3:15 to lay down the first amendment.

I conclude the opening comments by saying, as I said before, McCain-Feingold will not take money out of politics; it will take the parties out of politics.

Having said that at the beginning of 2 weeks of a wild ride, it will be easier to predict who will win the NCAA tournament than how the bill will come out after 2 weeks of amendments. I think there is one prediction I can make fairly confidently. I think there will be an effort, hopefully not supported by a majority but an effort to water down anything that might offend the AFL–CIO. I predict by the end of this debate there will be no paycheck protection, watered down restriction on coordination and issue advocacy as it applies to the AFL-CIO, and no disclosure of the union ground game. So it is about the only prediction I will confidently make, that before we are finished with this debate, the opposition to the AFL-CIO will have been taken care of by the watering down and massaging of language to the point where they sign off on it.

I hope that will not be the case because last year they spent considerably more on the election than either of the two political parties. I repeat, they spent more on the election last year than either one of the two great political parties.

Mr. MCCAIN. Will the Senator yield?

Mr. MCCONNELL. Let me finish my point and I will be happy to yield.

I hope by the time we get to the end of the debate, they will still think they are impacted. I yield to my friend from Arizona for a question.

Mr. MCCAIN. I will bring it up at another time.

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

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky controls the time until 3:15.

Mr. MCCONNELL. Senator DOMENICI is here and ready to go forward. I believe everybody on the floor has already spoken at least once.

Mr. FEINGOLD. I point out to the Senator from Kentucky, the Senator from Maine has arrived. I believe she has a brief opening statement for the remainder of the time, if that is acceptable to the Senator from Kentucky.

Mr. MCCONNELL. If the Senator from Maine can do it in 5 minutes. I don't want to delay Senator DOMENICI's amendment. The Senator can do it into his amendment, into the discussion on his amendment. She can also make an opening statement, if she so desires.

Mr. DOMENICI. Why don't colleagues just decide how much time she needs. I am willing for her to do that now. In fact, I have somebody out there who needs me for 5 minutes.

Mr. MCCONNELL. I yield to the Senator from Maine my remaining 5 minutes.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. I thank my colleagues for their cooperation.

Madam President, I am delighted we are beginning the debate on the Bipartisan Campaign Reform Act of 2001, and of the campaign finance reform efforts that have been led for many years by my good friends, Senators MCCAIN and FEINGOLD. I am proud to be an original co-sponsor of their bill, which takes several critical steps toward reform of our campaign finance system.

I have long supported campaign finance reform. When I was running for the Senate in 1996, I promised to advocate reform, and I kept that promise by becoming an early cosponsor of McCain-Feingold during my first year in the Senate.

The Bipartisan Campaign Reform Act of 2001 goes a long way toward fixing a broken system. First and foremost, the bill closes the most glaring loophole in our campaign finance laws by banning the unlimited, unregulated contributions known as ''soft money.'' Second, the bill regulates and limits the campaign advertisements masquerading as issue ads that corporations and labor organizations often run in the weeks leading up to an election. And third, the bill prohibits foreign nationals from contributing soft money in connection with federal, state, or local elections.

My home State of Maine has a deep commitment to preserving the integrity of the electoral system and ensuring that all Mainers have an equal political voice. Mainers have backed their commitment to an open political process in both word and deed. In many regions of Maine, town meetings in which all citizens are invited to debate issues and make decisions are still prevalent. This is unvarnished, direct democracy. It contrasts sharply with the increasing ability of people with more money to speak longer and louder in federal elections. Maine's tradition of town meetings and equal participation rejects the notion that wealth dictates political discourse. Maine citizens feel strongly about reforming our federal campaign laws, as do I.

Soft money has become the conduit through which wealthy individuals, labor unions and corporations have in many ways seized control of our political process. The problem with soft money was evident during the 1997 hearings by the Senate Committee on Governmental Affairs, chaired by my good friend, Senator THOMPSON. During those investigations, we heard from one individual who gave $325,000 to the Democratic National Committee in order to secure a picture with the President of the United States. We also heard from the infamous Roger Tamraz who testified that the $300,000 he spent to gain access to the White House was not enough and that, next time, he would spend $600,000. And we heard of individuals, such as Chinese millionaire Ted Sioeng, who orchestrated nearly $600,000 in political contributions during the 1996 election cycle. Sieong, we later discovered, was a self-described agent of the Chinese government who made his fortune manufacturing a popular brand of cigarettes in China.

According to the Congressional Research Service, soft money donations nearly doubled in the 2000 presidential election cycle, from $262 million in 1996 to $488 million in 2000. Other estimates set the figures even higher. At the same time, regulated, hard money donations increased a little more than 10-percent.

In short, soft money is a growing wave that threatens to swamp our campaign finance system. Each election cycle, the wave gains momentum and size. Just two presidential elections ago, soft money contributions totaled $86 million, or one-sixth of the amount raised in the latest cycle. The Federal Election Campaign Act of 1971 has served our country well. But those seeking ways to influence our elections have found loopholes that have overwhelmed the rule themselves. I therefore applaud the bipartisan efforts of Senators MCCAIN and FEINGOLD and pledge my continued support throughout the long process ahead. I know we are in for a spirited debate and believe that, ultimately, the will of the majority of Americans will prevail. They want reform. It is time we heed their message.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 112

Mr. DOMENICI. Madam President, I believe it is in order now for me to send an amendment to the desk, and I do so on behalf of myself and Senator ENSIGN.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] for himself and Mr. ENSIGN, proposes an amendment numbered 112.

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

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

The amendment is as follows:

(Purpose: To increase contribution limits in response to candidate's use of personal wealth and limit time to use contributions to repay personal loans to campaigns)

On page 37, between lines 14 and 15, insert the following:

SEC. 305. USE OF PERSONAL WEALTH FOR CAMPAIGN PURPOSES.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following:

''(i) USE OF PERSONAL WEALTH.—

''(1) REQUIRED DECLARATION.—

''(A) IN GENERAL.—Not later than 15 days after the date a candidate for the office of Senator is required to file a declaration of candidacy under Federal law, the candidate shall file with the Commission a declaration stating whether or not the candidate intends to expend personal funds in connection with the candidate's election for office, in an aggregate amount equal to or greater than $500,000.

''(B) PERSONAL FUNDS.—In this subsection, the term 'personal funds' means—

''(i) funds of the candidate (including funds derived from any asset of the candidate) or funds from obligations incurred by the candidate in connection with the candidate's campaign; and

''(ii) funds of the candidate's spouse, a child, stepchild, parent, grandparent, brother, sister, half-brother, or half-sister of the candidate and the spouse of any such person, and a child, stepchild, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate's spouse and the spouse of such person.

''(C) FORM OF STATEMENT.—The statement required by this subsection shall be in such form, and shall contain such information, as the Commission may, by regulation, require.

''(2) INCREASE IN LIMITS.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, in any election in which a candidate for the office of Senator declares an intention to expend more personal funds than the limit described in paragraph (1)(A), expends personal funds in excess of such limit, or fails to file the declaration required by this subsection, the increased contribution limits under subparagraph (B) shall apply to other eligible candidates in the same election.

''(B) LIMIT AMOUNTS.—The increased limits under this subparagraph are the following:

''(i) In the case of an election in which a candidate declares an intention to expend, or expends, personal funds in an amount equal to or greater than $500,000 but not more than $749,999, the limits under paragraphs (1)(A) and (2)(A) of subsection (a) shall be 3 times the applicable limit.

''(ii) In the case of an election in which a candidate declares an intention to expend, or expends, personal funds in an amount equal to or greater than $750,000 but not more than $999,999—

''(I) the limits under paragraphs (1)(A) and (2)(A) of subsection (a) shall be 5 times the applicable limits; and

''(II) the limits under subsection (h) shall not apply.

''(iii) In the case of an election in which a candidate declares an intention to expend, or expends, personal funds in an amount equal to or greater than $1,000,000—

''(I) the limit under subsection (a)(1)(A) shall be 5 times the applicable amount;

''(II) the limits under subsection (a)(2)(A) with respect to a contribution from a State or national committee of a political party, (d), and (h) shall not apply.

''(3) ELIGIBLE CANDIDATE.—In this paragraph, an eligible candidate is a candidate who is not required to file a declaration under paragraph (1) or amended declaration under paragraph (5).

''(4) INAPPLICABILITY OF INCREASED LIMITS.—If the increased limitations under paragraph (2) are in effect for a convention or a primary election, as a result of an individual candidate, and such individual candidate is not a candidate in any subsequent election in such campaign, including the general election, the provisions of paragraph (2) shall no longer apply to eligible candidates in such subsequent elections.

''(5) AMENDED DECLARATION.—

''(A) IN GENERAL.—Any candidate who—

''(i) declares under paragraph (1) that the candidate does not intend to expend personal funds in an aggregate amount in excess of the limit described in paragraph (1)(A); and

''(ii) subsequently does expend personal funds in excess of such limit or intends to expend personal funds in excess of such limits, such candidate shall notify and file an amended declaration with the Commission and shall notify all other candidates for such office within 24 hours after changing such declaration or exceeding such limits, whichever first occurs, by sending such notice by certified mail, return receipt requested.

''(B) ADDITIONAL NOTIFICATION.—After the candidate files a declaration under paragraph (1)(A) or an amended declaration under subparagraph (A), the candidate shall file an additional notification with the Commission and all other candidates for such office each time expenditures from personal funds are made in an aggregate amount in excess of—

''(i) $750,000; and

''(ii) $1,000,000.

''(6) ENFORCEMENT.—The Commission shall take such action as it deems necessary under the enforcement provisions of this Act to assure compliance with the provisions of this subsection.''.

SEC. 306. USE OF CONTRIBUTIONS TO REPAY PERSONAL LOANS.

(a) IN GENERAL.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by section 305, is amended by adding at the end the following:

''(j) LIMITATION ON REPAYMENT OF PERSONAL LOANS.—Any candidate who incurs personal loans in connection with the candidate's campaign for election shall not repay (directly or indirectly), to the extent such loans exceed $250,000, such loans from any contributions made to such candidate or any authorized committee of such candidate after the date of such election.''.

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

Mr. DOMENICI. Madam President, I ask for the yeas and nays on the Domenici amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered.

Mr. DOMENICI. Madam President, for those interested in campaign reform, obviously this is a rare opportunity for the United States to see a full debate on this issue. If you will forgive me, those who are involved in the underlying debate, I choose to depart from the subject matter that has been debated for the last 2 hours and concentrate on just one new phenomenon that is occurring in elections in the United States that I think has to be righted, and that has to do with the growing number of men and women who run for the Senate and pay for their own campaigns with large amounts of money.

We have been talking about large amounts of money coming from all different sources. Some think that is changing the election campaigns for the better; some think it is changing them for the worse. But I think one thing we ought to seriously worry about and wonder about is a man or woman who chooses to run for the Senate and says: I want to use my constitutional rights to spend $5 million, $10 million, $20 million, $30 million, $40 million, $50 million of my own money—his or her own money—to get elected.

That is OK, says the Supreme Court. Far be it for the Senator from New Mexico to think I know how to change that. I do not. I am not sure, if I knew how, that I would want to. But what I do know is, whoever chooses to do that has a huge, unfair opportunity over their opponent.

Why do I say that? Because, you understand, and everybody listening should understand, that when you run for the Senate, you cannot go collect $10,000 and $20,000, and $40,000 contributions.

Let's start off looking at a candidate who is going to spend $10 million or $20 million or $30 million of his or her own money, and then look at their opponent. Under current election laws, that opponent can raise money from individuals—rich, or moderately rich, or ordinary citizens who are not very rich—but they are limited to $1,000 per election.

The occupant of the chair just went through an election. She knows what I am talking about—$1,000 per contributor in the primary and the general election. Think of that for a moment. That used to be the primary way to raise money for a Senate candidate to run his or her own campaign. Just think of what a Senator has to do, to raise $5 million that way.

Also, there is no way you can do it with $1,000 or $2,000 contributions. You would have to have a breakfast, a lunch, and a dinner every day with $1,000 contributors, with 10, or 15, or 20 at each event, and do it for about 1 year to be able to raise $5 million.

Is it fair, even though it is constitutionally authorized, for a wealthy American to put up whatever amount they want? We have seen it in large scale go from over $45 million down to $5 million, or $6 million, or $7 million, and we have seen a very large number of successes from those who do that.

I regret to say I am not sure I would do that for a Senate seat if I had a lot

of resources. I have been here a long time. I am not sure it is worth $20 million, in any event. Maybe when I first started, I would have been very excited about it. I still love it, but I just wonder if I would put up $20 million, or $30 million, or $40 million to beat my opponent who couldn't come close to raising the money.

Let's get down to what I am trying to do. What I am trying to do is leave that alone. I can't change that. What I can say is that somebody who intends to do that has to publicly disclose it at various intervals in the campaign. Then we start to raise the caps for the nonmillionaire candidate so that they have more latitude to raise money to compete with the person who is going to contribute millions of their own money.

Essentially, in that context, it is an equalizer amendment; it is a fair play amendment; it is a ''let's be considerate of a candidate who isn't rich'' amendment—whatever you choose to call it.

I want to describe what I choose to do in this amendment.

First of all, the person who intends to spend large amounts of their own money—I want to say it again: Senator DOMENICI from New Mexico is not trying to stop that. I am fully aware that I couldn't even if I wanted to. I do not know if I would if I could. But the U.S. Supreme Court said that is a freedom of speech issue with the person who can either borrow large amounts of money or who wants to spend large amounts of money.

What I say is they must declare the intent to spend more than a half million dollars within 15 days of being required to file a declaration of candidacy.

Over $500,000—let's do that one first. Fifteen days, if you are going to spend $500,000—over $500,000—opponents, individuals and PACs are increased threefold. If it is $500,000 of your own money, then that $1,000 contribution turns to $3,000 for the opponent. The PACs go from 5 to 15.

If you go beyond the $500,000, and you are going to spend $750,000, then everything is increased by five times. Those are the caps that currently operate. Instead of $1,000, it will be $5,000 per election, and the same on the PACs.

If you are going to do $1 million, then direct party contribution limits or party coordinated expenditures limits are eliminated, as well as you eliminate the cap on individual contributions, and the cap stays at five times. It stays at five times at the highest category, but then the party contributions and party coordinated expenditures which have caps on them are eliminated.

It has one other feature. I don't really mean it for anybody in the past; I just want it to apply in the future. But you see, there is another practice that has come into play that I don't think is fair. That is, you use your own money or you lend yourself money. Then, after you are elected, you go have a lot of fundraisers as an elected Senator, and you pay yourself back. Frankly, I don't think you ought to do that. If you are going to spend $5 million and go out there and robustly tell everybody you are spending $5 million of your own money, or $10 million of your own money—I guess we have had somebody spend $40 million of their own money—you shouldn't get elected and go out and have fundraisers to collect the money back once you have won the seat, which you essentially won by putting in such a huge amount of your own money.

This limits candidates who incur personal loans in connection with their campaign in excess of $250,000. They can do $250,000 and then reimburse themselves with fundraisers. But anything more than that, they cannot repay it by going out and having fundraisers once they are elected with their own money.

I don't think the details are very important to this amount. I think if Senators see what I see, they are going to want to adopt this amendment. This whole debate is about what people perceive as too much money being put into campaigns at one level or another.

I am not sure I know what that is in terms of party participation. I am listening to the debate. I am complimenting Senator MCCAIN and others who are working on the bill and those who are coming up with other amendments. But I think the amendment I have also addresses a growing issue that should be of great concern, whether it is a Republican, a Democrat, or a third-party candidate.

If you are going to run for the Senate, and if you are going to put huge amount of your own money into the campaign, it is patently unfair that your opponent would be limited to fundraising levels that are 26 years old without a change, which is $1,000 per primary and $1,000 per general from your friends who want to help you.

Just think for a moment. If you are so fortunate to have somebody run against you with $20 million of their own money, just think of what is ahead of you—to go out and raise the money you need to run a fair campaign against $20 million and raise it $1,000 at a time per election and a $5,000 limitation on PACs. It is patently wrong and unfair.

If it is constitutional to fix it—and I believe this may be constitutional because, as a matter of fact, we are denying no rights to the wealthy if they want to put in their money. But to the person who runs against them, we say we want to give you a chance to stay in the playing field by raising limits on how you can raise money and from whom.

I note my friend from Kentucky wanting to be recognized.

Mr. MCCONNELL. Mr. President, will the Senator yield for a question?

Mr. DOMENICI. I am pleased to yield.

Mr. MCCONNELL. The Senator has raised an extraordinarily important issue with regard to the dilemma that a modestly well-off candidate faces when running against someone of extraordinary wealth. I think he has come up with an amendment to bring some justice to that situation.

I am also curious if the Senator has thought about another value: That there will be one or more amendments dealing with that 26-year-old hard money contribution limit of $2,700.

Imagine the unknown candidate running in a State such as California against somebody who is either well known or well off. The Senator suggested it would be difficult to compete against such a person in New Mexico or Kentucky. I ask my friend whether he thinks there would be any chance in the world of a candidate running against a millionaire in a big State such as California.

Mr. DOMENICI. Frankly, it seems to me we have seen some evidence of that, for there was a race out there—I am not using names of who did this but there was a very huge amount of money spent by a candidate. The candidate didn't happen to win. But essentially the opposition had a terrible time raising money to compete. It just turned out that there was something else happening in that election.

Given the money that people in California have who made these large fortunes, if one of them chooses to go in and put up really a big portion of their own money, an opponent at $1,000 per individual and per election and $5,000 in PAC money—essentially the major ways of raising money—I don't see how they can compete.

Mr. MCCONNELL. Would the Senator from New Mexico agree, then, that failure to index the so-called hard money contribution limit back in the mid 1970s has completely distorted the process across the board?

Mr. DOMENICI. No question about it.

Mr. MCCONNELL. And it is one of the single biggest problems we should try to remedy during this debate?

Mr. DOMENICI. There is no doubt in my mind that we ought to try to fix that. I, as one Senator, saw this issue that I am addressing arising in 1987. So I introduced a bill that we called the wealthy candidate bill. Frankly, we did not have a debate that looked like it was going to bring reform. So I just kept introducing it every 2 years. One time, Senator Dole offered something very much similar. But the underlying bill never did proceed beyond the debate stage.

I want everybody to understand. I want to repeat, just in very simple terms, that I do not know whether a very wealthy candidate will be a great Senator, a good Senator, or not so good Senator. I do not know that. I am not trying to say because you have $10 million or $40 million to spend on your campaign, you should not run and use your own money—not at all. Nor am I suggesting that if you spend a huge

amount—$40 million—and win that you were the better or the lesser candidate.

I am merely saying, we established rules limiting what the opponent can spend. These are statutory rules that are 26 years old, coming out of Watergate, that say what the opponent to that wealthy candidate can spend. It is in that regard that I speak. If, in fact, the wealthy candidate wants to disclose, as prescribed in this statute, that he is going to spend this money—and, of course, there are statute law penalties if they do not comply with the law—if they do that, then it would seem to me you ought to amend the 26-year-old limitations, which are under attack here as being too low anyway. There are a number of amendments in the bill saying that number is too low.

Now, believe it or not, as of right now, those low numbers apply even to an opponent of somebody who will declare under this statute that they are going to spend $1 million of their own money as prescribed in this law.

So with that, I do not know if we have any formal opposition on the floor. If we do, I certainly would be willing to exchange views with them. But from my standpoint, I think we ought to adopt this amendment before the day is out and have done one piece of laudable work on the first day.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER (Ms. COLLINS). Who yields time?

Mr. WELLSTONE. I need 5 minutes.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, I yield such time as the Senator from Minnesota needs.

Mr. WELLSTONE. I need no more than 10 minutes.

Mr. FEINGOLD. I yield 10 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Actually, I would love to make a more general presentation about money and politics, but, I say to my good friend from New Mexico, I want to just start out with a few rather jarring statistics.

Do you know how many U.S. citizens contribute more than $200 to a race today? Four out of every 10,000. That is .037 percent. Do you know how many Americans give contributions of $1,000 or more? It is .011 percent. So it seems to me that what we have is a system where people think if you pay, you play; if you don't pay, you don't play.

My colleague comes on the floor with an amendment that says the way to deal with the problem of people being millionaires—by the way, I don't take this amendment personally; it will not damage me at all—but my colleague comes out here with a proposal that says the way to deal with the problem of millionaires financing their own candidates is to basically take the limits off of contributions, so that we now have a contest between millionaires and people who can run by getting support from millionaires or from large financial interests, be it individual contributions to them or contributions to the party.

This is meant to be a proposal where the word for the people in the country is that the Senate, in the first amendment that we are going to consider, has taken a giant step forward in reform by putting more money into politics. I do not think that is what people want to hear. And they are right.

With all due respect, I think what my colleague from New Mexico has done is make an argument for public financing. That is what this is about. If you want to deal with the problem of millionaires or people who have a lot of money using their own money to win elections or, as you see it, to help contribute to their winning, the way to solve the problem is not by taking the limits off of hard money contributions.

By the way, there is going to be more and more of that done. Again, less than 1 percent of the population contributes $200 or more; and even less of the ''less than 1 percent'' contribute $1,000 because people do not have that money. People do not go to $500,000 barbecues and all the rest. They have their own barbecues with their neighbors. People make $100 contributions to charities. They do not make these kinds of contributions.

What this amendment has done is simply added to the problem by saying now what we are going to have, through this amendment, is yet even more money put into politics by the very top of the population, be it wealthy people of financial interests on whom all of us are going to be more dependent. So now what we are going to have—and this is supposed to be the first amendment for reform: The people who have their own resources, millionaires, versus people who have access to millionaires and large financial interests. That is not the only choice.

If we are serious about this, I will tell you how you can get around it. There are some great Senators who are independently wealthy. We all agree that is not the point we are making. And maybe there are some others who are not so great. That isn't the point. The point is, if you want to deal with this problem, then you have a clean money, clean election proposal; you have public financing. People agree on that. And then the public owns the elections.

If someone says they do not want to be bound by spending limits, they do not want to take part in clean money, clean elections, then you know the way it works. The Presiding Officer knows. She is from Maine. Then there is additional money that can go to candidates to make up for the advantage that those who are spending their own resources have to make it a level playing field. But the race still belongs to the public. It still belongs to the people. And then the people who get elected belong to the people. And then the Capitol belongs to the people. And then the Government belongs to the people. And then people have more confidence in the political process. And people think they can be more involved. And little people, who do not have all the money, feel more important. And they are more important.

This amendment is not a great step forward. This is one big, huge, gigantic leap backward.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MCCONNELL. Madam President, I yield 10 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized for 10 minutes.

Mr. REID. Madam President, if the Senator will yield for a brief statement?

Mr. BENNETT. Sure.

Mr. REID. On our side, whatever time remains on behalf of Senator DASCHLE, I give that allotment of time to Senator FEINGOLD. He can allot the time on this amendment.

The PRESIDING OFFICER. The Senator from Utah is recognized for 10 minutes.

Mr. BENNETT. Thank you, Madam President.

I appreciate the opportunity to comment on this amendment. I believe I have some personal experience which I will share with the Senate. It has to do not with a general election but with a primary.

That is an issue that sometimes we forget because there are many States where the primary is the ultimate election—States that are overwhelmingly Democratic, such as the State of Massachusetts, and States that are overwhelmingly Republican, quite frankly, such as the State of Utah.

The real contest in 1992, when I ran for the Senate, was the primary, which I won by about 10,000 votes, compared to the general election, which I won by 180,000 votes. Percentage-wise, I won the primary 51.5 to 48.5. I always add the half to make it sound as if it was a better victory than just 51–49. I won the general election by a 16-point gap.

So the primary was the big issue. I had to spend my own money in that primary race. I remember a conversation with the then-chairman of the Senatorial campaign committee, Mr. GRAMM of Texas, who warned me with the following story about the perils of spending your own money. He talked about the two fellows in Texas—I don't remember their names so I will call them Joe and Bill—who both put their own money into the race. At the end, on election night, when Joe had won, Bill said to him: Joe, if I had known you were going to spend $4 million of your own money, I would never have gotten in the race, to which Joe said: Bill, if I had known I was going to spend $4 million of my own money, I would never have gotten into the race.

You get caught up in these things and the money starts coming. And if

you have it, you just keep saying, well, another $100,000, another flight of ads, another mailing, and that will put us over the top. Then you look back and say: I shouldn't have done it. I spent too much money.

In our primary race, my opponent, a man of considerable means, spent, we now know, after all of the tallying up has been done, $6.2 million in the State of Utah in the primary. I know there are some States where $6.2 million does not seem to be a lot. That happened to be more than was spent that same year in the Republican primary in California in total, of all of the candidates. It worked out, in terms of the number of votes—I know the Senator from Kentucky likes to talk about the cost per vote—to about $40 a vote that he spent: 150,000 votes, roughly, $6 million, about $40 a vote. He actually spent 6.2 but he fundraised $200,000. The other $6 million was out of his own pocket.

In order to win that primary, I spent around $2 million. I wasn't as successful as my opponent. I couldn't raise $200,000 because everybody was sure my opponent was going to win. The only amount of money I got was from members of my family, a few very close friends who felt sorry for me, and a couple of others who came across because they decided they believed in me. I spent about $2 million or one-third the amount my opponent spent.

The point of this, with respect to the amendment of the Senator from New Mexico, comes from a conversation I had with the candidate for Governor, as we were talking about that primary race and the way it was beginning to turn. As it started out, as you might imagine, with my opponent spending $6 million of his own money, it was assumed he was going to win. Everybody thought I was wasting my time; everybody thought I was crazy. Then it began to turn. It began to shift. You could feel it.

Those of us who have been in campaigns know how that goes. You are out on the hustings. You just get a feel for the way people are beginning to think. This other candidate who was out on the hustings, too, running for governor, said: It is beginning to shift. It is beginning to turn. It is beginning to come your way, and it looks as if you are going to make a race out of it. Indeed, you might even win. Then he made the key point that is appropriate to the amendment of the Senator from New Mexico. He said: Of course, you are the only candidate who could have done this. You are the only candidate who could have caused this coronation not to happen.

I don't think he was talking about my political skills, although I have a big enough ego to assume that I have some. He was talking about the fact that I could fund my campaign in a style to compete against this self-funded candidate who was funding his campaign.

Assume that I went into that race without having $2 million of my own money. Assume I went into that race having to raise the money $1,000 at a time. Assume I went into that race having to go around and plead with people to help me. It is very clear I would not have raised $100,000. It is very clear I would not have been able to buy a single television ad. All of the money I could have raised would have been eaten up in fundraising costs. The only way I was able to compete against a self-funded candidate and, indeed, win was the fact that I had my own funds so that there was no cap on my spending.

I found that spending $6.2 million in Utah in a primary can become a self-defeating kind of activity. He ran out of places to spend it. He was buying ads on the Saturday morning cartoons because there weren't any other places to buy ads. That caused him, frankly, some problems, as people laughed a little bit at that.

The fundamental point that the Senator from New Mexico has made is that if I were limited to the standard kind of fundraising activity, I would not have been able to compete with that candidate, as he exercised his constitutional right to spend his own money. I would have been denied the right to express myself unless, as it turned out, I had significant personal funds of my own.

I offer a real-life example of how important it is, when you are dealing with a candidate with virtually unlimited funds, for the opposition to have something other than the traditional $1,000-per-head contribution. I repeat: If I had lived under the circumstance with only $1,000 per head, there is no way I could have competed in that primary, and I would not be in the Senate today. There may be many who would applaud that possibility that I not be here.

I think the Senator from New Mexico has come up with the right solution. If you are going to deal with somebody who has unlimited funds out of his own personal pocket, you have to release his opponent from the restrictions of the present circumstance. That is what the amendment of the Senator from New Mexico would do. That is why I intend to support it. I have lived through that experience. I know how difficult it is for the underdog to raise money under the present system when the outcome is assumed to be predetermined and how much a difference can be made if the underdog is released from those requirements and given an opportunity to express himself.

I had an opponent who outspent me three to one, but because I had sufficient money to get my message out, I was able to defeat him. I think we ought to give that same opportunity to every other opponent who has a message, faced with that kind of challenge on the other side.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, I yield the Senator from Tennessee 12 minutes.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 12 minutes.

Mr. THOMPSON. Madam President, I regret I didn't get to the floor in time to discuss this a bit with the sponsor of the amendment, Senator DOMENICI. He is, as we all know, one of the more thoughtful Members of this body. Anything he offers I take very seriously. He is clearly addressing an issue we have talked about a lot and which concerns a lot of us, concerning a campaign where one individual can put in a tremendous amount of his own personal money and the other candidate does not have that kind of wealth and is bound by the hard money limits we have.

As I understand the amendment, the well-off candidate would still be bound by the hard money limits. If that is the case, my concern is whether or not we are not getting into a constitutional difficulty. The Supreme Court has said, of course, that an individual, if they have a great deal of money, can put as much of that money as they want into their own campaign. It is a matter of free speech. If that is the case, then I wonder whether or not it would be looked upon as disadvantaging that wealthy candidate if we gave some rights to the other candidate that we did not give him.

In other words, if his hard money limits were still restrained, and the hard money limits of the opponent were lifted, that would not be equal treatment under the law, it seems to me. Clearly, the wealthy candidate would still probably wind up with more money; he would have his own. But I don't think that is the issue. If, in fact, the wealthy candidate has a right under the first amendment to do that, that kind of wipes the slate clean. Constitutionally, you can't consider that, it doesn't seem to me. We have to ask ourselves whether or not raising the hard money limits for one candidate and not the other is valid under the 14th amendment equal protection law.

I would also wonder whether or not, from the standpoint of a contributor, if I wanted to contribute to a wealthy candidate under those circumstances, under this amendment, if passed, I would be limited to, let's say $1,000. If I wanted to contribute to his opponent, the limits would go up incrementally, as I understand it, to say $5,000, or whatever. What about my rights as a donor? Should I be restrained from contributing more to one candidate than another because he has exercised his constitutional rights? I certainly have not had an opportunity to study this, and I am not suggesting that I have the answer to my own question. But I do wonder—and I see Senator DOMENICI is on the floor—I say to my friend, if we are keeping the hard money limits on the wealthy candidate, whether or not we have an equal protection problem.

I would think the answer to that problem and a way to avoid the constitutional dilemma would be to raise

the hard money limits for all candidates. The wealthy candidates certainly would still have the advantage, but in terms of the hard money limits they would be equalized.

I think Senator DOMENICI is absolutely correct when he talks about the limits that we placed on candidates in 1974 being very outdated—a $1,000 contribution today is worth about $3,300, with inflation. We have hamstrung our candidates and forced more and more money being spent in outside ads and, in my opinion, become more and more reliant upon soft money. It looks to me as though we could go a long way toward solving the disadvantage, which the Senator from New Mexico has rightfully pointed out, that a candidate without the wealth has by lifting the hard money limits on that candidate. It would not have as much significance if you lifted them on the wealthy candidate, perhaps. But you would have the equality and thereby possibly avoid an equal protection problem that we might have under the amendment.

Mr. DOMENICI. Will the Senator permit me to answer?

Mr. THOMPSON. I am happy to.

Mr. DOMENICI. I know my friend, Senator WELLSTONE, was on the floor, and I didn't get to hear his entire statement. But if you were informed by either his speech or something else you read that I take the limits off, I do not. As a matter of fact, based on a schedule of how much the wealthy candidate is going to spend, we raise the caps for the nonwealthy candidates to 2 times, 3 times, and the highest they get is 5 times, or the most you could raise is $5,000 in individual contributions, and 5 times 5, or $25,000, in PACs.

Frankly, I don't think there is an equal protection problem either because the Senator from New Mexico is not saying in any respect that the wealthy candidate is limited in terms of how much they can spend. They exercise their privilege and their right, which the courts have said they have. I tried to see if there was a way to limit something because we have seen as much as $40 million or more spent in a campaign. Since everybody is worried about excessive money in campaigns, I feel very sorry for a candidate who has to raise from his or her friends $1,000, and we raise it to 2 and then 5—$5,000—while a candidate exercising his rights can spend 5, 10, 20, and still have exactly the same rights in terms of the caps, unless we raise them. If we don't raise them for the nonwealthy candidate, they are going to be stuck at $1,000 and $2,000 per election, while the wealthy candidate can contribute as much as he wants. Where would there be an equal protection clause?

Mr. THOMPSON. Essentially, as a former lawyer—I am not pretending to be a constitutional specialist here. I haven't had a chance to certainly research this. By the time we finish this discussion, perhaps others will have had time to weigh in on it.

I understood the Senator's amendment, I think, correctly. My concern is that even though we do nothing here to diminish the constitutional rights of the wealthy candidate, but keeping the hard money limits on him while raising the hard money limits for his challenger, we are not dealing equally with regard to the hard money limits. Obviously, the dollars are different. The dollars will undoubtedly be outweighed in favor of the wealthy candidate. But in terms of equal treatment, that concerns me.

As I said, it also concerns me from the standpoint of the donor. Does a donor have a right to give as much to one candidate as another? Should they have a right to give as much to the wealthy candidate as they give to the other? Is there an equal protection concern there? That, I must say, concerns me.

I think we would be better served—and I plan to offer, if no one else does, an amendment that would raise the hard dollar limits for everybody. I think the answer to a candidate's problem—any candidate's problem—especially a challenger, is to get to that threshold. Not that he is going to be outspent necessarily because most of the time a challenger is going to be outspent, but to raise the limits so that a challenger can get to the threshold of credibility as a candidate.

Someone mentioned the State of California. There are other big States where nowadays a $1,000 individual limit on a candidate makes it so it is virtually hard not only to run but to recruit a candidate to even try to run under those circumstances.

What we need to do, I think, is to raise the limits for all candidates from $1,000 to $3,000 on the individual limit side. It still would not be keeping up with inflation. My concern has never been the concern the Senator from Minnesota has expressed, when he said what is bad is that we are putting more money in the system—I don't think it is for me to say how much money belongs in the system or how much should be spent in a general sense. What concerns me is large amounts of money going to individual candidates or on behalf of individual candidates.

We should not be nickel and diming these individual contributions—the difference between $1,000 and $3,000—when our real concern ought to be the hundreds of thousands that are coming in in soft money. So I make the suggestion as one who thinks we ought to get rid of soft money. If we would raise the hard money limits so that we would not unnaturally constrain the ability of a candidate to reach the threshold of credibility to run a decent race, he would not need the soft money.

He would not need the benefit of the independent expenditures where all the money seems to be going nowadays. I am certainly in sympathy with the desired results of the Senator from New Mexico. He is pointing out a problem that many of us have faced from time to time. I simply wonder out loud whether or not there might be a better way of addressing this.

Mr. MCCAIN. Who yields time?

Mr. DOMENICI. Will the Senator from Utah yield me time?

The PRESIDING OFFICER. The Senator from New Mexico controls the time.

Mr. DOMENICI. I have time on my own amendment.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Does the Senator want to speak? I want to say a few words to my friend.

Madam President, I believe we can cite some cases which indicate that the concern of the Senator of Tennessee about one candidate having different limitations under public financing, that they have been done differently and they have not been held unconstitutional. I ask the Senator to think one more time with me.

If you look at the effect on individual campaigns for the Senate, and if the Senator from Tennessee is disconcerted about the existing laws, then I ask him whether he would not be a bit disconcerted about the growing number of candidates who spend huge amounts of their own money and the opposition is limited to the meager rationing—that is 26 years old—of $1,000 per person per election and $5,000 for a political action committee.

If that is not something that concerns us in terms of large amounts of money being put into the system and, more specifically, that has a very good chance of electing a Senator—the other things we are not quite sure of—we are worried about some of the abuses of which Senator MCCAIN is speaking having an impact on the public trust and those kinds of generic things.

I am getting concerned that this Senate, which I dearly love—a while ago, I wondered out loud whether it was worth $20 million which somebody wants to pay for a seat, but I did that jokingly.

It seems to me one could conclude that there will be 25 Senators in this place who will have spent their own money to be elected in the next decade, in 15 years, and you would have rendered the opposition to those candidates. They do not have a chance. Maybe I do not have the big-State figures, but they would not have a chance in the State of Tennessee or my State. If somebody comes up with $15 million, you cannot raise the money.

I hope the Senator will look at it. This is at least one way to say we do not like that.

Mr. THOMPSON. Madam President, I say to my friend, if I can interrupt.

Mr. DOMENICI. Sure.

Mr. THOMPSON. Not only do I share the Senator's concern, I will go the Senator one better. I say not only raise the hard money limits for the nonwealthy candidate, but go ahead and raise it for the wealthy candidate, too. He may not use it. That might make it easier constitutionally.

I am in total agreement and sympathy with what the Senator from New

Mexico is saying. I am trying to figure out a way that will get us there that will stand the scrutiny.

Mr. DOMENICI. I thank Senator THOMPSON very much.

Mr. FEINGOLD. I yield the Senator from Arizona 2 minutes.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, Senator SNOWE, who has been a vital part of this effort with respect to probably the most controversial section of our legislation, is waiting to speak. I will be brief.

I appreciate very much what the Senator from New Mexico is trying to do. All of us are aggravated and sometimes astounded when we hear of $70 million being spent in a Senate race.

The way I read it from the handout it says:

> If the candidate exceeds $1 million in personal expenditures, the direct party contribution limits and party coordinated expenditure limits are eliminated.

It does not say capped; it says ''eliminated.'' If that is incorrect, I suggest the Senator from New Mexico fix that. If that is true, then a millionaire can spend $1 million and immediately the other person can raise $50 million in coordinated and direct party expenditures.

Finally, in all due respect for the Senator from New Mexico, this is a meat-ax approach to a problem that requires a scalpel. The State of Wyoming in the year 2000 had a voting-age population of 358,000. The State of California had a voting-age population of 24,873,000.

Madam President, $1 million in Wyoming, in all due respect to my friends from Wyoming, probably buys every television station in Wyoming; $1 million in California is a drop in the ocean. This does not get at really the different aspects of a small State or a big State. If I had $1 million, I could buy a lot of TV in New Mexico. I cannot buy very much in California.

In all due respect to a very good-intentioned and well- intentioned amendment in an area we need to address, including free television time for candidates, including raising hard money as a part of a total ban on soft money and other ways we can attack this, I think this may be the wrong way to do it. My time has expired.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, I agree with the Senator from Arizona. This amendment is obviously very well intentioned. It tries to get at a problem in the original McCain-Feingold bill. We tried to address the issue of wealthy candidates being able to spend unlimited amounts while the others are constrained.

The problem is, the Senator from New Mexico does have aspects of this that involve unlimited contributions in response. That is not the same as some of the other techniques we have talked about in the past.

For example, when I first ran for the Wisconsin State Senate, under our State's public financing, if somebody spent too much money either from somebody else or their own, the State would provide some form of public financing benefit for someone who would limit their overall spending.

What Senator MCCAIN and I tried to do in our original bill was say, for example, if a wealthy person agreed not to spend too much of their own money but somebody else did, the people who constrained themselves would get the benefit of free television time or reduced cost for their television time.

Those are very different ways to encourage this kind of activity and this kind of restraint than actually having unlimited contributions in response.

I agree with the Senator from Arizona that this is not the way to go, as well intentioned as it is.

I yield 30 minutes of our time to the distinguished Senator from Maine, Ms. SNOWE.

The PRESIDING OFFICER. The Senator from Maine is recognized for 30 minutes.

Ms. SNOWE. I thank the Chair. I thank Senator FEINGOLD for yielding me this time.

I rise today in support of the McCain-Feingold legislation to reform our system of campaign financing in America.

First, I applaud the sponsors of this legislation, Senators MCCAIN and FEINGOLD, for their courage and their remarkable commitment to the cause of campaign finance reform. Their determination on this issue has been nothing short of extraordinary, if not legendary, and it can truly be said that we would not be here today debating this issue if it were not for their leadership. Both have gone to the mat time and time again for this cause, and I commend them for bringing us to this day.

We have certainly tried to start down the road to reform on a number of occasions during my 6-year tenure in the Senate. Unfortunately, those roads proved to be procedural dead-ends.

I thank the leadership for scheduling this time and for committing to an open process by which we can have real debate and, at the end, I hope real reform.

This could truly be our moment. This could be a tremendous time that people will point to in the future when we turned the corner on this issue and made substantive changes that will make a real and positive difference in the way campaigns in this country are funded.

When one stops and thinks about it, it is remarkable that the last time there were major changes to Federal election law were amendments passed to the existing laws in 1979. In 1979, disco was in the nightclubs, President Carter was in the White House, and some of the staff we have working in our offices were not even born yet. It has been a long time in coming.

There is little question that there is a strong sense that campaigns in this country have spiraled out of control. There is a strong sense that elections are no longer in the hands of individual Americans. As the old saying goes, perception becomes nine-tenths of reality, and the reality is we have a system in need of overhaul.

Soft money totals doubled since the 1998 elections, with a total of over $1 billion in soft money for the 2000 elections. In fact, in 1980, when soft money really came into being, Republicans and Democrats combined raised an estimated $19 million, according to Colby College political science professor Anthony Corrado. Two decades later, that total had ballooned to more than $487 million. This is money that is skirting around the edges of Federal campaign finance law, and I support the soft money ban contained in the McCain-Feingold legislation.

The fact is, this is money that was never intended to help Federal candidates for office. It was intended to help build the strength of parties, which is a goal I support. But what we have seen is a veritable flood of money being given without limits that is very much influencing our Federal elections. What the public sees is a system by which access and influence is gained through the size of a check, not the weight of an argument.

At the same time we address the soft money issue, I also think it is critical that we address the ever burgeoning segment of electioneering popularly known as sham issue advertising. We do so in a way carefully constructed as to pass constitutional muster. I am speaking of advertisements influencing the Federal elections in this country but get off scot-free when it comes to any degree of disclosure or any degree of prohibitions normally associated with campaigning.

Let there be no mistake. The record I intend to outline will show these advertisements constitute campaigning every bit as much as any advertisements run by candidates themselves or any ad currently considered to be express advocacy and therefore subject to Federal election laws.

I thank my colleague from Vermont, Senator JEFFORDS, for his tireless work. It has been a privilege to work with him and champion the cause. I express my appreciation to the sponsors of this bill for including this provision in the McCain-Feingold ban of soft money. This is a critical component and critical element of the overall problems we are confronting in modern-day elections.

I have spoken of the exploding phenomenon of the so-called issue advertising in elections. That phenomenon continues unchecked and will continue unchecked if we turn a blind eye to reality. I am talking about broadcast advertisements that are influencing our Federal election, in the overwhelming number of instances designed to influence our Federal elections, and yet no

disclosure is required and there are none of the funding source prohibitions that for decades have been placed on other forms of campaigning. These are broadcast ads on television and on radio that masquerade as informational or educational but are really stealth advocacy ads for or against candidates.

They must be doing a very good job because there are more and more of them all the time. That is the trend. According to a 2001 report from the Annenberg Public Policy Center, which has been studying this trend almost since its inception—particularly since the 1996 election cycle which is where we saw a dramatic change and transformation toward this trend in elections—in the past three cycles we have seen the spending on these issue ads go from $150 million in 1996 to $340 million in 1998 to $500 million in the year 2000 election. In a very short period of time the spending for these issue ads that go below the radar—in other words, they don't require the kind of disclosure, the kind of restrictions that other forms of expenditures on advertisements require—has gone from $135 million in 1996 upwards of $500 million, half a billion in the election of the year 2000. In a very short period of time we have seen a dramatic growth in the expenditures on these types of ads.

As detailed by a 2001 report entitled ''Dictum Without Data: The Myth of Issue Advocacy and Party Building,'' written by David Magleby at the Center for the Study of Elections and Democracy at Brigham Young University:

> The broadcast advertising, used by labor and then copied by business organizations in 1996, unleashed a new dimension of electioneering . . . Permitting electioneering through issue advocacy to continue is an open invitation to individuals and groups to avoid disclosure requirements and contribution limits.

That is the essence of what we are talking about. We are talking about disclosure. We are talking about sunlight, not censorship. We are talking about the public's right to know. We are talking about citizens making informed decisions about the quality and sources of the information they receive from messages that are influencing their votes.

How does the Snowe-Jeffords provision address this issue? It is simple and straightforward. First, we require disclosures on groups and individuals running broadcast ads within 30 days of a primary, 60 days before a general election that mention the name of a Federal candidate or show a likeness of a Federal candidate. The disclosure threshold is $1,000 for each individual donor for that organization that sponsors such an ad that runs in that window, 60 days before a general election, that mentions a Federal candidate.

That $1,000 trigger is five times the contribution amount that candidates are required to disclose. We create a higher threshold, a $1,000 donation to any organization that engages in this kind of advertising 60 days before a general election and 30 days before primary.

Second, it prohibits the use of union, of corporation treasury money, to pay for these ads, in keeping with longstanding provisions of law. As the next chart shows, corporations have been banned from directly participating in Federal elections since 1907. That is not a dramatic change in law. It has been that way for virtually a century. The same is true when it comes to labor unions' direct participation in making political contributions to elections. They have been prohibited since 1947. Both of these prohibitions have been in law for a very long period of time.

The law said in 1947, when it came to the Taft-Hartley Act, when it came to unions, it is unlawful for any national bank or any corporation organized by the authority of any law of Congress to make contributions or expenditures in connection with any election to political office.

That is what it comes down to. It is clear; it is common sense; it is constitutional; it is not speech rationing but informational, information that the public has the right to know.

Indeed, there is nothing in this provision that bans any form of speech. We are saying if an organization or an individual spends more than $10,000 per year on broadcast ads, you cannot use union or corporation money. That is the only ban on anything in this amendment. If you do decide to engage in that kind of advertising, you have to disclose who is bank rolling the ads if you donate more than $1,000. You have to disclose the identity of the organization and the donor.

We are not requiring every group to disclose entire membership lists, only the major sponsorships of these advertisers because it tells us something about the message being sent. We developed this approach in consultation with noted congressional scholars and reformers such as Norm Ornstein of the American Enterprise Institute; Joshua Rosenkrantz, director of the Brennan Center for Justice at NYU; and Daniel Ortiz, John Allan Love Professor of Law at the University of Virginia School of Law.

This provision is narrowly and carefully crafted and based on the precept that the Supreme Court has made clear that for constitutional purposes, campaigning—make no mistake about what these ads do; these are campaign ads; they are not issue advocacy ads—is different from other speech. It is built upon the bedrock of legal and constitutional principles extending current regulations cautiously and only in the areas in which the first amendment is at its lowest threshold.

We will hear a lot of statements throughout the next 2 weeks about the Supreme Court's landmark decision in Buckley vs. Valeo, arguing if an ad is not what is known as express advocacy, if it does not include the so-called magic words such as ''vote for candidate X'' or ''vote against candidate X'' then we cannot impose disclosure requirements and we cannot place source restrictions on their spending. Period. End of story.

I refute that mistaken notion. I want to say emphatically that such an interpretation of Buckley is not the end of the story—far from it. You do not have to take my word for it. As a Brennan Center report from the year 2000 said:

> We must recognize that, as a legal matter, Congress is not foreclosed from adopting a definition of ''electioneering'' or ''express advocacy'' that goes beyond the ''magic words'' test [for or against] . . . as long as vagueness and overbreadth concerns are met, Congress is presumably free to draft new legislation that is more effective in achieving its constitutionally valid goals.

According to the Center's scholars' letter of this month:

> Congress has the power to enact a statute that defines electioneering in a more nuanced manner, as long as its definition adequately addresses the vagueness and overbreadth concerns expressed by the court.

Certainly, this provision is not vague. We draw a bright line. Anyone will know that running ads more than $10,000 in a given year, mentioning a Federal candidate 30 days before a primary, 60 days before a general election, and seen by that candidate's electorate, being aired in that candidate's district or State, will be covered by this provision. Anyone not meeting any single one of those criteria will not be affected.

As to the issue of broadness or overbreadth, again quoting the Brennan Center letter:

> A restriction that covers regulable speech can be struck if it sweeps too broadly and covers a substantial amount of constitutionally protected speech as well. But under the overbreadth doctrine, the provision will be upheld unless its overbreadth is substantial. A challenger cannot topple a statute simply by conjuring up a handful of applications that would yield unconstitutional results.

The empirical evidence demonstrates that this provision and the criteria included in this amendment are not ''substantially overbroad.'' The fact of the matter is, we have a body of evidence on these kinds of ads that never existed before, that there effectively is no line between the express advocacy and the sham issue ads in terms of voter perception.

In other words, an ad that runs, that says, ''John Doe is dishonest and corrupt and un-American, call John Doe and tell him how you feel,'' is seen every bit as much to be an ad designed to influence a Federal election as an ad using the so-called magic words such as, ''Vote for John Doe.''

As a legislative body, we are allowed to devise a solution to this new problem, and the Court will give it a fresh look. The truth is that 25 years ago the Court issued a decision to try to cure a previous statute that was poorly and vaguely written, at a time that is now over a quarter of a century ago. The

fact is, the Court has not had any new law from Congress to consider on campaign finance reform in the last 25 years in order to review the matters, in order to review the kinds of trends that have taken place that have reinterpreted law that was passed more than 26 years ago.

So it is our prerogative, Madam President, and, I would say, our obligation as a legislature, to try to craft solutions to problems when it is in our public interest. That is why we have three branches of Government. We will hear it may have a constitutional question. We have never hesitated when we have deemed it to be in the public's interest, government's interest, our country's interest, to pass legislation—and in fact in some cases even testing the courts. We did that on the line-item veto. It did not deter Members of the Senate or Members of the House from voting for that legislation because there were some constitutional questions.

The same is true for the flag-burning issue. Many of us are in support of that constitutional amendment. There have been some constitutional questions raised, but again that should not deter the legislative branch of Government from moving forward on what it deems and perceives to be in the Government's interests.

Again, as we look at some of the analyses and interpretations that have been done in recent studies on election trends, let me again go back to how some of the experts are defining it.

In the Magleby v. Brigham Young University study that was done this year, as they said as they defined the uses of political money in campaigns and elections:

. . . neither the Supreme Court (back in their 1976 decision) nor the FEC had substantial data with which to create their rulings. Dictum was created without data. . . . If respondents see election issue advocacy in the same way as candidate or party communication—

Both of which are considered ''express advocacy'' by definition—

then the Buckley distinction is mistaken.

This report, appropriately entitled ''Dictum without Data,'' bills itself as ''the first systemic test of the court's assumption that the magic words are a reasonable standard for what constitutes election-related activity.''

Again, what is most telling about the next chart is the statistics that are represented: The degree to which these ads are intended to influence the voters' vote. We hear issue advocacy. No one is denying that every group should have the right to issue their ads talking about their positions on a particular issue. But in this study—again, it is another interesting phenomenon of the current election trends—respondents were asked the degree to which these ads influenced their votes: On a scale of 1 to 7, with 1 meaning that the ad was not at all intended to influence their vote—in this case it was in the Presidential election—and 7 meaning the ad was clearly intended to influence how they would vote in the Presidential election, how would they rank this ad?

Guess what. The ads that they viewed to be the most influential of all the ads run were the ones that were run by interest groups that mentioned a candidate, that are supposedly issue ads, even more than the ads that were run by the candidates themselves.

In other words, candidates who ran their ads that obviously very clearly were intended to speak for a candidate on behalf of their issues projecting an image, projecting their positions on certain issues—those were seen to be less influential than the ads run by these interest groups that identified a candidate 60 days before election.

Furthermore, a remarkable 70 to 71 percent scored the election issue advocacy ads as a 7; 70 to 71 percent thought they were more influential, and 83 percent gave the ads a 6 or a 7. Remember that 7 was the highest point, meaning they had the greatest impact, reinforcing the fact that these ads are seen as an attempt to influence their vote in the days before a campaign.

What is even more interesting if you look at this chart, the election issues ad, the ones that opponents would have us believe are strictly issue ads and are not influencing elections because they do not contain express advocacy—these election issue ads were seen as more clearly intended to be about the election or defeat of a particular candidate than the candidate's own ads.

I think this is very illustrative of the problem we are now facing with these so-called issue ads but which really are ads intended and designed to influence the outcome of an election, and they come out from under the disclosures and restriction requirements under the Federal election laws. That is why they come beneath the radar, because they are not required to be disclosed.

We do not know who finances these ads. We don't know the identity of these organizations. All we know is that somebody is spending a whole lot of money for these kinds of advertisements.

So if you think about it, the ads that the candidates themselves were running, ads which were automatically classified as express advocacy because candidates were running them—they were obviously ads to run in favor of a candidate or against a candidate and to get one's votes—those ads were perceived as less clearly intended to influence their votes than the so-called issue ads. So it is no wonder then that the candidates themselves have taken to running ads without mentioning the magic words ''vote for or against.''

Again, the Brennan Center, in their report on the 1998 elections, found that only 4 percent of candidate ads used the magic words—4 percent. In other words, 4 percent of the ads that were run by candidates, sponsored by candidates, did not use those magic words ''for'' or ''against.''

Keep in mind that there is a legal benefit for the candidates who run the so-called issue ad. So the only reason they would have chosen this route over ads saying ''vote for me'' or ''vote against'' is that they believed the nonmagic words—not using those words—were more effective in getting their campaign message across, which, of course, is what all these organizations found out themselves.

Furthermore, the report concluded, as our experience demonstrates, that policy distinctions such as those drawn by the Court and the FEC can have no basis in actual experience. Much of what falls under the Buckley definition of issue advocacy is indistinguishable to respondents from party and candidate communication. Yet issue advocacy operates under very different rules, which, of course, is to say no rules, and has negatively affected our electoral process and candidate accountability.

We now have established how effective these ads are in influencing our elections and how irrelevant the ''magic words'' that were mentioned back in the Buckley v. Valeo decision by the Supreme Court in 1996 have become.

Let's see how the Snowe-Jeffords provision dovetails with these ads at the end of an election and further evidence as to what these ads are really doing and the role they are playing in our elections, and ever more so.

The effectiveness of these kinds of ads is not lost on these sponsors. First of all, we know they have gone up from $135 million in the 1996 election to $500 million in the year 2000 election. But let's look at the final months of the election in the year 2000 and TV spots that mentioned candidates—all of the ads we are talking about in the final 2 months of the election. Ninety-five percent of the television spots that aired 2 months before the election mentioned the candidate's name.

Why would you suppose that an average of 95 out of 100 ads were talking about candidates in the final months of an election? Is that just a remarkable coincidence? Obviously.

As you see from this next chart, again, it talks about the final 2 months of the last election and that 94 percent of the televised issue spots made a case for or against a candidate.

Again, there is further proof of the fact that all of those ads that were run 2 months before an election—the 60-day period that we address in this legislation—were ads that were run by issue organizations that mention a candidate—95 percent of them. Ninety-four percent of those ads were seen as making a case for or against the candidate.

So obviously they understand that those ads do and will influence the outcome of an election because they identify candidates 60 days before an election. Ninety-five percent of those ads are mentioning a candidate by name.

Let's get the content of these ads. I guess it won't come as a shock to all of us who are on the election cycle that 84 percent of these televised spots have an

attack component. Eighty-four percent have an attack component. Obviously, they are also designed to influence the outcome of a campaign because they are negative advertisements, and, in fact, the interest groups in this last election cycle ran the most negative ads. They were informational ads; they weren't comparative ads. They weren't comparing records, but they were frontal attack ads.

People have a right to do that. What they shouldn't have a right to do is to run these ads that are clearly campaign ads and yet they do not have to disclose a dime; they don't have to play by any of the campaign finance rules whatsoever. To argue otherwise, frankly, I think flies in the face of logic.

This record clearly shows that the Snowe-Jeffords provision embodied in the McCain-Feingold legislation in fact is not overly broad. But if all of that isn't enough, let me tell you something further about a report that was issued just last week that not only confirmed what the track record already indicates but provided additional proof of the problems we are facing in this election cycle.

The report that was issued last week entitled ''The Facts about Television Advertising and the McCain-Feingold Bill,'' written by Jonathan Krasno and Kenneth Goldstein, studied issue advertising in the 2000 election in the top 75 media markets. In it, they ask the question: ''Would the definition of electioneering created by McCain-Feingold inadvertently capture many of those commercials that might be considered pure issue advocacy?'' Because there is a concern when you look at the Constitution side of the question: What about a group that wants to advocate in behalf of their issue in that election cycle of 60 days?

Guess what. When they ran those ads by various focus groups, and identified those ads, only 1 percent of those ads were true issue advocacy ads; 99 percent were not. Ninety-nine percent of those ads were not issue advocacy; they were electioneering. Just 1 percent of the total number of ads would be captured by the Snowe-Jeffords provision that would have been viewed to be issue advocacy. In other words, just 1 percent of what would be genuine issue ads appeared after Labor Day and mentioned the Federal candidate. The other 99 percent were electioneering ads.

As I mentioned earlier, the Supreme Court would not knock down anything based on a few examples. We are talking about thousands and thousands of ads. We are not discussing a provision in this legislation that is overly broad or vague. We are not talking about ads that are purely designed to convey an issue. But what we are addressing here and what we are saying is we are trying to get at the disclosure of the 99 percent of those ads that have identified a candidate, that run in that 60-day period, that clearly are intended to influence the outcome of an election.

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

Mrs. SNOWE. I ask the Senator from Wisconsin for an additional 10 minutes.

Mr. DODD. Madam President, how much time remains?

The PRESIDING OFFICER. There are 38 minutes remaining.

Mr. DODD. On both sides?

The PRESIDING OFFICER. There are 38 minutes remaining for the Senator from Connecticut and 60 minutes remaining for the Senator from New Mexico.

Mr. DODD. How much more time?

Mrs. SNOWE. Not even 10; probably about 5.

Mr. DODD. I know my colleague from California seeks 15 minutes, and I presume others may follow. Why don't you take 10, and that will leave us plenty of time for the Senator from California. Why don't we make it 7. In that way, we have a little more room.

The PRESIDING OFFICER. The Senator is recognized for an additional 7 minutes.

Mrs. SNOWE. I thank the Senator for yielding.

In this final report that was issued, we now see an evaluation of the relationship between TV ads and the congressional agenda. I have been asked the question: Well, what about a group that wants to run an ad in that 60-day period and we happen to be in session? It could affect their ability to be able to communicate. Again, it wouldn't deny them that ability, but it would require disclosure when they mention a candidate 60 days before an election.

But what is interesting about this chart, and what it illustrates, is it tracks the number of candidate ads that run as we get closer and closer to the election. And it compares to the number of issue ads that were run throughout the year in the top 75 media markets, and then the number of votes going on in Congress.

Guess what. The ads that were run by those so-called issue organizations tracked the ads that were run by candidates. The bottom line shows the votes in Congress. As you can see from the chart, those ads run by those issue organizations were not done to track what was going on in Congress. What they were doing was running ads to track the candidate's ads.

As you can see by these two lines on the chart: The ads of the issue organizations and the ads run by the candidates themselves during that period of time are almost identical. It had nothing to do with what we were doing in Congress.

So, obviously, the intent of these ads, beyond the fact that they mention a candidate in that 60-day window before the general election, is designed to influence the outcome of the election, not concerned about what is taking place in Congress.

So again, I think it is pretty clear in terms of their intent, in terms of what they are attempting to do, and what is the focal point of these ads.

I will get into a lot of this later because I think this is an issue that bears repeating throughout the course of this debate over the next 2 weeks, to remind people we are not talking about those genuine issue ads that Buckley v. Valeo and the Supreme Court thought of 26 years ago. We are talking about a whole new phenomenon in America in modern day politics of which everybody is well aware.

So let's talk about the difference between the two ads. We will call this the electioneering ad. It does not say ''vote for'' or ''vote against''—again, those magic words. Back in the 1976 Supreme Court decision, the Supreme Court said, as an example, you should use those words ''vote for'' or ''vote against'' to determine that these are truly political-type election ads.

But look at new ads that have cropped up, particularly in the last three election cycles, to show you the difference.

First, we have the electioneering ad. This is what would be covered by the Snowe-Jeffords provision in terms of disclosure. The announcer says:

> We try to teach our children that honesty matters. Unfortunately, though, Candidate X just doesn't get it. Candidate X urged her employer to buy politicians and judges with money and jobs for their relatives. Candidate X advertises corruption . . . Call candidate X. Tell her government shouldn't be for sale. Tell her we're better than that. Tell her honesty does matter.

Now, can anyone say with a straight face that this ad isn't a clear attack ad on a candidate? Shouldn't we know who is paying for this ad running 60 days before an election with $1,000 donors, when an organization is spending more than $10,000 in a campaign period?

Now, let's look at the genuine issue ad, which is the difference, if we are talking about a genuine issue ad, which this provision would not apply to. Again, let's read it:

> This time of the year, the average person's thoughts turn to the IRS. Now we all know one person can't fight 'em. But a bunch of average folks like us can eliminate the IRS with the new Fair Tax Plan, the only plan that's fair to everybody . . . Some things are worth a good fight. Call to join us.

You could even say ''call your Senator, call your representative,'' or you could even provide your Representative's phone number in the ad. If you are not identifying the candidate, you will not come under the disclosure provisions in this 60-day period.

That is the true distinction of the type of ad we are attempting to force disclosure on, the ones in which they identify a candidate by name 60 days before an election.

I think the American people are entitled to know who is financing these ads. That is what this amendment gets to the heart of: whether or not we are prepared to do that at this moment in time, in this Congress, and seeing the extraordinary developments in our elections and what has transpired to see some of the monstrosities that

have evolved through our election practices that have reached the point in time when we are seeing $500 million being spent on so-called issue ads, sponsored by organizations or individuals of which we do not know their identity.

I think the time has come to develop the approach that requires disclosure that meets and will withstand constitutional scrutiny, so that all Americans will understand who is trying to influence these elections.

We are not trying to get at those groups that genuinely want to be able to convey their message through television broadcasts or radio advertisements. What we are trying to do is to identify those groups of donors who are trying to influence the outcome of an election shortly before that election occurs.

I think the time has come to pass this sweeping reform. Something along the way has certainly gone wrong. The McCain-Feingold legislation would certainly make that difference.

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

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, no State has contributed more to the cause of campaign finance reform than the State of the last Speaker and the Presiding Officer. Not only has the State of Maine come up with some of the most innovative State-level initiatives, but it has sent us two Senators who have been the stalwarts in our group throughout our entire process. We are grateful to the State of Maine for these two Senators being here and being such great advocates for this cause.

With that, I yield 15 minutes to the distinguished senior Senator from California, Mrs. FEINSTEIN.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. I thank the Chair and thank the distinguished author of the bill.

Madam President, I want to begin by thanking both Senators FEINGOLD and MCCAIN not only for this bill but also for their many forays out in the countryside where I think they have really brought home the cause of campaign spending reform to the American people.

I have had the privilege, as have you, of voting for this bill a number of times. I will vote for it again. I will vote for it without amendments, and I will probably vote for it with amendments.

This bill addresses a significant problem, and that is soft money. By eliminating soft money from federal campaigns, I think S. 27 cures the most dastardly problem with the way campaigns are currently conducted. I think the amendment that Senator SNOWE and Senator JEFFORDS have added to the campaign reform bill makes it an even better bill. So we have a good bill before us.

Madam President, a while back, when Senator Alan Simpson was a Member of the Senate, and we had just concluded a meeting of the Judiciary Subcommittee on Immigration—it was a Friday—I said to Senator Simpson: Are you going home?

He said: Yes, I'm going home to Wyoming to campaign.

I said: Well, you have no notice to set up an event.

And he said: Well, I just go to Cody, and I go and have lunch at the grill, and I see everyone in Cody. So that is the way I campaign.

It brought home to me how different campaigns are across this great land. In California, a State with more people than 21 other States combined, you cannot just go home and, without making plans, go into the corner drugstore and campaign.

Campaigns are, indeed, very costly. I have been involved in four statewide campaigns in the last decade. I have raised well over $50 million: $23 million in 1990, in a race for Governor; $8 million in 1992, in my first race for the Senate; and 2 years later, $14 million in the 1994 election. My opponent in that election spent $30 million of his personal wealth in his attempt to defeat me. In this past race, just concluded, I raised $9 million.

Now, whereas I support McCain-Feingold as it is, I must also comment that the Domenici amendment we are now considering has a good deal to recommend in it.

Let me talk about my own experience, from the 1994 election I just mentioned. It was February. It was raining outside. I turned on the television to watch the Olympics, and what did I see? I saw a full spot—in February—by my opponent—a minute spot in the middle of the Olympics. My heart dropped into my heels, and I knew at that instant that I was in for a grueling campaign.

In fact, my opponent was able to have what we call a maximum buy on television for all but 2 weeks of the remaining part of the year because he was able, quite simply, to write a check to pay for that advertising.

You don't have to hire a certified public accountant. You don't have to hire fundraisers. You don't have to spend tens of thousands of dollars on computers and so on and so forth. It is a very different campaign if a person has extraordinary private wealth. That is where the Domenici amendment becomes important in all of this because it aims to level the playing field.

In that 1994 campaign, I saw how important trying to level the playing field is. The fundraising demands I faced were extraordinary. I am a pretty good fundraiser. As it turned out, I simply couldn't keep up with my opponent's spending. I couldn't keep up with $30 million of personal wealth. I could raise about $14.5 million. And to do that, I had to put some of my own money into that race.

What Senator DOMENICI is trying to do with his amendment is to say that the person who is going to put his or her own wealth into a race must say so up front. If the amount the candidate intends to spend is going to exceed $500,000, then the opponent of the self-financing candidate can have the hard money contribution caps raised threefold. If the wealthy candidate spends between $500,000 and $1.0 million, then the hard money contribution limits increase fivefold. Over $1.0 million, and the new hard money limits stay in place, and limits are lifted on direct party contributions and coordinated expenditures. The Domenici amendment doesn't prohibit wealthy candidates from spending their own money to run for the House or Senate, but it is an attempt to level the playing field for their opponents if they do.

Increasingly, I see that only wealthy candidates are going to run in some of these big races unless we do something to level that playing field. I understand Senator DEWINE may well put forward an amendment to modify the new caps set forth in the Domenici amendment. I would prefer to see the caps modified. As I understand the procedure, at the end of the 3 hours of debate, there will be a motion to table Domenici amendment. I certainly will vote not to table this amendment. It is important that we try to level the playing field.

I also will mention one other amendment I will either make myself or support, if it is offered by others. That is an amendment to increase the hard money cap per candidate per election. In the early 1970s, nearly 30 years ago, $1,000 was set as the hard money cap per election: $1,000 for the primary and $1,000 for the general. That was really fine in those days. You could have a lot of volunteer help. There was not an in-kind requirement. You could raise money more easily.

Since that time, we have had something called inflation. Senator MCCAIN pointed this out the other day. Thirty years ago, a car cost $2,700. Now it costs $22,000. The cost of campaigning has risen even more dramatically. I can tell the Senate, television spots have increased. The price of stamps has increased. The price of campaign stationery has increased. The price of direct mail has increased. The price of telemarketing has increased. Virtually every aspect of campaigning, from the salaries for consultants to the paper on which you write—all of it is much more expensive today.

Frankly, we should increase the hard money contribution cap, either to $3,000 per election, which would keep pace with inflation, or at least to $2,000. As I said, I can certainly vote for the McCain-Feingold bill as it is. But if candidates are going to have any chance to keep up with these independent campaigns, with these independent interest groups that operate without contribution limits or disclosure requirements, we should look at raising the hard money contribution limit. At the appropriate time, I will offer an amendment to do just that.

For my purposes right now, I indicate my support for the Domenici amendment.

I ask unanimous consent that my time be charged to the sponsor of the amendment, Senator DOMENICI. I also ask unanimous consent that Senator JEFFORDS follow me.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. I didn't hear the request.

Mrs. FEINSTEIN. I asked unanimous consent that the time I have used be charged to the Senator from New Mexico, along with any time I might have remaining so that he might use it in support of the amendment and, if it is agreeable, that Senator Jeffords might follow me.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Madam President, I was going to say the time should be charged to me. I don't object to that. I wonder if Senator JEFFORDS would let me have 3 minutes before he speaks to thank the Senator from California for her support.

The PRESIDING OFFICER. Without objection, it is so ordered. The time will be so charged. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I say to the distinguished Senator from California, I greatly appreciate her comments. The amendment may be negotiable in terms of how we better balance the playing field, but there is no question that she has hit the nail right on the head.

One of the brand new problems of the last decade or so is the growing propensity on the part of men and women—great people—who have decided to pay for their campaigns with their own money and use the privilege, the right that the Supreme Court has said they have, that that money cannot be limited. So we have more and more candidates spending up to $5-, $10-, $20-, $30-, even $40 million-plus of their own money. That is fine with this Senator. I am not here trying to do anything about that. The Supreme Court has spoken.

I have heard from a Senator saying she would support the Domenici amendment based upon having experienced an opponent who contributed in multiples of $10 million for their campaign out of their own coffers, to which she had to respond under ancient laws that limited her to $1,000 per contributor, per primary and per general, and $5,000 per primary and general from a collection of people who call themselves a PAC. That kind of limitation must have had her spending more than half her time raising money while her opponent didn't win but the opponent had all of his time to run and had none of the rigid rules and regulations that engulfed her campaign. Sooner or later, we have to fix that.

As I said, I wanted to fix it in a big way. My first draft of this amendment was to take everything off the opponent, no limits. They could do whatever they would like, just as they used to years ago, so long as they listed it. Others have said, no, leave some limitations. So we are in the process—mine having left some limitations—we are in the process of working with other Senators who would like to refine the Domenici amendment. I am willing to do that.

I thank the Senator from California. I, too, hope if we have a motion to table, we don't table it, so if we want to modify it to get a better product, we can, if that is what Senators would like to do.

I thank the Senator and yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, I yield 5 minutes to one of our strong supporters and cosponsors, the distinguished Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 5 minutes.

Mr. JEFFORDS. Madam President, I thank the Senator from Wisconsin.

I also thank the Senator from California for her very astute comments, especially relative to the amendment of my good friend, Senator PETE DOMENICI. I think that is an excellent start. We are going to have a better bill. We have a great bill right now.

I thank also Senators MCCAIN and FEINGOLD for the tireless devotion they have shown to this issue, ensuring the Senate would be able to fully consider this very important legislation. I especially thank my colleague, Senator SNOWE, for her work and for her very excellent presentation. I know she has even more to say about the amendment on which she and I have worked so hard for so many years. Hopefully, we will see a good result this year.

I have heard some of my colleagues question the importance the American public places on passing campaign finance reform legislation. Not only do I think the American public believes this issue needs to be addressed by Congress, I believe the desire has only increased following the controversy surrounding the pardoning of Marc Rich.

Our current campaign finance system has left many Americans disillusioned with the political process and feeling disconnected from their elected representatives.

This is an important factor in leading people to opt to stay on the sidelines rather than participate in the electoral process. Passing campaign finance reform will help boost our disturbingly low rate of voter turnout in national elections.

I was first elected to Congress following the Watergate scandal, right around the time Congress last enacted comprehensive reform of our campaign finance system. I have watched with growing dismay during my over twenty-five years in Congress as the number of troubling examples of problems in our current campaign finance system have increased. We were close to enacting comprehensive campaign finance reform in 1994, and I am the most confident now since that time that we will enact this important legislation.

I look forward to a full and open debate on the issue of campaign finance reform in the coming days, and believe at the end that the final bill should have certain characteristics:

It must be comprehensive in nature;

It must increase disclosure requirements on sham issue ads;

It must ban soft money; and

It must help restore the public's confidence in our political system.

In order to accomplish these goals, we must come together to work for passage of meaningful campaign finance reform. I am heartened by the wide bipartisan group supporting our legislation. We have members from the right, left and middle in support of this bill. That does not mean, though, that we will stop working with our colleagues to craft additional ideas to address the problems with the current campaign finance system. My ultimate goal is to create a comprehensive campaign finance bill that will garner the support of at least 60 Senators, and hopefully more.

One of the most important aspects of any bill the Senate may pass, is that it must be comprehensive. If we fail to address the problems facing our campaign finance system with a comprehensive balanced package we will ultimately fail in our mission of reforming the system. Closing one loophole, without addressing the others, will not do enough to correct the current deficiencies, and may in fact create new and unintended consequences.

We have all seen first-hand the problems with the current state of the law as it relates to sham issue advertisements. I have focused much time and effort on developing a legislative solution on this topic with my colleague Senator SNOWE, and was pleased that this solution was adopted by the Senate during the 1998 debate on campaign finance reform. I was also proud to cosponsor the comprehensive campaign finance bill Senators MCCAIN and FEINGOLD introduced last Congress that included this legislative solution.

I feel strongly that the legislation the Senate must ultimately vote on include some kind of changes to the current law concerning sham issue advertisements. We have crafted a reasonable, constitutional approach to this problem. Our provision will require disclosure of certain information if you spend more than $10,000 in a year on electioneering communications which are run 30 days before a primary or 60 days before a general election. It also prohibits the direct or indirect use of union or corporate treasury monies to fund electioneering communications run during these time periods. I will come to the floor at a later time to more fully discuss our provision, including the need for this provision, why it is constitutional, and to address

some of the arguments our opponents continue to raise concerning these provisions.

I look forward to a full and open debate on this important issue, and pledge to continue working with my colleagues to enact comprehensive campaign finance reform into law this year.

I yield the floor.

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

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

Mr. REID. Mr. President, on behalf of Senator DASCHLE, I extend 15 minutes to the Senator from Illinois.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from Illinois is recognized for 15 minutes.

Mr. DURBIN. I thank my colleague. Mr. President, I rise in support of the Domenici amendment. I want to salute my colleague from New Mexico. I think he is addressing a very serious concern that all of us—not just Members of the Senate and candidates but every American—should share. When the Supreme Court decided over 25 years ago, in the case of Buckley v. Valeo, that we could not limit the amount of personal wealth that a candidate could spend in a campaign, they said it was a tribute to free speech; that the wealthiest among us should be able to spend as much money as they have or want to spend to become candidates for public office.

Sadly, our system of government, and certainly our system of political campaigns, is geared so that those with the most money can overwhelm candidates of modest means. I think candidates in America are now broken down into two categories. I call them M&Ms or megamillionaires and mere mortals. I happen to be in the second category. If you are a mere mortal running for office nowadays, you spend every waking moment on the telephone trying to figure out ways to raise the literally millions of dollars necessary for your election campaign. This is a reality.

In a State such as mine, Illinois, it will cost you $10 million to $15 million to be elected to the Senate. That is not an uncommon amount or an extraordinarily large amount; that is reality. It reflects the cost, primarily, of radio and television. I will be offering an amendment during the course of the debate with some colleagues that addresses the cost of television in particular because we have this strange anomaly where we say the television stations have to give candidates for office the lowest rate available on the station. Yet, because of a few loopholes in the law, they end up offering us what is known as preemptable time, which means anybody who offers 50 cents more can knock our ad off the air. So it becomes a bidding war.

We find in every 2-year period of time, the cost of television is going up 20 percent. What does it mean? For a candidate for reelection in the Senate, every 6 years the same amount of television that was bought 6 years before will cost 60 percent more. That is the escalation of costs in campaigns.

I am proud to be a cosponsor of McCain-Feingold. I think they are addressing a serious problem in our system, where we have this discrepancy between soft money and hard money. But at the root of the problem in American campaigns is the amendment offered by Senator DOMENICI which goes after the self-funding, the very wealthy candidate, and the cost of media. If we are going to have meaningful campaign finance reform, I think we need to address both. I lament the fact that this has become a bidding war. I think Senator DOMENICI would agree with me on that. What else can we do with a Supreme Court decision that allows individuals to spend literally millions of their own money while mere mortals running for office are trying to keep up.

The Senator waives some of the limitations on the hard money we can raise, but I ask the Senator if he will answer this question: The Senator makes it clear in his amendment that all of the money we raise and spend must be accounted for, dollar for dollar, as to source and how we are raising it, how we expend it. There is no mystery involved in this. Will the Senator agree with that statement?

Mr. DOMENICI. I agree 100 percent. I failed to mention that I have this in the amendment. We take a lot of the caps off so the nonwealthy candidate, the mere mortal, can have a chance at raising significant money to run against a multimillionaire candidate. But we say if that candidate who had the caps raised so they can accommodate—if they have money left over from their campaign, they have to return it to the people from whence they got it. In other words, they cannot raise more than they need and hold it for another campaign. Whatever they use in that campaign, fine; what they don't, they have to return.

The Senator from Illinois has just stated it as well as anyone. I have told some people I had this amendment, and they said, ''Why are you doing that? Senators don't have those caps on them, do they?'' See, they don't know that for 26 years, since post-Watergate, we have been limited—you in your campaign and the New Mexico Senator in his campaign—to $1,000 per each individual from wherever, your State or my State. Then $1,000 in the primary and general. That is all—$2,000. Along comes a wealthy candidate and plunks down $10 million. I should have figured it up and put on a chart how much time it probably took to raise the equivalent of this $1,000 and $2,000 bracket.

Mr. DURBIN. If I may respond, I liken it to building a skyscraper a brick at a time. Here we have a wealthy individual who decides his or her idea of a fundraiser is pouring a nice glass of wine, writing a personal check for millions of dollars to his campaign, and declaring success.

Meanwhile, mere mortals, other candidates trying to be involved have to raise money phone call after phone call, letter after letter, small check after small check, all disclosed, all accounted, trying to build a skyscraper of equal height to the person who has written one check for millions of dollars to their campaign.

I agree with the critics of this amendment who say isn't it sad it has become competition for money. But as long as Buckley v. Valeo says we cannot limit the amount being spent by an individual from their own wealth on a campaign, there is no other way to make certain we have a level playing field and, I guess, fairness in the basic election campaigns.

Senator DOMENICI is a proud Republican. I am a proud Democrat. We both view the system with alarm. If you do not deal with this phenomenon of people who have this much money to put into the campaign, how can you attract candidates from either political party to get interested?

It is bad enough that it is a pretty hectic life. I enjoy it, and I am glad I am in it. I am happy the people of Illinois gave me a chance. It is tough when there are these invasions of your privacy. You give that up. That is one of the first things to go, and people say: To reward you for running for office, we are going to personally let you raise $1 million; won't that be fun?

You can walk along the streets of your hometown and people race to the other side of the street to avoid you because they are afraid you are going to ask for another contribution. That is a sad reality in this business.

Sadder still is a person who is self-funding and has so much money they do not even have to worry about this effort.

Frankly, I am so worried this system cannot survive if only those people serving in the House and Senate are those who are independently wealthy and do not have to go through the process in any way whatsoever.

Also, the Senator makes a good point about loans to the campaign because a lot of people who are very wealthy do not give money to their campaign; they loan it and say they will be repaid later.

Will the Senator be good enough to explain the provision he has on loan repayment?

Mr. DOMENICI. I will be delighted. You cannot have it both ways. You are going to put up your own money and say to the electorate: Don't worry about special interests on this candidate's part; I'm not bothering anybody for any money; it's my own. So you spend $5 million or borrow $5 million.

Isn't it interesting, for the most part, you are not in office 1 month and you are interested in the special interests. Why? Because you want to pay the loan off. So now you are out raising money. You advocated: Nobody will touch me; it is my own money; I am entitled to spend it; I am entitled to borrow it.

That is all well and good, but my amendment says if that is the case, when you get elected, you cannot go asking people to contribute money to pay off your debt. That is a very simple and forthright proposal.

Incidentally, it does not apply retroactively. I am not trying to get anybody. I am saying in the future you put the money up and you know it is not coming back after you get elected. That is what the Senator is talking about.

I think that is very fair. In fact, it should be a condition to your putting up your own money, knowing right up front you are not going to get it back from your constituents under fundraising events that you would hold and then ask them: How would you like me to vote now that I am a Senator?

That is what we are talking about. I think you are absolutely right on that.

Mr. DURBIN. The Senator from New Mexico is right on that point. It is a fiction sometimes. These loans are made to a campaign and perhaps they will be paid back, but perhaps they will not. Your language makes it clear there will not be any effort after the election to raise money to repay those loans; you have made that contribution and have to live with it. I think there is some reality.

The Senator from New Mexico is probably aware of this, but I want to make sure it is on the record.

According to the Federal Election Commission, candidates gave or loaned their campaigns $194.7 million from personal and immediate family funds in the 2000 election cycle. This is up from $107 million in 1998 and $106 million in 1996. The $194.7 million in 2000 included $40 million from Presidential candidates, $102 million from Senate candidates, and $52 million from House candidates.

Think about what we are saying about the men and women who run to serve in the Senate. Think about what this institution will become if that is what one of the rules is to be part of the game: That you have to be loaning or contributing literally millions of dollars in order to be a candidate for public office.

As I have said from the outset, I support McCain-Feingold. They are doing the right thing, but there are two elements that need to be addressed. Senator DOMENICI has one amendment that addresses it, the so-called self-funding wealthy candidate. Senator DEWINE and I are working on an alternative if Senator DOMENICI's amendment is not adopted.

We also have to deal with the cost of media because, unless we deal with that, frankly, all of the restrictions we put on how you raise money will not address the overarching concern about the cost of campaigns.

If we have the cost of television and radio going up as dramatically as we have seen it—20 percent every 2 years—there is no way we can fashion a law to hold down campaign spending that will work. In a State as big and diverse as Illinois with 12 million people, a successful statewide candidate has to be on television. I cannot shake enough hands and I cannot knock on enough doors in a State as large as mine. To raise money to make sure I have a chance to deliver the message is going to be a daunting task unless we deal with how we raise money in campaigns or what television might cost.

I note the Senator from California spoke a few minutes ago about revelations that came to her during the course of her campaign.

There is one other aspect I wish to address before I yield the floor, and that is the independent expenditures, the groups that come on with ads toward the end of the campaign that are not sponsored by candidates or political parties. These are groups that come out of nowhere with high sounding names and spend millions of dollars to defeat candidates or to elect candidates across America.

In my campaign for the Senate a few years ago, in the closing weekend of the campaign, Saturday night I sat down and thought: I am finally going to get to see ''Saturday Night Live'' on the last Saturday before the election. As the NBC news went off, four ads went on the air. All four ads were negative ads blasting me. Not a single one was paid for by my opponent or the Republican Party. They were from groups I never heard of. I heard of a couple of them. Some I never heard of.

I said: Who are these people? I have to disclose every dollar I raise and spend; that is proper; that is legal; that is right. Why should these drive-by shooting artists come in with 30-second ads and never tell you from where the money is coming?

I will give an illustration. One group for term limits wants to limit the time Members of the Senate and House serve. I disagree with them on that position, and I have been open about it. But I disclose all the money I am raising and spending to tell my side of the story. The group that sponsors term limits refuses to disclose from where their money comes. I confronted one of their organizers and said: Why shouldn't you be held to the same rules to which I am held if we are going to have a fair fight? He said: Oh, as soon as I have to disclose my sources, we know there will be retribution against them.

Well, hogwash. In this system, people should be willing to disclose where their money comes from, whether they are on the right or on the left. Let the American people know who is sponsoring the term limit campaigns in their States, who is putting the money behind them, and then if they want to raise legitimate questions about where this money is coming from, what the real motivation is, that gets to the heart of the issue.

Time and again these groups come forward and get involved in campaigns. They spend unlimited sums of money, and we never know who they are or from where they are coming.

If we are going to end these paper transfers and bring real transparency and honesty to this process, not only should we support the McCain-Feingold basic legislation but we should deal with these issues as well. The self-funding wealthy candidates, the cost of media, and these groups that are making the independent expenditures, I think they should be subject to the same form of disclosure. I support this amendment. I hope my colleagues in the Senate will join Senator DOMENICI in adding it to the bill.

I yield the floor.

Mr. REID. Mr. President, my friend from New Mexico, Senator DOMENICI, has agreed the time of Senator DURBIN will be charged to Senator DOMENICI and not to this side, and I ask unanimous consent for that.

The PRESIDING OFFICER. The time will be charged accordingly.

Mr. DOMENICI. I yield 5 minutes to the distinguished Senator from Ohio, Mr. DEWINE.

Mr. DEWINE. I thank my colleague from New Mexico.

I rise this afternoon to congratulate my friend, Senator DOMENICI. He has identified a real problem. Let me notify Members of the Senate, we have received calls asking about our amendment. For the last several weeks, Senator DOMENICI and I have been engaged in discussions and negotiations between the two of us to try to come up with an amendment on which both he and I could agree. Let me notify my colleagues that we are getting closer at this late hour and we hope to have something resolved in the next few minutes. I will withhold any comments about the specifics of that agreement.

The point is, Senator DOMENICI has identified a real problem. He has identified a constitutional loophole. It is a constitutional loophole that needs to be confronted. What am I talking about? I think it would come as a surprise to the average American to know the current state of the law is this: Every citizen in this country is limited to how much money he or she can contribute to a candidate for the Senate—every person in this country, except one. That one person is a candidate himself or herself. Based on the Supreme Court's Buckley case, and based on their interpretation of the first amendment, Congress cannot limit how much money an individual puts into his or her own campaign.

We have what for most people, the average person, would seem to be a crazy situation. Everyone in this country is limited to only giving $1,000 or up to $1,000 to a candidate for the Senate or a candidate for the House of

Representatives. However, an individual candidate, if he or she has the wealth to do it, can put an unlimited amount of money into his or her campaign.

We have seen now in the last several election cycles this phenomenon. Most people find it obscene. Most people find it a ridiculous situation that someone can spend $10 million, $20 million, $30 million, $50 million, or $60 million of their own money. As a practical matter, a person who has that much money spent against them has a very difficult time competing, making it a level playing field or even close to being a level playing field.

I congratulate my colleague for his concern about this problem. The solution, quite candidly, is not to, of course, limit what a person can put into the campaign. We cannot do that. We cannot stop someone from putting an unlimited amount in their campaign. The only way to do that is to change the Constitution. What we can do is give the other person, the person who is faced with doing battle with that person who is putting $10 million, $20 million, or $30 million of their own in the campaign, we can give their opponent some ability to compete.

Senator DOMENICI does this in several different ways. The amendment I have will also do so. The amendment I will be proposing raises the dollar amounts a person can give to an individual candidate. We raise it on a sliding scale based on two factors. One, the size of the State; the other, based upon how much money that individual millionaire puts into his or her own campaign. At one level, we raise the donor limits for the other person to one amount, and we keep racheting it up.

I believe it fits the constitutional requirements of proportionality. We have cases we can supply to any Members of the Senate who want to look at that. We believe it therefore is, in fact, constitutional.

The reality is each Member who has gotten to the Senate knows how much they can raise in their individual State under the current limits. I will take the Chair's home State and my home State of Ohio. In the past election cycles, going back to 1988, no one has raised more than $8 million in the State of Ohio for any of those campaigns for the Senate. It stayed fairly constant over that period of time. Taking our State as an example, if someone was running against a millionaire in the State of Ohio and they wanted to put in $20 million, that person who put in their own $20 million would have a tremendous advantage over another candidate who did not have his or her individual wealth. Based on what we have seen in the last 12 years in Ohio, $8 million is about all you can raise. So you have one candidate with $20 million of their own, another candidate with $8 million maximum that he or she can raise.

The DeWine and Domenici amendments—and we do it in different ways—begin to level the playing field, making it easier for that candidate running against the millionaire to raise money. You still have to get it from individuals, but it makes it easier to do it. It would not level the playing field. I don't think there is anything to do to level the playing field, but it moves it a little closer and makes that race a lot more competitive.

I thank my colleague from New Mexico for yielding me time, and I congratulate him for identifying a real problem. I notify Members of the Senate and those who have asked about the DeWine amendment we have shared with Members, Senator DOMENICI and I, as well as others, are involved in negotiations and we hope to work out those differences.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MCCONNELL. It is my understanding the Senator from New Mexico and the Senator from Ohio are hoping to work out an amendment that is mutually agreeable.

Mr. DEWINE. That is absolutely correct. We are working on it now. We hope to have something in the next half hour.

Mr. DODD. How much time remains on this amendment?

The PRESIDING OFFICER. The sponsor has 23½ minutes and the minority has 25 minutes.

Mr. MCCONNELL. It is my understanding this vote occurs at 6:15, but if I added up the minutes correctly it carries past that time.

The PRESIDING OFFICER. It goes beyond that time.

Mr. REID. Will the Senator yield?

Mr. MCCONNELL. I am happy to yield.

Mr. REID. Mr. President, there are some who made a request that it would be very helpful if the vote would be at 6 o'clock rather than at 6:15.

Mr. MCCONNELL. I say to the distinguished assistant Democratic leader, we are checking on the 6 o'clock time and should know momentarily whether or not that would be agreeable.

Mr. REID. We have a couple of Members over here who would like to have the vote sooner if at all possible.

Mr. MCCONNELL. I am told there is an objection on this side to moving the vote up to 6.

The PRESIDING OFFICER. There is objection on the majority side to the vote at 6 o'clock.

Who yields time?

Mr. DODD. Mr. President, I am happy to yield 3 minutes to my colleague from Michigan, Senator LEVIN.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, we are facing a real crisis in campaign finance in this country. We have effectively no limits on campaign contributions, even though the law seems to provide that there be a $1,000 contribution limit from an individual, $5,000 from a PAC, and so forth. Because of the soft money expenditures, we in effect have no limits on campaign contributions anymore despite the law. The law has been evaded, avoided, bypassed, mainly now financing television ads, often negative, called issue ads.

I think most of us who have seen these issue ads who have been in this profession long enough recognize that there is no difference between the issue ad which does not name the candidate and says that you should vote against him, and the issue ad which says this candidate is great or his opponent is awful but doesn't use the magic words ''vote for'' or ''vote against'' and the candidate ad which uses the magic words ''vote for'' or ''vote against.''

At hearings we have held at the Governmental Affairs Committee, we put these television ads on the screen right next to each other. There is no reasonable person who could reach the conclusion that the ad which is paid for with soft money is anything different, in 95 percent of the cases, from the ad which is paid for in hard money.

So we have now trashed the limits on contributions that exist in the law. Hopefully, McCain-Feingold is going to restore those limits. But the first amendment which is offered to this, it seems to me, goes in the wrong direction and opens up a number of loopholes, No. 1, but also, it seems to me, is not workable the way it is written.

I can understand the frustration of running against somebody who is either partly self-financed or totally self-financed. It seems to me there is a way in which we ought to try to address that. But we surely should not try to address that by blowing the caps on party contributions, which is what this amendment does.

I do not think we should do that by having a process here which is unworkable because it is not graduated from State to State. Somebody in a State with 30 million people is given the opportunity to raise these funds from all of the contributions from the people who contribute directly to the campaign in multiples, the same as somebody who comes from a small State, giving the person who comes from a larger State a much greater advantage over someone coming from a smaller State, although they are both running against the person who is putting in their own money.

I wonder if the Senator will yield 3 more minutes?

Mr. REID. I yield 3 more minutes.

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

Mr. LEVIN. So the first amendment that comes before the Senate is an amendment which is written in a way to eliminate any limit.

Mr. MCCONNELL. Was consent just asked for something?

Mr. REID. Three more minutes.

Mr. MCCONNELL. Fine.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. So the first amendment that comes before us blows the caps on

party contributions altogether in the case that somebody partly self-finances a campaign. Second, it has a procedure here which doesn't strike me as being either fair or workable. It is unfair because it is not graduated, giving candidates who run against somebody who is partly self-financing very different rights and opportunities, because the person who has a large number of hard money contributors gets a much greater opportunity to raise money than somebody who has a small number of hard money contributors, presumably somebody from a smaller State. Since there is no gradation in terms of the States, all the States are being treated the same, despite the fact that there are some very obvious differences.

Finally, it seems to me this is an impractical approach because of the trigger, the trigger being the candidate has to file a declaration, when the declaration of candidacy is filed, to declare whether or not he or she intends to spend personal funds of a certain amount. That intention can be honestly ''no'' at the beginning of a campaign, but near the end of a campaign the temptation is great. If somebody near the end decides to borrow a half million dollars, then that person has a decided advantage which is not corrected by this amendment. Even though you have to file a notice within 24 hours, it could come far too late for the person who is disadvantaged by this large amount of money to do anything much about it.

So it seems to me, for all these reasons, this amendment is not the right approach to a problem. But it is a problem. I want to acknowledge the Senator from New Mexico has identified, as have a number of people on this floor, a problem which is a real one, which is what happens in the case of somebody who is either partly self-financed or fully self-financed, as to what do you do about the person running against that individual.

We have that problem now. I don't think this amendment solves it in a practical or a fair way or in an even-handed way. But that does not mean the problem does not exist. I hope we will continue to try to work on some practical way, which doesn't blow caps, to address that problem.

Mr. MCCONNELL. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 22 minutes.

Mr. MCCONNELL. I yield to the distinguished Senator from Alabama 10 minutes.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank the Senator from Kentucky for allowing me to speak on this amendment. It is something about which I have felt strongly for a long time. I find absolutely nothing unreasonable or unfair about the Domenici proposal. I think it fits precisely the circumstances in a very realistic way.

I remember when I was running for the Senate in 1995, a prominent leader was on television. He said: People are going out deliberately recruiting millionaires to run for office. In fact, he said, we are creating a millionaires club, particularly in the Senate.

Since I was running in a Republican primary, facing seven different candidates, two of whom were spending over $1 million of their own money, I listened to that. It meant a lot to me at the time. Two others in that race I think spent approximately a half million dollars each in the race. It was a total of $5 million spent by my opponents, and I was able to raise $1 million in that primary and was able to win that primary.

I am not complaining about the Supreme Court ruling that says a millionaire, multimillionaire, or billionaire can spend all he or she wants to spend. What I am saying is we have all these restrictions on people who have to raise money. It limits their ability to raise money. Then a wealthy candidate can waltz in out of left field with hundreds and hundreds of millions of dollars in his account and can just overwhelm their opponent, and it creates, I believe, an unfair situation.

I think it is very difficult for anyone to contend this is not an unfair situation. We can deal with it, in my view. Senator DOMENICI has given a lot of thought to it. He and I have talked for some time about this. I believe he has moved in a direction that can deal with it. We are saying individual candidates in a primary, for example, can only raise $1,000 from a contributor to combat the money that was poured in it by a wealthy opponent. I believe we have an unfair situation. It makes it difficult for candidates to run on a level playing field.

I was a former Federal prosecutor and attorney general of Alabama at the time of my campaign. I had two children in college. I had some public service experience. I wanted to take my record to the people of Alabama. We were able to raise enough money. I didn't have any problem asking people for money. I was able to raise enough money to get my message out and win in a runoff in that primary.

But it really creates an unlevel playing field if I am restricted to these levels of contributions. What if my opponent had not spent $1 million? What if they spent $5 million, $7 million, or $40 million in that primary in a State such as Alabama? Could they have gained enough votes to tilt in their favor while a candidate who is a public servant is subject to limited funds? I think that is quite possible. That could have occurred.

The Supreme Court, in my view, may not have been perfectly brilliant in the Buckley case in suggesting that an individual who has a lot of money has no potential for corruption. If their money is in one sector of the economy—health care, finance, high tech—if that is where their wealth is and maybe they have another billion dollars of investment, they have a lot to lose. Who says they are more or less corrupt than somebody such as the Senator from Alabama who worked as attorney general and took a State salary every day? I don't know. But the Supreme Court has ruled that a wealthy person cannot be limited in the amount of money they can put into a campaign. We are going to live with that. That is what the law is.

Let me mention that there has been a trend in recent years of large amounts of personal wealth going into campaigns. In 1996, 54 Senate candidates and 91 House candidates each put $100,000 or more of their own personal money in the campaign through direct contributions or loans. In the 1998 general election campaign—that is a final election campaign—Senate candidates gave about $28.4 million to their own campaigns while House candidates gave close to $25 million to their own campaigns. This is compared to 1988 when the Senate candidates used only $9.7 million of their own money in Senate campaigns and House candidates gave $12.5 million.

This means that the share of the total Senate donations from personal funds more than doubled—from 5.4 percent to 11.4 percent in 1988. That is pretty significant.

In the Senate races alone, about 1 out of every 5 dollars raised in 1994 came from the bank accounts of the candidates themselves. This is clearly significant, and I think under the present tight financial rules on people raising money it is an unfair advantage to people who have access to unlimited funds.

Can there be any doubt why a candidate or recruitment committee for any party, Republican or Democrat, is going to look out for people who can put in that kind of money? It gives them a clear advantage in the candidate recruitment process if they can write that kind of check.

This amendment, I believe, deals with it quite fairly and justly. First, it talks about disclosure. Within 15 days after a candidate is required to file a declaration of candidacy under the Federal law, he or she must declare whether they intend to spend personal funds in excess of $500,000, $750,000, or even $1 million of their own money. It didn't say they can't do that. They can. They simply have to state an intention. I have to state and have to abide by the rule that I cannot raise more than $1,000. What is wrong with asking them to at least say how much they intend to spend? I think that is reasonable. What could be unfair about that?

Then this triggers the events that occur to give the opponent of the billionaire candidate, or the one-hundred-millionaire candidate, a little advantage. It sort of balances the scales a little bit. It is not a lot. It is still tough to compete against a candidate who will put in $40 million or $7 million. But they don't always win when they go to the American people.

If a wealthy candidate declares his or her intent to spend in excess of $500,000,

the opponent of that candidate can increase individual and PAC contribution limits threefold. In the present circumstance, instead of being able to ask people for only $1,000, it would be $3,000. Instead of a PAC giving $5,000, a PAC could give $15,000, to give you some chance to compete against that wealth.

If the candidate says in his declaration that he or she intends to spend more than $750,000, his or her opponent can increase individual and PAC contribution limits by five times. It would be $5,000 per individual.

If some friends of mine say: JEFF SESSIONS is getting overwhelmed by a multimillionaire candidate, they could all rally and try to go out there and help me have a fair playing field. I think some people would. They would rally under those circumstances. But under current law, they cannot help a candidate any more than the maximum contribution.

If the wealthy candidates exceed $1 million in personal expenditures, under the Domenici amendment the direct party contribution limit and party coordinated expenditure limits are eliminated. Why not? There is a chance to buy an election by pouring $1 million-plus into a campaign, and the opponent can be left helpless. I think that is a good law.

It also has a give-back provision that any excess funds raised by the opponent of a wealthy candidate may be used only in the election cycle for which they were raised. So they couldn't be used in the next election. Excess contributions must be returned to the contributor, if there is any left after that.

It also prohibits wealthy candidates, who incur personal loans in connection with their campaign that exceed $250,000, from repaying those loans from any contributions made to the candidate.

The PRESIDING OFFICER. The Senator from Alabama has used his 10 minutes.

Mr. SESSIONS. I ask unanimous consent to have 1 additional minute.

Mr. MCCONNELL. I yield the Senator an additional minute of my time.

Mr. SESSIONS. I know there were large contributions in this last Senate campaign from candidates of $10 million, $60 million, and other amounts of money that the winning candidates in this body contributed from their own funds. I tell you, I am glad I didn't face a person who could write a check for $60 million, $10 million—or $5 million, for that matter. If so, I would like to be able to have a level playing field so I could stay in the ball game.

This is a fair and reasonable bill. I believe it is the right thing to do. I totally support the Domenici amendment.

I ask that I be allowed to be listed as a cosponsor to the Domenici amendment.

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

Who yields time?

Mr. DODD. Mr. President, I yield myself 5 minutes.

Mr. President, I have great affection for my colleague from New Mexico. He is one of my best friends in the Senate. Even though we are of different political parties, we do a lot of work together. I admire him immensely as a Senator, and, more importantly, I cherish his friendship. But I disagree with him on this amendment.

I understand the arguments being made. In fact, I have been through a campaign where I in fact faced an opponent who was going to spend—at least he threatened to spend—a substantial part of his personal wealth to defeat me. So I am more than familiar with how this can work. It turned out he didn't spend all that money he said he was going to. But at least the threat was there. I know what it means to be sitting there in the campaign wondering whether or not you see a person who endlessly writes personal checks in a campaign.

I understand the motivations behind this and the concerns about it. But I think the amendment as crafted lacks some proportionality and balance. I admire the effort to try to come up with various triggers that kick in if a candidate relies upon his personal wealth for campaign funds. But this amendment doesn't take into consideration the size of various States. A $500,000 commitment of personal funds in Rhode Island, or Delaware, or even Connecticut certainly might cause an opponent to pause.

In Texas, Illinois, Florida, and California, that amount of funding hardly represents a commitment of personal resources. Today, that is nothing more than a second mortgage on a home. And a trigger allowing three times the allowable funds to be used, I think, is unnecessary at that level of personal funds. If you are getting to $750,000 or $1 million, again, in a large State, where a $20 or $30 million race is going to occur, I do not think that amount necessarily is going to pose a great threat.

Remember, we are talking, in many instances, about challengers. We are incumbents. As incumbents, we have a lot of advantages that do not come out of our personal checkbooks. Obviously, if we are e-mailing our constituents, responding to mail, having telephone services, and the like, we have an advantage that obviously gives us the upper hand in many instances when facing a challenger who may have personal wealth or may decide they are going to put at risk their family resources to run for public office.

I do not want to be in a position where we gut the McCain-Feingold bill because of a $500,000, or $750,000, commitment in a race that may cost, on average, today $15 or $20 million. That, it seems to me, is not proportional. It does not rise to that level. And that would be the net effect, if I understand the amendment correctly.

If a candidate commits $1 million of personal resources, then all the limits on coordinated party contributions come off for the challenger. And the challenger is permitted to have five times the allowable individual contribution limits. The result is a million-dollar personal commitment by one candidate being met with a potential $10 million party expenditure by the challenger. It seems to me that would defeat the very purpose of what we are trying to achieve with the underlying McCain-Feingold legislation.

In addition, obviously, PAC contributions rise to $25,000 per election, above the $5,000 limitations right now, once that threshold of $750,000 has been met, as I understand it.

So I think there is a way, maybe, to address this issue, but I think this amendment goes too far. It really does undo, at a very low threshold level, a lot of what is trying to be achieved by the McCain-Feingold proposal.

Again, I understand those who object to the underlying McCain-Feingold legislation, the thrust of it. But if you basically agree with what John McCain and Russ Feingold are trying to achieve with this bill—reducing the amount of money in the system—if you think that is the right track to be on, then adopting or supporting this amendment is a direct contradiction, it seems to me.

I understand if you are opposed to McCain-Feingold, then this is one quick way to sort of gut it, to undercut it.

Mr. President, I ask for one additional minute, if I can.

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

Mr. DODD. So if you want to basically gut the bill, then this is the amendment, it seems to me. The very first amendment we are dealing with here on this bill, the very first effort out of the box, is to undermine what we are trying to achieve.

Again, I respect what my colleagues are trying to do, as someone who has faced opponents in the past who have at least threatened to spend significant personal wealth in a campaign. That can be intimidating. But what you do not want to have happen is the mere expenditure, or the announcement of an expenditure, of equal or greater than $500,000, $750,000 or $1 million triggering off the contribution limits.

In Connecticut that would be a lot of money. But if you are going to get involved in a race that uses the New York media, for instance, a race that in Connecticut would be $5 or $6 million, could quickly mushroom to $10 million. And $1 million of personal wealth, while it is a lot of money, that certainly then could unleash $10 million or $15 million once the party limits are off. And the party limits would come off with that $1 million commitment. I think that would be a mistake.

So I urge my colleagues who are thinking about supporting this amendment, who simultaneously want to see

McCain-Feingold become the law of the land, to think twice about this amendment.

Mr. REID. Will the Senator yield for a question under his time?

Mr. DODD. I am happy to yield.

Mr. REID. I say to my friend, wouldn't it set a bad tone on the first amendment on this very important legislation—no matter how well meaning the proponents of this amendment might be—to, in effect, according to the sponsors of this bill, MCCAIN and FEINGOLD, gut the bill? Wouldn't that set a bad tone?

Mr. DODD. I think it would. There may be some merit we can seek out at some point. We are going to be on this bill for the next 2 weeks. It seems to me, if there is value in trying to do something here, we ought to be willing to talk about it. If we come out of the box and adopt this amendment, it seems to me then it would be a major setback in what we are trying to achieve in the McCain-Feingold legislation. I urge those who would be tempted to support this bill to resist doing so, and those who are sponsoring this amendment, if the amendment is, in fact, defeated or tabled, to go back to the drawing board and take another look at how this might be achieved.

But this particular proposal, I think, eviscerates what Senator MCCAIN and Senator FEINGOLD are trying to achieve and what those of us supporting them would like to see accomplished.

Mr. REID. Will the Senator yield me 2 minutes?

Mr. DODD. I am happy to yield my colleague 2 minutes.

Mr. REID. There is no one I have greater respect for than the Senator from Illinois, Mr. DURBIN, with whom I came to Washington in 1982. I had the same feeling he had, I say to my friend from Illinois. I heard his very eloquent speech. The fact is, I was of the understanding this would help the bill. But I have been told by the proponents of this legislation that it will not help the bill.

Does the Senator understand that?

Mr. DURBIN. I thank the Senator from Nevada for his kind words. In our conversations, I agree with what Senator DOMENICI is setting out to do. I do not believe it is antagonistic to McCain-Feingold. I think it is complementary. It is an important element. But I do believe we need to take the concept Senator DOMENICI has brought to the floor and work on it. We need to spend a little time working on this to bring it to where it ought to be.

I say to my friend from New Mexico, I hope—he, of course, can do what he would like with his amendment. I cannot support it at this moment, but I want to work with him and work with Senator DEWINE of Ohio to try to find a bipartisan alternative that deals with this in a realistic way.

So if Senator DOMENICI wants to go ahead with this amendment, I will have to join those who are attempting to table it, but only with the understanding that once this amendment is completed, we will sit down in a good-faith effort, bipartisan effort, to address this issue. Without his leadership, we might not even be at this point in the debate.

I thank him for that leadership.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. How much time do I have remaining?

The PRESIDING OFFICER. Eleven minutes.

Mr. DOMENICI. Eleven. I am not sure I will use all of it. I am aware that a Senator desires to get out of here quickly, and I will do my very best to accommodate the Senator.

But what I want to say to the Senate is, I have been working with Senator DEWINE and others on a modification to my amendment. Frankly, I cannot modify it unless there is a consent that I be permitted to modify it. If we move to table it, and the tabling motion fails, then I can amend it. So I would hope you would not table the Domenici amendment. Because if it is not tabled, Senator DEWINE and I, and others, will offer an amendment, which we will then be permitted to do, which will, essentially, greatly simplify it.

It will essentially be that if somebody under this new law indicates they are going to spend $500,000 or more of their own money, then only the individual contributions are increased to three times what they are now—$3,000 instead of $1,000—that if you are going to spend more than $1 million, it is 10 times, which is $10,000 contributions.

So if somebody was going to spend $20- or $30 million, then the $1,000 cap would be $10,000. That is the extent of the changes except we have a loan payback provision which we have discussed on the floor that says, if you use your own money, then after you are in office, you cannot pay yourself back by raising money as a sitting Senator.

Mr. President, I think that amendment I am going to offer with Senator DEWINE, which he would speak to at a later date, is a compromise amendment. I wanted to go a little further. But now what we are going to do in a few minutes is vote on whether or not to table the Domenici amendment. If we do not table it, then we will offer this amendment. I am sure everybody is listening and at least these increases in caps would pass in the Senate. Only the individual limits, the individual contributions would be changed if we are permitted to offer the Domenici-DeWine amendment, which would be a substitute after the tabling motion.

So there is no misunderstanding, the Domenici amendment has no soft money in it. The Domenici amendment is all hard money. Essentially, it says, if you are going to spend a half million dollars of your money, then you get to raise money in return for the candidate who was bound by the old laws, the 26-year-old laws. You can raise $3,000 in individual money and PACs are increased threefold. If you are going to spend $750,000 or more, it is five times. And $1 million or more, it is 10 times, as I have just indicated. In addition, we have the loan payback provisions in the bill that I have just described, and we have a provision that the hard money that can come from campaigns is limited as it is under the McCain-Feingold.

Having said that, I would ask Senators who think the time has come to send not a signal but to change the law so that the multimillionaire cannot essentially put the opponent at such odds that the opponent has no chance of raising sufficient money to run a campaign—we have seen many examples of that of late. I think it is as serious a problem as the underlying issues that are before us on McCain-Feingold. I choose to fix them. I ask Senators not to vote to table my amendment, thus giving me a chance to present a modified one that has broader support than the original Domenici amendment.

Mr. MCCAIN. Will the Senator yield?

Mr. DOMENICI. Surely.

Mr. MCCAIN. I don't want to take the floor from the Senator from New Mexico, but I have to tell the Senator from New Mexico, he has made substantial and probably significant and beneficial changes to his amendment. He just articulated them. We haven't had a chance to digest them to see what the impact would be. We have gone a long way from if the candidate exceeds $1 million, the direct party contributions and party coordinated expenditure limits are eliminated. We have to figure out exactly what all this means, I say to the Senator from New Mexico. This is legislating on the fly here.

What we would like to do, if it is agreeable to the Senator from New Mexico and the Senator from Ohio and all of us involved, is to have a chance to sit down and negotiate this with him. I agree with the Senator from New Mexico. I think he has some very good provisions, but at this time we would like to be able to examine those provisions, determine exactly what the impact is, have some negotiations, which have been going on among our staffs. Hopefully, we could get something on which we can all agree.

I am not sure in this very short time period where the Senator's amendment has changed rather drastically, fundamentally, when we are talking about if the candidate exceeds $1 million personal expenditures, the direct party contribution limits and party coordinated expenditure limits are eliminated—I don't frankly understand exactly the ramifications of the amendment of the Senator from New Mexico.

The PRESIDING OFFICER (Mr. ALLEN). The Senator from New Mexico has the floor.

Mr. DOMENICI. I say to my friend, I am not choosing to amend my amendment. My amendment stands as it was understood by the distinguished Senator from Arizona. I am merely stating that I am asking, and I now ask unanimous consent that I be permitted to modify it.

Mr. REID. I object.

Mr. DOMENICI. All I am saying is, if you don't table the Domenici amendment, standing there, I will offer an amendment on behalf of myself, Senator DEWINE, and others which will do what I described a while ago, and you can have all the time you want to look at that amendment, debate it, and even modify it, if you would like. I ask that we leave the amendment standing so I can modify it. Has the motion to table been lodged against the amendment?

The PRESIDING OFFICER. The motion to table can only be made at the expiration of time. The Senator has a little over 4 minutes, and the other side has a little over 9 minutes.

Mr. DODD. Mr. President, I say to my colleague from Kentucky that we are prepared to yield back whatever time we have on this amendment. I ask unanimous consent, if I don't have time, I may yield 1 minute to the distinguished Senator from Arizona.

The PRESIDING OFFICER. The Senator has time. The Senator from Arizona.

Mr. MCCAIN. I want to say again to my friend from New Mexico, we can work this out. We can do that. By the way, it is my understanding if we table your amendment, you can bring up another amendment anyway, whether it is tabled or not. If we don't table the present amendment, then that will signal that the Senate agrees with that amendment. Obviously, I do not, nor do I believe does the majority. I emphasize again to the Senator from New Mexico, I think we have made great progress in these negotiations. We are in agreement in principle. All we need to do is work out the details of it.

Frankly, I haven't been here nearly as long as the Senator from New Mexico, but I haven't heard of a parliamentary procedure where you would not table somebody's amendment that you oppose when there is going to be a follow-up amendment because we have unlimited amendments on this bill, very soon that we hope we will have worked out together.

Again, I am optimistic that we will work out the differences we have and it will give us all a better understanding of the amendment so we can make the best and most efficient use of our time.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I say to my good friend from Arizona, it is not a question of whether there is a procedure like this or not. We have established the procedure by the unanimous consent agreement we had entered into. We entered into a unanimous consent agreement that said that this amendment can't be modified unless we vote on a motion to table it and it is not tabled. We established that rule. I am asking that since that was the rule, we go ahead and not table it and let me offer an amendment with my good friend from Ohio and that will be thoroughly debated and modified.

Mr. DEWINE. Will my colleague yield?

Mr. DOMENICI. I am pleased to yield.

Mr. DEWINE. I thank my colleague from New Mexico. Let me urge the Members of the Senate not to vote in favor of tabling the Domenici amendment. The Senator has outlined very clearly what modification he and I wanted to make. It is a modification that is very logical. It turns this into an amendment that improves the amendment. It deals with the proportionality question.

If Members do look at it—and they have just had the opportunity a moment ago to hear the Senator outline exactly what it is—they will find it is very rational; it is very reasonable. It is going to be held to be constitutional, and it is going to begin to deal with this tremendous problem the Senator and I have been outlining, with others. I urge my colleagues not to vote in favor of tabling. Give us the opportunity to come right back and make the changes and get this amendment passed.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, just as a suggestion to my colleagues, under this unanimous consent agreement, the only way the amendment could be set aside would be, I suppose, a motion asking unanimous consent to set aside or withdraw the amendment. That is something on which the authors of the amendment must make a decision. It seems to me we are fairly close to something that might be agreeable. I don't think it serves the interests of the Senate to have a vote on something where it goes down and then comes back again.

It seems to me, if the authors of the amendment and the authors of the principal legislation feel as though they are fairly close to something they might agree on, it would make some sense, rather than putting the Senate through a vote, to ask unanimous consent that the amendment be withdrawn. We can go on to another matter and then come back to something we may agree on. We may not ultimately.

I don't see the value in having the Senate march down here and cast 100 votes on something that is going to be changed or modified at some later point anyway. I urge the authors to consider that for the minute that we have before the vote must occur. It seems to me that is a more prudent way to proceed.

I yield 2 minutes, if I have them, to the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. I thank the Senator from Connecticut. I completely agree with his remarks, as well as the Senator from Arizona. I am pleased that the Senator from New Mexico has recognized that his original amendment just goes too far and there needs to be some modifications. We should try to get together and work this out.

There are a couple of items already in some of the modifications he is talking about that concern me. A tenfold increase seems to be an awfully high number. Perhaps there is another level that could work.

On the question of what the threshold would be, $500,000, many people have said, is too low a trigger for these increases. In New York or California, there is a difference. I agree with the Senator from Connecticut that the way to do this is to table this amendment and then see what kind of agreement or modification or new amendment can be agreed upon by the Senator from New Mexico and the Senator from Ohio, who genuinely care about these issues.

I share the concerns, but we need to do this in a manner that doesn't suddenly put together an act of modification that we don't completely understand. I ask that Members table this amendment.

Mr. MCCONNELL. Mr. President, let me explain to everyone that if this amendment is tabled, the next one comes from the Democratic side of the aisle. The first opportunity to do something about one of the most pervasive problems in American politics today, the purchasing of public office by people of great wealth, will have been lost.

Yes, it is true we may get back to this later, but there are a lot of amendments seeking to be offered on this side of the aisle. I don't know about the other side. I hope Senator Domenici's amendment will not be tabled, giving him an opportunity. Normally the courtesy of the Senate would give an offeror of an amendment an opportunity to modify his own amendment. Here that is being denied.

In the beginning, we got off to a good start, and now people won't even let the offeror of an amendment modify his own amendment. Senator DOMENICI is trying to keep his amendment alive so he can offer a second degree which, under the agreement, would be appropriate if the motion to table is not successful, which is something normally he would have an opportunity to do in the Senate, almost as a matter of right. So what the Senator is asking for is not inappropriate. It is the only way he can modify his amendment under the circumstances.

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

The PRESIDING OFFICER. The clerk will call——

Mr. DODD. If the Senator will withhold on the quorum call, I would like to be heard.

I hear my colleague from Kentucky. The reason we object to a modification at this point is because of what the Senator from Arizona had to say. This is a complicated amendment, with four different triggers involved. It seems to me the size of States is relevant, where $500,000 in Idaho or Connecticut would provoke one response, whereas in California it is something entirely different.

The modification is being objected to for the reason that it is a complicated amendment and it is only fair that the

authors of the bill spend a little time to look at the implications.

My suggestion of asking unanimous consent to withdraw the amendment at this point—I don't know about the authors of the underlying bill, but I am prepared to concede the next amendment to the Republican side and let them go first again. This is an important enough issue that we ought to try to reach out to one another, and rather than having 100 votes cast on this amendment as some bellwether of where we stand, and if there is an opportunity to reach a compromise, let's do that, and I would concede that the next amendment be offered by the Republican side to avoid any conflict.

Mr. MCCONNELL. Mr. President, if the motion to table is not agreed to, the next amendment will be the modified Domenici amendment because he will be recognized at that point for an opportunity to offer the modification that, normally, Senate comity would allow. So that will be the next amendment if the motion to table is not agreed to.

Senator DOMENICI and Senator DEWINE will offer the modification they have been trying to get consent to offer and that will be the next amendment presumably voted on in the morning, depending upon what the instructions of the majority leader are.

How much time remains?

The PRESIDING OFFICER. A half minute to the sponsor and 4 minutes to the opposition.

Mr. DOMENICI. Mr. President, I ask for 30 seconds.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I ask that Senators not vote to table this amendment. Give me an opportunity tomorrow to work with people to modify it. It will be an opportunity for me, as the principal sponsor, to get a modification that I can offer. It will be recognized as the next order of business. I ask that in fairness. I yield back my time.

Mr. DODD. Mr. President, I am about to make a motion to table. I urge my colleagues to support it. This amendment, if adopted, would gut the McCain-Feingold campaign finance bill, in my opinion.

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 the amendment of the Senator from New Mexico.

The clerk will call the roll.

The bill clerk called the roll.

Mr. REID. I announce that the Senator from North Dakota (Mr. DORGAN), is necessarily absent.

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

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

The result was announced—yeas 51, nays 48, as follows:

[Rollcall Vote No. 37 Leg.]

YEAS—51

Akaka	Dodd	Lincoln
Baucus	Durbin	McCain
Bayh	Edwards	Mikulski
Biden	Feingold	Miller
Boxer	Fitzgerald	Murray
Breaux	Graham	Nelson (FL)
Byrd	Hagel	Nelson (NE)
Cantwell	Inouye	Reed
Carnahan	Jeffords	Reid
Carper	Johnson	Rockefeller
Cleland	Kennedy	Sarbanes
Clinton	Kerry	Schumer
Cochran	Kohl	Snowe
Collins	Landrieu	Stabenow
Conrad	Leahy	Torricelli
Corzine	Levin	Wellstone
Daschle	Lieberman	Wyden

NAYS—48

Allard	Enzi	McConnell
Allen	Feinstein	Murkowski
Bennett	Frist	Nickles
Bingaman	Gramm	Roberts
Bond	Grassley	Santorum
Brownback	Gregg	Sessions
Bunning	Harkin	Shelby
Burns	Hatch	Smith (NH)
Campbell	Helms	Smith (OR)
Chafee	Hollings	Specter
Craig	Hutchinson	Stevens
Crapo	Hutchison	Thomas
Dayton	Inhofe	Thompson
DeWine	Kyl	Thurmond
Domenici	Lott	Voinovich
Ensign	Lugar	Warner

NOT VOTING—1

Dorgan

The motion was agreed to.

Mr. LEVIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I say to my friend from New Mexico, we are ready now to sit down and negotiate so we can have an agreement on his amendment in the morning.

I believe the Senator from Connecticut has said he could have the next amendment. The only reason we objected to it is because we did not have sufficient time to review the modifications and continue negotiations.

I say to my friend from New Mexico, we are ready to sit down right now and negotiate. I think we are very close to an agreement so we can get this done immediately and move on to other issues.

Mr. President, I also would like to thank the Senator from New Jersey and the Senator from Wisconsin.

Again, before I yield the floor, I believe we are very close to an agreement. We were before the modification. I also believe that with these negotiations, within an hour we can come up with an agreement that will get a very substantial and majority vote.

I thank my colleagues, and I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I thank the Senator from Arizona. However, I would just like to reiterate for the Senators present, my amendment was caught in a parliamentary bind where there was no way for me to amend it, other than to not let this table occur. That is rather unfair treatment. Had I figured that out in the unanimous consent agreement, I would have never agreed to it because most Senators can modify their amendments.

I thank those who agreed to grant me that privilege. For those who want to work with us to try to get an amendment, we will do that. I can't do that tonight. We have other things to do around here also. But I thank the distinguished Senator from Arizona for his welcoming a compromise. There will be one, I assure you.

The PRESIDING OFFICER. The Senator from Ohio, Mr. DEWINE.

Mr. DEWINE. Mr. President, let me just follow up on what my colleague and friend from New Mexico has said. I think it was a shame that we were not given the opportunity to modify his amendment. The Senate has spoken. I think it is too bad. I think it is very unfortunate.

Having said that, I do believe we are fairly close in negotiations. The Senator from New Mexico and I had reached an agreement that would deal with this problem. It would have been, I think, very positive. I am confident, from talking to some of my friends on the other side of the aisle, as well as friends on this side, that we still can, within a relatively short period of time, reach agreement and come back to the Senate with an amendment to which we can in fact agree, and we intend to do that.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. The practical effect means the next amendment is to be offered by the Democratic side because Senator DOMENICI was, first, denied the opportunity to modify his amendment; second, the opportunity to modify it after a motion to table failed was denied him by switching a number of Members.

The practical effect of all this, I say to everyone in the Senate, is that the next amendment is on the Democratic side under our agreement. I am curious as to what it might be.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. In light of the events that just unfolded here, we don't have a specific amendment ready to offer at this particular point. As I understand it, there will be no more votes this evening. We encourage Members who have not made opening statements on this bill, who are here on the floor, to do so tonight, and then with some consultation between the two of us and others interested, we will try to come up with an amendment this evening to go tomorrow. I don't know what the timeframe will be tomorrow. The leader is here. I don't know what the agenda will be, what time we will start, but

we will certainly give you ample notice ahead of time what the amendment will be.

Mr. MCCONNELL. I thought the idea behind this agreement we painstakingly entered into over a number of weeks of negotiations with the Senator from Arizona was that there would be an opportunity for lots of amendments. Now here we are on a Monday night, getting ready—the majority leader wants us to have a vote in the morning— I am hearing that the other side doesn't want to lay down an amendment.

Mr. DODD. Mr. President, if my colleague will yield, we went through this discussion on the Domenici proposal. It may very well may be that we will offer something that would accommodate what the Senator from New Mexico is proposing. If that could be worked out, that may be the next amendment. I think we might be able to do that. If we are unable to do that, obviously we will have another amendment to offer right away. I know the leader indicated that on tomorrow he would like to have a vote by 12:30. If we come in at 9:30, we will have an amendment to offer, and we will be right on the schedule that the leader laid out some days ago.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Mr. President, just to respond to the last comment of Senator DODD, that is the point. We want to make sure, if you are going to take advantage of the opportunity to offer an amendment tonight, fine, or we will have one the first thing in the morning. But we had an agreement that we would do these by regular order of 3 hours. So hopefully you will either have one in the morning or we will be prepared to go with one on this side.

Mr. MCCONNELL. Mr. President, since there seems to be so much interest in accommodating Senator DOMENICI, might it not be possible for everyone to agree that Senator DOMENICI's modified amendment would be the first one up in the morning?

Mr. DODD. I object to that.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I say to the majority leader and to my friend from Kentucky that the Senator from Connecticut has been busy.

I think the amendment—and we will be happy to discuss it in more detail with the Senator from Kentucky—will be offered by Senators CORZINE, KOHL, and TORRICELLI. It will probably deal with the same subject matter that was discussed all day today.

Mr. DODD. Mr. President, I think we have done some good work today. We had some good opening statements and considered an amendment. Obviously, the people involved could do a little work this evening.

We will be prepared. At 9:30 tomorrow, we will have an amendment, and we will be ready to vote on it by 12:30, before the respective conferences meet.

Mr. LOTT. Mr. President, I had prepared to offer a unanimous consent that when we come in, at 9:45 in the morning the pending business would be the modified Domenici amendment.

If they are going to work on this tonight, we will be glad to work with you on that. But we have to keep this process going forward.

Just one thing on the substance. I think it is going to be a sad commentary if we don't address this issue of candidates being able to put unlimited amounts of money in their races without the opponents having some way to at least be competitive.

I hope the Senate will find a way to come together on this issue. I know it has the support of both sides of the aisle. It is going to be a bad start of getting to a proper conclusion to this legislation if we don't address this issue. I would encourage both sides to work on this overnight.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I voted to table Senator DOMENICI's amendment not because I was not sympathetic with the same. And I give him great credit for bringing up a real problem in our campaign finance system of very wealthy candidates being able to self-finance their races. That discourages a lot of otherwise very qualified people from even running for office in the first place.

I commend the Senator from New Mexico for bringing up an important issue. I did not support his amendment because I disagreed with some of the provisions in it. I believe, however, that the amendment he is likely to propose with Senator DEWINE is a far superior amendment.

I think it was very unfortunate that the Senator from New Mexico was not allowed unanimous consent to modify his amendment. That is very unusual. Members usually are allowed to modify their own amendments. I think it is very unfortunate that did not occur in this case. It does not bode well for the debate on this issue for us to start off like that.

I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I can certainly understand the frustration of some of our colleagues as we have attempted to work through the first day of what is an unusual unanimous consent agreement. We are used to a little more flexibility on amendments. I think when we entered into this unanimous consent agreement, our entire purpose was to ensure that we could move amendments along. That was the whole idea—that we would make sure that in the process of moving amendments along, we would accommodate Senators.

I hope that unanimous consent agreements, to demonstrate a little more practicality, could be agreed to in the future because I think we will actually accommodate rather than impede our ability to take up and address this bill in a meaningful way.

In that regard, I ask unanimous consent that I or my designee be recognized tomorrow morning as debate on the legislation is again convened in order to offer an amendment.

Mr. MCCONNELL. Reserving the right to object.

Mr. LOTT. Mr. President, if the Senator will yield under his reservation, first of all, I appreciate what Senator DASCHLE had to say about allowing Senators to modify their own amendments. We need to continue to honor that practice.

Second, I don't see any problem with his request. If he does not act on his right, then we will be able to reclaim and move forward on our side. I don't see a problem with that under the circumstances.

Mr. DASCHLE. Mr. President, for the information of my colleagues, in consultation with our ranking member, I suggest that our amendment will deal with the millionaires amendment.

The Durbin approach I think is one with which many of us could be comfortable. I understand they are talking now about ways in which to address some of the differences between Senator DURBIN and Senator DOMENICI. But that will be the subject of an amendment we will offer at 9:30 in the morning.

I yield the floor.

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

MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business with Senators permitted to speak for up to 10 minutes each.

BANKRUPTCY REFORM

Mr. GRASSLEY. Mr. President, I have a few clarifying comments regarding the bankruptcy reform bill which the Senate passed last week, During the debate on the small business provisions in S. 420, Senator KERRY erroneously characterized how the National Bankruptcy Review Commission voted on the small business changes that were contained in the bill. Senator KERRY maintained that the provisions were controversial and passed by a narrow 5–4 vote. This was not true. In fact, the National Bankruptcy Review Commission voted for these provisions by a vote of 8–1.

I also want to clarify another point in the bankruptcy legislation. Senator SCHUMER offered an amendment in committee and then on the floor that changed a provision in the bill that prohibited corporate entities in Chapter 11 from discharging fraud debts in bankruptcy. I opposed this amendment since I think that corporations should not be able to commit fraud and get away with it by filing for bankruptcy.

Nevertheless, to accommodate Senator SCHUMER, I reached this compromise which prohibits corporations from discharging fraud debts owed to Government entities or to plaintiffs under the False Claims Act. I want to make clear for the RECORD that I oppose letting corporations defraud private businesses and individuals, and then discharging those debts in bankruptcy. Hopefully, I will revisit this issue in the near future to make sure that corporate scam artists can't use bankruptcy as a safe haven.

I also want to take this opportunity to thank a number of staff members that were especially helpful in getting this important bill passed: Rene Augustine, Makan Delrahim, and Sharon Prost of Senator HATCH's staff; Ed Haden and Brad Harris of Senator SESSION's staff; Ed Pagano and Bruce Cohen of Senator LEAHY's staff; Jim Greene and Kristin Cabral of Senator BIDEN's staff; Jennifer Leach of Senator TORRICELLI's staff; and Rita Lari Jochum and Kolan Davis of my staff. I also want to acknowledge my former staffer John McMickle who worked on this bill for several years. In addition, I want to thank Laura Ayoud in the Office of Senate Legislative Counsel. This bill would not have passed if it were not for the hard work and tremendous efforts of all these staff members.

Mr. President, I ask unanimous consent to print in the RECORD three letters from former Bankruptcy Review Commissioners.

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

STEPHEN H. CASE,
New York, NY, March 7, 2001.

To: SENATOR GRASSLEY

Re: National Bankruptcy Commission—Small Business

1. I understand Senator Kerry today said on the Senate floor Bankruptcy Review Commission approved its small business provisions by a 5–4 vote.

2. I was the NBRC's Senior Advisor on that project.

3. I was present when the full Commission voted. I remember it very distinctly, because I had just broken by jaw and I had to participate with my mouth wired.

4. The vote was 8 to 1.

I hope the record can be corrected on this point.

S.H. CASE.

ADAMS AND REESE,
Mobile, AL, March 8, 2001.

Senator CHARLES GRASSLEY,
U.S. Senate, Washington, DC.

Re: Amendment by Senator Kerry of Massachusetts to Strike the Small Business Provisions in the Bankruptcy Reform Legislation

DEAR SENATOR GRASSLEY: Senator Kerry of Massachusetts has offered an amendment to strike entirely the provisions relating to small businesses in the bankruptcy legislation currently pending on the Senate floor.

When offering this amendment, Senator Kerry misstated the position of the National Bankruptcy Review Commission, of which I was a member.

The small business provisions, which are very similar to the provisions in the current legislation, were strongly endorsed by the National Bankruptcy Review Commission. In fact, the vote in support of these provisions was 8 to 1 by the Commission. The adoption of these small business provisions are vitally important to the future wellbeing of the bankruptcy system.

I urge you to table the Kerry amendment.

Sincerely,

JEFFERY J. HARTLEY.

MARCH 8, 2001.

SENATOR CHARLES GRASSLEY.

Re: BRA 2001—Small Business Provisions

Pleased be advised that the National Bankruptcy Review Commission, of which I was a member, voted 8 to 1 in favor of the Commission's recommendation to enact the Small Business Provisions. There was very little dissent among the Commissioners; the vote was not 5 to 4, as has been reported. There was solid support for the recommendation and for the proposals.

Thank you,

JAMES I. SHEPARD,
Bankruptcy Tax Consultant.

45TH ANNIVERSARY OF TUNISIA'S INDEPENDENCE

Mr. LIEBERMAN. Mr. President, I rise today to congratulate the people of Tunisia on the 45th anniversary of their nation's independence. Throughout our long friendship, the United States and Tunisia have shared a mutual commitment to freedom, democracy, and the peaceful resolution of conflict. Indeed, Tunisia was one of the first countries to sign a Treaty of Peace and Friendship with the new United States of America in 1797, and in turn, the U.S. was among the first to recognize Tunisia's independence from France in 1956. Our nations have worked together on many issues of importance over the years, including the ongoing efforts for a lasting peace in the Middle East.

Tunisia and its citizens have many successful endeavors to celebrate, particularly impressive strides in economic development and reform. Tunisia's high standards of living and education, and advancement of opportunities for girls and women, stand as testament to its achievements. I hope that the growth of political freedoms for all Tunisia's people will soon equal its economic success.

As we observe this important milestone in Tunisia's history, we look forward to continued cooperation and friendship between our Nations and our people for many years to come.

Mr. INOUYE. Mr. President, I extend my warmest congratulations to the people of Tunisia as they commemorate their country's 45th anniversary of independence. Tunisians have much to celebrate and be proud of, and their firm resolve to fulfill their responsibilities as a republic and to govern themselves with integrity is most admirable. Tunisia has managed, in a relatively short period of time, to make significant gains on the political, economic, and social fronts.

I salute President Zine El Abidine Ben Ali for his leadership in initiating and supporting several reforms that paved the way for open government. I commend leaders from the public and private sectors for balancing the demands of economic development and social concerns. Finally, I wish to praise all the people of Tunisia for their peaceful participation in Tunisia's remarkable journey from colony to republic.

It is my hope that as Tunisians commemorate their country's 45 years of independence, they will also celebrate their ancient past and their unique cultural identity, which is an amalgam of Arab, Berber, African, and European influences. The country's long and rich history has made Tunisians a resilient and resourceful people, and I am confident that the future of the country will be bright and promising. I look forward to many more years of friendship and cooperation between Tunisia and the United States.

EXTENDING THE INTERNET TAX MORATORIUM

Mr. BURNS. Mr. President, I commend the chairman of the Committee on Commerce, Science, and Transportation for holding today's hearing, as it concerns a topic of great importance to the future development of the Internet—how to make sure that our Nation's tax policy keeps pace with rapid technological change.

The Internet Tax Freedom Act recognized that uniformity and common sense must be brought to taxation policy on the Internet. The act placed a 3-year year moratorium on State and local taxes that discriminate against online transactions. I strongly supported the bill and welcomed its passage by the Senate.

This hearing is particularly timely, as the moratorium on discriminatory taxes on electronic commerce expires on October 21. If the moratorium is not extended, our small businesses across the country face the burden of having to comply with the requirements of over 7,000 taxing jurisdictions.

I am more convinced than ever of the folly of imposing a devastating patchwork of taxes on Internet transactions. I agree with the recommendation of the Advisory Commission on Electronic Commerce that we should extend the moratorium. I would like to add my name as a cosponsor to the Wyden bill, the Internet Tax Nondiscrimination Act, which will keep the Internet a ''tax-free'' zone until December 31, 2006 and will help foster the growth of electronic commerce.

Both consumers and businesses will benefit from a reasoned Internet tax policy. Growth will create more revenue and an expanding tax base for the future. The empowering aspects of the Internet for small business—low barriers to entry and an immediate global reach—must not be inhibited by a heavy-handed government approach to Internet taxation. Extending the moratorium on discriminatory taxes on

Internet transactions will help to ensure that the nearly limitless potential of electronic commerce is realized.

I would like to touch on another issue arising from this debate, the broader question of whether Congress should allow the States to require all remote sellers—be they over the new medium of the Internet, or the more traditional mediums of mail order or telephone to collect sales tax on deliveries into states where the seller has no physical presence or ''tax nexus.''

I believe the current rules on whether an out-of-state company should collect sales tax are, in fact, fair and reasonable. Simply stated, a company is required to collect tax on deliveries into a State if it has a presence in that State. This rule has served interstate commerce well, and importantly, has not burdened small, entrepreneurial companies with having to hire lawyers and accounts to comply with 7,600 different taxing jurisdictions, and worse still, liability to audit from States and localities throughout the country.

I'm not prepared at this point to support any new tax collecting requirements on remote commerce. However, if this committee were to act on this broader issue, the Wyden bill's approach, which requires full congressional scrutiny and a mandatory up-or-down vote by Congress before there is any new tax collecting, seems to me to be the correct course.

RETIRED PAY RESTORATION ACT OF 2001

Mr. BIDEN. Mr. President, I am pleased to be a cosponsor of the Retired Pay Restoration Act of 2001, which corrects a long-standing inequity that has resulted in a major slap in the face of our dedicated service men and women.

Current law bans so-called concurrent receipt of VA disability compensation and military retired pay, so that the amount of any VA disability payment to a military retiree is subtracted from the monthly retirement check. In operation, this rule seems to turn logic and common sense on its head, and its repeal is long overdue.

Let's be clear what we're talking about. This provision only applies to military retirees, those who have served their country in uniform for at least 20 years. Such retirees receive a taxable monthly pension based on their length of service and their final pay, which is determined primarily by their rank and length of service. In this regard, the military retirement pay system resembles the civil service retirement system with which we are all familiar.

VA disability compensation is completely different. VA disability compensation consists of tax-free monthly payments to veterans who served in uniform for any length of time and who, during their time in the military, incurred a service-connected disability. These monthly payments are based only on the severity of the disability and nothing else: not on the length of service, the person's rank, the active duty pay, and so on.

So at first blush, it seems that there is no logical reason why VA disability compensation should be offset against military retired pay: they are disbursed for completely different reasons and are calculated by totally different methods.

But the incongruities of the present rules are nothing short of mind-boggling. Let us hypothesize that twins Jack and Jill sign up for the military at age 18. After 1 year in the military, Jack and Jill both incur identical knee injuries after stepping into a hole while running the obstacle course. The military disability system evaluates both Jack and Jill, confirms a mild disability in both due to intermittent swelling and locking of the knee, but determines that this disability is not severe enough to render them unfit for continued military service.

At this point, Jack and Jill decide to pursue separate paths. Jack decides to leave the military when his enlistment is up, at age 22, and joins the Federal civil service in the Defense Department as a procurement specialist. Immediately after leaving the service, Jack applies to the VA for disability compensation, which is granted, and Jack then receives monthly payments from the VA for the rest of his life. At age 55, Jack retires from the Federal civil service and begins receiving his full monthly civil service retirement check in addition to the VA disability compensation that he has been receiving all along.

Jill, on the other hand, decides to stay in the military after her injury, working as a procurement specialist. Of course, while she remains in the military, she receives no VA disability compensation, even though her twin Jack is receiving VA disability payments for the same injury all along. At age 55, Jill retires from the military, and starts to receive monthly military retirement checks. Jill applies to the VA for disability compensation based on her knee injury, and it is granted. However, when she begins to receive her VA disability checks, the amount of those checks is subtracted from her monthly military retirement pay.

How can we rationalize this disparate treatment of Jack and Jill? We can't. It makes no sense that those in uniform who suffer a service-connected disability end up being penalized for deciding to remain in the military, while those who leave the military are amply rewarded.The longer you serve in the military, the more you are penalized. Does this make sense? I don't think so.

Or let's consider another option. Twins John and Jane both enter the military at the same time, serve in the same position, and retire at the same age. Both receive the same monthly retired pay. John has incurred a service-connected injury, and after retirement, he is granted a disability compensation from the VA. Jane was never injured in the military. However, they both end up getting the same amount of pay, since John's VA disability payment is subtracted from his military retired pay. Does it make sense that we have an elaborate system for disability compensation that ends up treating the injured John and the uninjured Jane the same? I don't think so.

The logical inconsistencies of the present rules are overwhelming. It is time to repeal the provision in current law that prohibits military retirees from receiving concurrent receipt of full military retirement pay along with VA disability compensation. Those who put their lives at risk by putting on the uniform of this country, and who are then disabled as a result of their military service, must be treated fairly and awarded all the benefits they have earned and which they deserve. To do any less makes a mockery of the sacrifices of all our service men and women.

ADDITIONAL STATEMENTS

RECOGNITION OF MAJOR GENERAL J. CRAIG LARSON

• Mr. HATCH. Mr. President, I want to take this opportunity to recognize an outstanding American and soldier. Major General J. Craig Larson has devoted nearly thirty-three years to the U.S. Army and Army Reserve. It is only fitting that we pay tribute to a magnificent soldier and citizen who has done so much for his country and the great state of Utah.

Major General Larson is the Commander of the U.S. Army 96th Regional Support Command in Salt Lake City, UT. As such, he commands more than 6,000 Army Reservists in the six-state area of Colorado, Montana, North and South Dakota, Utah, and Wyoming.

He was drafted by the Army in 1966, and obtained the rank of Sergeant. He then attended and completed Officer Candidate School at the Ordnance Center and School in Aberdeen Proving Ground, MD. He was commissioned a Second Lieutenant in January 1968. He served nearly seven years on active duty with assignments as Assistant to the Depot Commander, Anniston Army Depot, Alabama; Commander, Company C, 702nd Maintenance Battalion, 2nd Infantry Division on the DMZ in Korea; and Assistant Director of Industrial Operations, Indiantown Gap, PA.

During his twenty-six years in the Army Reserve, he served as: Commander of the 259th Quartermaster Battalion (Petroleum Terminal and Pipeline) in Pleasant Grove, UT; Executive Officer and then Commander of the 162nd Support Group at Fort Douglas, UT, and Deputy Chief of Staff for Logistics, Headquarters, 96th U.S. Army Reserve Command, also at Fort Douglas, UT.

Just prior to his current assignment, Major General Larson was the Assistant Deputy Chief of VA Staff for Logistics and Operations, U.S. Army Materiel Command in Alexandria, VA. As such he was activated in November 1996 to be Commander. Logistics Support element—Africa, HQ, Army Materiel Command, in support of Operation guardian Assistance, a humanitarian relief effort for refugees from Rwanda, Zaire, and Uganda.

Major General Larson is a native of Salt Lake City, UT and a graduate of Highland High School. He received his Bachelors Degree in Business Management from Weber State College and a Masters of Business Administration from the University of Utah. In his civilian life, Major General Larson is owner and President of Wind River Petroleum. He also serves as Chief Executive Officer of Christensen and Larson Investment Company, President of Wind River Trucking, and is currently serving on the Salt Lake International Airport board of directors. He is married to the former Toni Eskelson of Salt Lake City—also a Highland High School graduate. They have five daughters, two sons, and eight grandchildren.

General Larson is leaving command and the uniform on Saturday, the 24th of March 2001. His uniformed service to the Nation will be greatly missed. However, he will continue to serve his community and family as a business and civic leader and as a father and grandfather. As a nation we should take this opportunity to recognize and honor Major General J. Craig Larson, a true American.●

HONORING MARY HICKEY

● Mr. JOHNSON. Mr. President, I rise today to publicly commend the work of Ms. Mary Hickey of Aberdeen, SD, for her over twenty years of outstanding service on behalf of the taxpayers of South Dakota. As an employee of the Internal Revenue Service, Mary has been the absolute model of a public servant and an invaluable asset to my office during the last several years. It is with regret that I announce that she will be leaving South Dakota and moving to Nebraska, where I'm sure she will continue her exemplary service.

Mary began her career with the IRS in 1980 as a Contact Service Representative in Rapid City, SD. She became a Tax Auditor in 1986, and in 1996 she was promoted to Problem Resolution Officer in Aberdeen. During her many years of service to the citizens of South Dakota, she has provided outstanding assistance, helping to make sense of what can often be a complicated federal bureaucracy. On more than one occasion, I've heard my staff raving about the amount of time, commitment, and cooperation Mary put forth to serve and represent the taxpayers of South Dakota.

Mary's accomplishments are numerous. During the last few years, Mary developed new and innovative techniques to aid in the restructuring of the Taxpayer Advocate Service, a project of the IRS' Problem Resolution Office. For all of her outstanding work, Mary has received numerous, well-deserved IRS awards and accolades. Mary also excels in her community, and is active with the United Way of Northeastern South Dakota, having served as the Board Secretary for the past four years. As Board Secretary, Mary participates in oversight of the organization and has helped to raise over $600,000 annually to support 19 local charities.

It is an honor for me to share Mary's accomplishments with my colleagues and to publicly commend her for serving South Dakota so excellently. Alas, South Dakota's loss is Nebraska's gain and I'm sure she will provide that state with the same outstanding performance she has demonstrated here.●

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 withdrawals and nominations which were referred to the appropriate committees.

(The nominations and withdrawals received today are printed at the end of the Senate proceedings.)

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. HATCH:

S. 560. A bill for the relief of Rita Mirembe Revell (a.k.a. Margaret Rita Mirembe); to the Committee on the Judiciary.

By Ms. COLLINS:

S. 561. A bill to provide that the same health insurance premium conversion arrangements afforded to Federal employees be made available to Federal annuitants and members and retired members of the uniformed services; to the Committee on Governmental Affairs.

By Mr. REID (for himself, Mr. DASCHLE, Mr. KENNEDY, Mr. DODD, Mr. GRAHAM, Mr. SCHUMER, Mr. REED, Mr. KERRY, Mrs. CLINTON, Mr. CORZINE, Mr. DURBIN, and Mrs. BOXER):

S. 562. A bill to amend the Immigration and Nationality Act with respect to the record of admission for permanent residence in the case of certain aliens; to the Committee on the Judiciary.

By Mr. SANTORUM (for himself and Mr. GREGG):

S. 563. A bill to amend the Social Security Act to require Social Security Administration publications to highlight critical information relating to the future financing shortfalls of the social security program, to require the Commissioner of Social Security to provide Congress with an annual report on the social security program, and for other purposes; to the Committee on Finance.

By Mr. ROCKEFELLER:

S. 564. A bill to amend section 1713 of title 38, United States Code, to provide continuing eligibility for medical care under that section for individuals who become eligible for hospital insurance benefits under part A of title XVIII of the Social Security Act by turning 65; to the Committee on Veterans' Affairs.

By Mr. DODD (for himself, Mr. DASCHLE, Mr. INOUYE, Mr. DAYTON, Mr. KERRY, and Mr. KENNEDY):

S. 565. A bill to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes; to the Committee on Rules and Administration.

By Mr. HOLLINGS:

S. 566. A bill to amend the Internal Revenue Code of 1986 to provide a 10 percent individual income tax rate for taxable years beginning in 2001 and a payroll tax credit for those taxpayers who have no income tax liability in 2001; to the Committee on Finance.

By Mr. SESSIONS:

S. 567. A bill to amend the Internal Revenue Code of 1986 to provide capital gain treatment under section 631(b) of such Code for outright sales of timber by landowners; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BINGAMAN:

S. Con. Res. 26. A concurrent resolution authorizing the Rotunda of the Capitol to be used on July 18, 2001, for a ceremony to present Congressional Gold Medals to the original 29 Navajo Code Talkers; to the Committee on Rules and Administration.

ADDITIONAL COSPONSORS

S. 22

At the request of Mr. HAGEL, the names of the Senator from Colorado (Mr. ALLARD) and the Senator from Ohio (Mr. VOINOVICH) were added as cosponsors of S. 22, a bill to amend the Federal Election Campaign Act of 1971 to provide meaningful campaign finance reform through requiring better reporting, decreasing the role of soft money, and increasing individual contribution limits, and for other purposes.

S. 152

At the request of Mr. GRASSLEY, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 152, a bill to amend the Internal Revenue Code of 1986 to eliminate the 60-month limit and increase the income limitation on the student loan interest deduction.

S. 155

At the request of Mr. BINGAMAN, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 155, a bill to amend title 5, United States Code, to eliminate an inequity in the applicability of early retirement eligibility requirements to military reserve technicians.

S. 170

At the request of Mr. REID, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 170, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 170, supra.

S. 250

At the request of Mr. BIDEN, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 250, a bill to amend the Internal Revenue Code of 1986 to allow a credit to holders of qualified bonds issued by Amtrak, and for other purposes.

S. 255

At the request of Ms. SNOWE, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 255, a bill to require that health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations.

S. 258

At the request of Ms. SNOWE, the names of the Senator from Georgia (Mr. MILLER) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 258, a bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of annual screening pap smear and screening pelvic exams.

S. 278

At the request of Mr. JOHNSON, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 278, a bill to restore health care coverage to retired members of the uniformed services.

S. 283

At the request of Mr. MCCAIN, the names of the Senator from North Dakota (Mr. DORGAN), the Senator from Nevada (Mr. REID), the Senator from Delaware (Mr. CARPER), the Senator from West Virginia (Mr. ROCKEFELLER), and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. 283, a bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage.

S. 284

At the request of Mr. MCCAIN, the names of the Senator from Nevada (Mr. REID) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. 284, a bill to amend the Internal Revenue Code of 1986 to provide incentives to expand health care coverage for individuals.

S. 289

At the request of Mr. SESSIONS, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 289, a bill to amend the Internal Revenue Code of 1986 to provide additional tax incentives for education.

S. 319

At the request of Mr. MCCAIN, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 319, a bill to amend title 49, United States Code, to ensure that air carriers meet their obligations under the Airline Customer Service Agreement, and provide improved passenger service in order to meet public convenience and necessity.

S. 359

At the request of Mr. SHELBY, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 359, a bill to amend title 10, United States Code, to provide eligibility for members enlisting in a regular component of the Armed Forces to enroll for advanced training in the Senior Reserve Officers' Training Program; to increase the maximum age authorized for participation in the Senior Reserve Officers' Training Corps financial assistance program; and for other purposes.

S. 366

At the request of Mrs. MURRAY, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 366, a bill to amend the Agricultural Trade Act of 1978 to increase the amount of funds available for certain agricultural trade programs.

S. 403

At the request of Mr. COCHRAN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 403, a bill to improve the National Writing Project.

S. 413

At the request of Mr. COCHRAN, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from Minnesota (Mr. WELLSTONE) were added as cosponsors of S. 413, a bill to amend part F of title X of the Elementary and Secondary Education Act of 1965 to improve and refocus civic education, and for other purposes.

S. 433

At the request of Mr. SMITH of New Hampshire, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 433, a bill to amend the Internal Revenue Code of 1986 to remove the limitation that certain survivor benefits can only be excluded with respect to individuals dying after December 31, 1996.

S. 459

At the request of Mr. BREAUX, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 459, a bill to amend the Internal Revenue Code of 1986 to reduce the tax on vaccines to 25 cents per dose.

S. 484

At the request of Ms. SNOWE, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 484, a bill to amend part B of title IV of the Social Security Act to create a grant program to promote joint activities among Federal, State, and local public child welfare and alcohol and drug abuse prevention and treatment agencies.

S. 525

At the request of Mr. GRAHAM, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 525, a bill to expand trade benefits to certain Andean countries, and for other purposes.

S. 534

At the request of Mr. CAMPBELL, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 534, a bill to establish a Federal interagency task force for the purpose of coordinating actions to prevent the outbreak of bovine spongiform encephalopathy (commonly known as ''mad cow disease'') and foot-and-mouth disease in the United States.

S. 543

At the request of Mr. WELLSTONE, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 543, a bill to provide for equal coverage of mental health benefits with respect to health insurance coverage unless comparable limitations are imposed on medical and surgical benefits.

S. CON. RES. 8

At the request of Ms. SNOWE, the names of the Senator from West Virginia (Mr. BYRD), the Senator from Minnesota (Mr. DAYTON), and the Senator from Wyoming (Mr. THOMAS) were added as cosponsors of S. Con. Res. 8, a concurrent resolution expressing the sense of Congress regarding subsidized Canadian lumber exports.

S. CON. RES. 14

At the request of Mr. CAMPBELL, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. Con. Res. 14, a concurrent resolution recognizing the social problem of child abuse and neglect, and supporting efforts to enhance public awareness of it.

S. CON. RES. 17

At the request of Mr. SARBANES, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. Con. Res. 17, a concurrent resolution expressing the sense of Congress that there should continue to be parity between the adjustments in the compensation of members of the uniformed services and the adjustments in the compensation of civilian employees of the United States.

S.J. RES. 4

At the request of Mr. HOLLINGS, the name of the Senator from Nevada (Mr.

REID) was added as a cosponsor of S. J. Res. 4, a joint resolution proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections.

S. RES. 44

At the request of Mr. COCHRAN, the names of the Senator from Rhode Island (Mr. REED), the Senator from Utah (Mr. BENNETT), the Senator from Maryland (Mr. SARBANES), the Senator from Virginia (Mr. WARNER), the Senator from Louisiana (Mr. BREAUX), and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of S. Res. 44, a resolution designating each of March 2001, and March 2002, as ''Arts Education Month.''

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH:

S. 560. A bill for the relief of Rita Mirembe Revell (a.k.a. Margaret Rita Mirembe); to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I rise today to introduce a private relief bill for Rita Mirembe Revell. Rita is a 15-year-old child from Uganda who was brought to this country in 1994. When Rita was 18 months old she was left with the Daughters of Charity Society, a Catholic organization in Kampala, Uganda. Rita was an orphan, abandoned with no known family.

Rita has resided in the United States under a student visa since 1994. As an orphan the only parents she has ever known are her American guardians, who have sponsored Rita since she was three years old. They want very much to adopt Rita, but they have been unable to get around the mess of international red tape. The Ugandan Government has very strict policies concerning adoption by foreign nationals. Now as Rita approaches her 16th birthday she is in danger of being deported. Rita has formed an intimate bond with her American parents, who hope to complete the adoption as soon as possible. Papers for adoption have already been filed, while there are bureaucratic difficulties, the adoption is not contested by any party.

Understandably, the family is concerned that Rita will be deported before her adoption is finalized. This bill simply gives Rita permanent residency so that she might remain with the only parents she has ever known while her adoption becomes final. Other immigration scenarios would require Rita to return to an unsafe country for an unknown period of time. She has no known family in Uganda. Her new life is in California where she was recently admitted to Loretto High School, an outstanding college preparatory high school.

This bill gives Rita permanent resident status, which will allow her to remain in the country while the adoption process continues. It allows Rita to stay with her American parents in the country that she now calls home. The bill also offers the comfort of certainty for her parents.

I hope that we can move quickly to grant this relief.

By Ms. COLLINS:

S. 561. A bill to provide that the same health insurance premium conversion arrangements afforded to Federal employees be made available to Federal annuitants and members and retired members of the uniformed services; to the Committee on Governmental Affairs.

Ms. COLLINS. Mr. President, today I am introducing legislation to extend to Federal retirees and both active and retired military personnel the same health insurance premium conversion benefits allowed to current civilian Federal employees. This legislation directs the Office of Personnel Management to establish a system allowing those who participate in the Federal Employees Health Benefits Program, FEHBP, to pay their health insurance premiums from pre-tax income.

The practice of allowing health care participants to use pre-tax income to pay their health insurance premiums is often used in the private sector as a way of recognizing the importance of adequate, affordable health insurance. This system is called premium conversion. Last year, the Office of Personnel Management recognized this concept by establishing a plan to allow most employees of the executive, legislative and judicial branches to participate in premium conversion.

Many Federal retirees also participate in the FEHBP program and as a matter of fairness should be extended the opportunity to participate in premium conversion. In addition, the military currently has a separate health care system, but it is exploring offering health benefits under FEHBP, and therefore military employees or retirees who do participate in FEHBP should also be allowed premium conversion.

I have heard from Federal retirees in Maine who have pointed out the unfairness of not including retired Federal employees in the premium conversion system. This legislation will address this inequity.

I urge my colleagues to review and support this important legislation.

By Mr. REID (for himself, Mr. DASCHLE, Mr. KENNEDY, Mr. DODD, Mr. GRAHAM, Mr. SCHUMER, Mr. REED, Mr. KERRY, Mrs. CLINTON, Mr. CORZINE, Mr. DURBIN, and Mrs. BOXER):

S. 562. A bill to amend the immigration and Nationality Act with respect to the record of admission for permanent residence in the case of certain aliens; to the Committee on the Judiciary.

Mr. REID, Mr. President, family reunification is the cornerstone of our immigration policy. It is truly one of the most visible areas in government policy in which we support and strengthen family values.

Family unification translates into strong families and strong families build strong communities. For that reason I am introducing the Working Families Registry Act.

This bill would allow immigrants who have been working and raising families in the country since and before 1986 to apply for permanent residence.

In my home State of Nevada I have met with people who everyday fear being deported and separated from their families. They are married to Americans, have American children and have worked and been paying taxes for many years. They help and do not harm our industry and our economy.

A change in the date of registry would help these families. This bill would solve the problem of immigrants who have been paying taxes, who have feared being deported and separated from their families.

The Working Families Registry Act would update a provision of immigration law known as ''registry.''

The registry provision originated in a 1929 law and in 1958 that law became available to foreigners who had entered the country illegally or who had overstayed. This criteria remains today and sets a required date for which continuous residence must be shown in order to qualify for permanent U.S. residency. The date of registry currently sits at 1972, and was last adjusted in 1986. My legislation would update the date of registry from 1972 to 1986. A change in the date of registry is necessary.

First, it would address the uncertainty of taxpaying immigrants who would qualify for residence under this bill. Many of these immigrants live in fear of being separated from their families, having their worker's permits stripped and their residency status revoked.

Secondly, the legislation would help strengthen the immigrant contributions to our national economy, tax base, and social fabric. The guaranteed benefits of residence (e.g., access to basic health care and education) provide for a more productive and effective workforce.

Third, we recognize today, as so many legislators did in the past that immigrants who have remained in the country for an extended period of time are highly unlikely to leave.

Fourth, if an update of the registry is not achieved, the validity of this concept will be meaningless when this issue emerges in the future.

Finally, Americans care about this issue.

A recent poll conducted by the National Immigration Forum found that 55 percent of Americans strongly favor legalizing a limited number of undocumented immigrants. That is, those immigrants who have been raising their families and paying their taxes—and who can prove they have been in the United States for more than 5 years.

I believe it is in America's interest to pass The Working Families Registry Act.

Immigrants' relationships with the United States are predicated by the recognition of America's greatness. And, keeping families together, keeps America great.

Please join my efforts to make this bill law, as we continue to seek ways to keep America's working families together.

By Mr. ROCKEFELLER:

S. 564. A bill to amend section 1713 of title 38, United States Code, to provide continuing eligibility for medical care under that section for individuals who become eligible for hospital insurance benefit under part A of title XVIII of the Social Security Act by turning 65; to the Committee on Veterans' Affairs.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 564

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

SECTION 1. CONTINUING ELIGIBILITY FOR BENEFITS UNDER CHAMPVA OF INDIVIDUALS WHO BECOME ELIGIBLE FOR HOSPITAL INSURANCE BENEFITS UNDER THE SOCIAL SECURITY ACT BY TURNING 65.

Section 1713(d) of title 38, United States Code, is amended—

(1) by inserting ''(2)'' before ''Notwithstanding''; and

(2) by inserting before paragraph (2), as designated by paragraph (1) of this section, the following new paragraph (1):

''(1) Notwithstanding section 1086(d)(1) of title 10 or any other provision of law, an individual eligible for medical care under this section who is also entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act by reason of being 65 years of age or older shall not lose eligibility for medical care under this section by virtue of entitlement to such hospital insurance benefits.''.

By Mr. DODD (for himself, Mr. DASCHLE, Mr. INOUYE, Mr. DAYTON, Mr. KERRY, and Mr. KENNEDY):

S. 565. A bill to establish the Commission Voting Rights and Procedures to study and make recommendations regarding election technology, voting, election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes; to the Committee on Rules and Administration.

Mr. DODD. Mr. President, today I am introducing legislation to address some of the glaring problems that occurred in the 2000 elections with regard to technology and election administration. The Equal Protection of Voting Rights Act of 2001, and companion legislation introduced in the House by Congressman JOHN CONYERS, will provided much needed guidance, and funds, to state and local election officials to ensure that Federal elections are conducted in a manner that encourages participation and facilitates voting by all Americans in a nondiscriminatory manner.

The right to vote is the cornerstone right in a Democracy. In the words of Thomas Paine, it is ''the primary right by which other rights are protected.'' Thirty-six years ago last week, on March 15, 1965, President Lyndon Johnson convened a Joint Session of Congress to call for passage of what ultimately became the Voting Rights Act. President Johnson spoke plainly and forcefully that evening. ''All Americans,'' he said, ''must have the right to vote. And we are going to give them that right. All Americans must have the privileges of citizenship regardless of race. And they are going to have those privileges of citizenship regardless of race.''

Yet the sad message of this last election is that the privileges of citizenship have yet to be fully guaranteed to all Americans. Nor are the barriers to exercising this fundamental right limited to race. Inaccessible polling places and visual ballots disenfranchised the disabled and blind across this country. Complicated instructions and a lack of trained personnel discouraged language minorities and the elderly from fully exercising their right to vote. And even if voters wee able to get to the polling place, read the ballot and cast it, antiquated technology and insufficient machinery denied Americans of all races, languages, and physical abilities the right to have their vote counted. In short, what happened last November set off alarms across this Nation that threaten to undermine the integrity of our system of Democracy.

The fact is, there is a fundamental flaw in our Federal elections system—and that flaw is the lack of federal direction, leadership, and resources provided to the States and localities to meet their responsibility as the administrators of Federal elections. What we learned last November is that it is not good enough to guarantee the right to vote, if procedures and technology prevent individuals from exercising that right. And it will take more than just the latest technology, or a new ''mouse-trap'' to fix the problem.

The legislation Congressman CONYERS and I are introducing—The Equal Protection of Voting Rights Act of 2001—is intended to secure the rights of all Americans to participate in our Democracy, by establishing 3 simple national requirements for Federal elections: (1) that voting systems and technology meet national standards; (2) that states provide for provisional voting; and (3) that states provide sample ballots and voting instructions to voters prior to election day. These requirements must be implemented by the 2004 federal elections, and this legislation provides funding to States and localities to fund the costs of implementing these requirements.

This legislation also creates a temporary Commission to study numerous electin reform issues such election systems and ballot designs, access for the disabled, voter intimidation, access for absent military and overseas voters, the feasibility of a national holiday, and alternative methods of voting to facilitate participation. Within 1 year of enactment, the Commission will adopt a final report, along with recommendations for best practices in the areas of convenient, accessible, nondiscriminatory election systems that accommodate voters with disabilities, the blind, and the limited-English speaking. The Commission will also make recommendations for how the Federal government, on an ongoing basis, can best provide assistance to State and local governments. Finally, the Commission will issue recommendations for best practices which will increase voter registration, the accuracy of voter rolls, and will improve voter education and the training of election personnel and volunteers.

Finally, my legislation provides grant money, administered by the Department of Justice, to states and localities to implement the 3 national requirements for the 2004 and subsequent elections. In order to encourage the States and localities to act to improve voting systems and election administration procedures prior to the 2004 elections, the bill allows States and localities to apply for grants to replace voting equipment and technology and make it accessible to those with disabilities, the blind, and those with limited-English proficiency, to implement new administrative procedures to increase participation and reduce disenfranchisement of minorities; to educate voters and train election personnel and volunteers; and to implement recommendations of the Commission. To be eligible for grant funds, a State must submit a plan providing for uniform, nondiscriminatory voting systems that ensure accessibility for all voters; provides for the accuracy of voting records; and provides for voter education and personnel training.

The Equal Protection of Voting Rights Act of 2001 is endorsed by the following organizations: The National Association for the Advancement of Colored People (NAACP); the AFL-CIO; The National Federation of the Blind; the National Council of La Raza; the American Civil Liberties Union; and the Leadership Conference on Civil Rights.

The issues highlighted in the last election are not a Democratic or a Republican problem. They are an American problem and the solutions to these problems must be, appropriately, nonpartisan to succeed.

The Committee on Rules and Administration, on which I serve as Ranking Member, has already held one day of hearings on the topic of Election Reform. What became clear from those hearings is that there is a bipartisan recognition that States and localities need assistance to enable them to efficiently, and effectively, administer Federal elections on a nondiscriminatory basis. I would submit that such assistance needs to take the form of both Federal election requirements for nondiscriminatory, inclusive voting systems, provisional voting, and sample ballot and voting instructions, as well as the financial resources to implement such requirements.

I stand ready to work with colleagues on both sides of the aisle to fashion bipartisan legislation to ensure that all citizens can participate in this Democracy. I urge my colleagues to cosponsor this legislation and look forward to additional hearings in the Rules Committee on this and other election reform proposals.

I ask unanimous consent that a section-by-section analysis of the bill be included in the RECORD following my written remarks.

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

SECTION-BY-SECTION ANALYSIS OF EQUAL PROTECTION OF VOTING RIGHTS ACT OF 2001

TITLE I—ESTABLISHMENT OF COMMISSION ON VOTING RIGHTS & PROCEDURES

Sec. 101.—Establishment of the Commission.

Sec. 102.—Membership of the Commission.

Number and Appointment.—the Commission is composed of 12 members, appointed for the life of the Commission, with 6 appointed by the President and 3 appointed by the Senate Minority Member (unless of the same party as the President, and then by the Senate Majority Leader), and 3 appointed by the House Minority Leader (unless of the same party as the President, and then by the House Majority Leader); the Chairperson and Vice Chairperson are election by the Commission and may not be affiliated with the same political party; all meetings shall be at the call of the chair and a majority of the members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

Sec. 103.—Duties of the Commission.

(a) Study.—The Commission shall conduct a study of the following issues: election technology and systems; design/uniformity of ballots; access to ballots and polling places for the disabled/visually impaired/limited-English speakers; capacity of voting systems/sufficiency of the number of machines to serve voters; voter registration and standards for reenfranchisement; alternative voting methods (internet); voter intimidation; accuracy of voting procedures and technology; voter/poll worker education and training; access for overseas and military voters; feasibility of establishing a Federal or state holiday; feasibility of establishing modified polling hours; and appropriate role for the Federal government to provide assistance to states & localities and whether a new agency is needed.

(b) Recommendations.—The Commission shall develop recommendations of best practices for:

(1) Voting and election administration which: are nondiscriminatory and accommodate the disabled/vision impaired/limited-English speaking; yield the broadest participation; and produce accurate results.;

(2) assistance in Federal elections, which provide the best method for the Federal government to provide on-going, permanent assistance; whether an existing or new Federal agency is required; and

(3) voter participation in Federal elections to increase voter registration; increase accuracy of voter rolls and participation; to improve voter education; and to improve training of election personnel and volunteers.

(c) Reports.—a final report and recommendations are due 1 year after enactment; interim reports are authorized; recommendations must be adopted by majority vote of the Commission with minority opinions included in the report.

Sec. 104.—Powers of the Commission.

The Commission may: hold hearings/issue subpoenas/pay witnesses/accept gifts; and secure administrative support and information from Federal agencies upon joint request of the chair and vice-chair.

Sec. 105.—Commission Personnel Matters.

The Commission members, who are not Federal employees, are compensated at the rate for level IV, Executive Schedule; are allowed travel expenses, as per Title 5; may make use of detailed employees and procure consultant services on the joint action of the chair and vice-chair; and may appointed/terminate an executive director on the joint action of the chair and vice-chair.

Sec. 106.—Termination of the Commission.

The Commission terminates within 45 days of issuance of the final report and recommendations.

Sec. 107.—Authorization of Appropriations for the Commission.

Such sums as are necessary to carry out the title are authorized to remain available, without fiscal year limitation, until expended.

TITLE II—ELECTION TECHNOLOGY AND ADMINISTRATION IMPROVEMENT GRANT PROGRAM

Sec. 201.—Establishment of Grant Program.

(a) In General—the Attorney General, in consultation with the Federal Election Commission, make grants to States and localities.

(b) Action Through the Office of Justice Programs and Assistant Attorney General for Civil Rights—The Attorney General acts through the Office of Justice Programs and the Assistant Attorney General for Civil Rights.

Sec. 202.—Authorized Activities.

(a) In General.—States and localities may use grant payments:

(1) to improve, acquire, or replace voting equipment or technology and improve the accessibility of polling places for persons with disabilities, including nonvisual access for voters with visual impairments and assistance to voters with limited English proficiency;

(2) to implement new election administration procedures to increase participation and reduce disenfranchisement, including ''same-day'' voter registration;

(3) to educate voters and train election personnel;

(4) to implement the final recommendations of the Commission.

(b) Requirements for Election Technology and Administration.—States and localities may use grant payments:

(1) to implement the national voting system requirements under 301(a);

(2) to implement the national provisional voting requirements under 301(b);

(3) to implement the national sample ballot requirements under 301(c).

Sec. 203.—General Policies and Criteria for the Approval of Applications of States and Localities; Requirements of State Plans.

(a) General Policies.—the Attorney General, in consultation with the Federal Election Administration, establishes general policies for grant applications.

(b) Criteria.—the Attorney General establishes criteria for State plans; state plans must include each of the following:

(A) uniform nondiscriminatory voting standards within the State for election administration and technology that—

(i) meet the national requirements for voting systems, provisional voting, and sample ballots;

(ii) provide access for the disabled, the vision impaired, and voters of limited English proficiency;

(iii) provide for ease and convenience of voting, including accuracy, non-intimidation, and non-discrimination;

(iv) ensure compliance with the Voting Accessibility for the Elderly and Handicapped Act;

(v) ensure compliance with the Voting Rights Act;

(vi) ensure compliance with the National Voter Registration Act;

(vii) ensure access for overseas and absent military voters;

(B) provide for accuracy of records and prevent purging that will result in legal voters being eliminated;

(C) provide for voter education and election worker training;

(D) provide an effective means of notifying voters of their rights; and

(E) provide a timetable for meeting the elements of the plan.

Sec. 204.—Submission of Application of States and Localities.

(a) Submission of Applications by States.—The chief executive office of the State submits the grant application along with the state plan, which is developed in consultation with State and local election officials and must make available to the public for review and comment before submission.

(b) Submission of Applications by Localities.—If a State has submitted an application under (a), a locality may submit a grant application that is consistent with the State plan, does not duplicate funding received under the State application.

Sec. 205.—Approval of Applications of States and Localities.

(a) Approval of State Applications.—A State plan received by the Attorney General must be published in the Federal Register and subject to public comments; 30 days after publication, taking into consideration any comments received, the Attorney General, in consultation with the Federal Election Commission, approves or disapproves the State plan.

(a) Approval of Applications of Localities.—If the Attorney General approves the application of a State, then the Attorney General, in consultation with the Federal Election Commission, can approve an application by a locality of that State.

Sec. 206.—Federal Matching Funds.

The Attorney General shall pay the Federal share of grants; Federal Share.—in general, the Federal share is 80%, but the Attorney General may waive that amount and increase the Federal share; Incentive for Early Action.—the Federal share shall be 90% for applications received by March 1, 2002; and Reimbursement for Cost of Meeting Requirements.—100% for costs incurred to meet the national requirements under Title III.

Sec. 207.—Audits and Examinations of States and Localities.

The Attorney General, in consultation with the Federal Election Commission, shall specify what records grant recipients must maintain in order to allow for audits.

Sec. 208.—Reports to Congress and the Attorney General.

The Attorney General submits reports to the Congress annually starting in 2003 describing the activities funded by the grants and any recommendations for legislative or administrative action and grant recipients shall submit any reports to the Attorney General as the Attorney General considers appropriate.

Sec. 209.—Definitions of State and Locality.

The term ''State'' refers to the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam and the United States Virgin Islands' the term ''locality'' means a political subdivision of a State.

Sec. 210.—Authorization of Appropriations.

(a) Authorization.—There are authorized to the Department of Justice and the Federal Election Commission for FY 2002, 2003, 2004, 2005 and 2006, such sums as are necessary for awarding grants and paying administrative expenses and carrying out the provisions of the Act.

(b) Limitation.—administrative expenses may not exceed more than 1% of funds.

(c) Supplemental Appropriations.—Supplemental appropriations for FY 2001 are authorized.

TITLE III—REQUIREMENTS FOR ELECTION TECHNOLOGY & ADMINISTRATION

Sec. 301.—Uniform and Nondiscriminatory Requirements for election Technology and Administration.

(a) Voting Systems.—Each voting system used in a Federal election shall meet the following requirements:

(1) shall permit the voter to verify and correct votes selected before the ballot is cast and tabulated;

(2) shall notify the voter of the effects of casting more than 1 vote for a candidate [over votes] and allow the voter to correct the ballot before it is cast and tabulated;

(3) shall notify the voter of the effects of not voting for all of the candidates [under votes] and allow the voter to correct the ballot before it is cast and tabulated;

(4) shall produce an audit trail;

(5) shall be accessible for individuals with disabilities and other individuals with special needs, including providing nonvisual access for the blind and visually impaired, which provides the same opportunity for access and participation (including privacy and independence) as for other voters, and provides alternative language accessibility for voters with limited English proficiency; and

(6) has an error rate in counting and tabulating ballots that does not exceed the current error rate standards established by the Voting systems Standards of the Office of Election Administration of the Federal Elections Administration.

(b) Provisional Voting.—Each State must provide for provisional voting in a Federal election so that if the name of a voter who declares to be a registered eligible voter does not appear on the official list, or if it is otherwise asserted that the individual is not eligible to vote—

(1) an election official shall notify the individual that the voter may cast a provisional ballot;

(2) the individual shall be permitted to cast a vote upon written affirmation, before an election official, by the individual that he/she is eligible to vote;

(3) an election official shall transfer the ballot to the appropriate State or local official for prompt verification;

(4) if the appropriate State or local official verifies the affirmation, the vote shall be tabulated; and

(5) the individual shall be notified in writing of the final disposition of the declaration and treatment of the vote.

(c) Sample Ballot.—(1) Not later than 10 days before a Federal election, the appropriate election official shall mail a sample version of the ballot to each registered voter, along with:

(A) information on the date of the election and the polling hours;

(B) instructions on how to cast a vote on the ballot; and

(C) general information on voting rights under Federal and applicable State laws and instructions on how to effectuate those rights

(2) Publication and Posting.—not later than 10 days before a Federal election, the sample ballot which is mailed to each voter shall be published in a newspaper of general circulation and posted publicly at each polling place.

Sec. 302.—Guidelines and Technical Specifications.

(a) Voting Systems Requirement Specifications.—The Office of Election Administration of the Federal Election Commission shall develop national Voting Systems Specifications with respect to the voting systems requirement under 301.

(b) Provisional Voting Guidelines.—The Civil Rights Division of the Department of Justice shall develop initial guidelines with respect to the provisional voting requirement under 301.

(c) Sample Ballot Guidelines.—The Civil Rights Division of the Department of Justice shall develop initial guidelines with respect to the sample ballot requirement under 301.

Sec. 303—Requiring States to Meet Requirements.

(a) In General.—a State or locality must meet the requirements for voting systems, provisional voting and sample ballots with respect to the regularly scheduled election for Federal office held in the State in 2004, except that if guidelines and technical specifications have not been published, such guidelines and specifications do not have to be complied with until published.

(b) Treatment of Activities Relating to Voting Systems Under Grant Program.—If a State has received grant funds to purchase or modify voting systems in accordance with a state plan, the State shall be deemed to meet the requirement of section 301(a).

Sec. 304.—Enforcement by Attorney General.

The Attorney General may bring a civil action for appropriate relief (including declaratory or injunctive relief) as may be necessary to carry out this title.

TITLE IV—MISCELLANEOUS

Sec. 401.—Relationship to Other Laws.

(a) In General.—nothing in this Act may be construed to authorize or require conduct prohibited under the following laws, or supersede, restrict, or limit such laws:

(1) The National Voter Registration Act of 1993;

(2) The Voting Rights Act of 1965;

(3) The Voting Accessibility for the Elderly and Handicapped Act;

(4) The Uniformed and Overseas Citizens Absentee Voting Act;

(5) The Americans with Disabilities Act of 1990.

(b) No Effect on Preclearance or Other Requirements Under Voting Rights Act.—the approval by the Attorney General of a State's grant application shall not be considered to have any effect on requirements for preclearance under section 5 of the Voting Rights Act of 1965 or any other requirements of such Act.

By Mr. HOLLINGS:

S. 566. A bill to amend the Internal Revenue Code of 1986 to provide a 10 percent individual income tax rate for taxable years beginning in 2001 and a payroll tax credit for those taxpayers who have no income tax liability in 2001; to the Committee on Finance.

Mr. HOLLINGS. Mr. President, I recently introduced, S. Con. Res. 20, a one-year budget proposal which included instructions for a tax cut if either: (1) a true surplus materializes, or (2) we enter a recession. It is now apparent the economy is on a downturn and there is no good reason to await action. That is why I am introducing a one-year tax cut of approximately $95 billion to stimulate the economy. Any tax cut designed for economic stimulus should be about one percent of GDP. The tax cut will reduce income taxes and payroll taxes as follows:

The 15 percent tax rate will be reduced to 10 percent for the following brackets:

$0–20,000 for couples;

$0–16,000 for heads of households;

$0–10,000 for singles or married filing separately.

The 25 million taxpayers who pay payroll taxes but do not qualify for income tax cuts will receive up to $500 in payroll tax cuts.

This plan reaches approximately 120 million taxpayers, thus providing relief to more people than any other proposal to date. If passed, this proposal will provide immediate relief by sending a check to these 120 million taxpayers by July 1, 2001.

By Mr. SESSIONS:

S. 567. A bill to amend the Internal Revenue Code of 1986 to provide capital gain treatment under section 631(b) of such Code for outright sales of timber by landowners; to the Committee on Finance.

Mr. SESSIONS. Mr. President, I rise today to introduce legislation which will simplify and update a provision of the tax code that affects the sale of timber. It is both a simplification measure and a fairness measure. I call it the Timber Tax Simplification Act.

Under current law, landowners that are occasional sellers of timber are often classified by the Internal Revenue Service as ''dealers.'' As a result, the small landowner is forced to choose, because of the tax code, between two different methods of selling their timber. The first method, ''lump sum'' sales, provides for good business practice but is subject to a high income tax. The second method, ''pay-as-cut'' sales, allows for lower capital gains tax treatment, but often results in an under-realization of the fair value of the contract. Why, one might ask, do these conflicting incentives exist for our nation's timber growers?

Earlier in this century, outright, or ''lump sum'', sales on a cash in advance, sealed basis, were associated with a ''cut and run'' mentality that did not promote good forest management. ''Pay-as-cut sales'', however, in which a timber owner is only paid for timber that is actually harvested, were associated with ''enlightened'' resource

management. Consequently, in 1943, Congress, in an effort to provide an incentive for improved forest management, passed legislation that allowed capital gains treatment under 631(b) of the IRS Code for pay-as-cut sales, leaving lump-sum sales to pay the much higher rate of income tax. It is said that President Roosevelt opposed the bill and almost vetoed it.

Today, however, Section 631(b), like so many provisions in the IRS Code, is outdated. Forest management practices are much different from what they were in 1943 and lump-sum sales are no longer associated with poor forest management. And, while there are occasional special situations where other methods may be more appropriate, most timber owners prefer this method over the ''pay-as-cut'' method. The reasons are simple: title to the timber is transferred upon the closing of the sale and the buyer assumes the risk of any physical loss of timber to fire, insects, disease, storms, etc. Furthermore, the price to be paid for the timber is determined and received at the time of the sale.

Unfortunately, in order for timber owners to qualify for the favorable capital gains treatment, they must market their timber on a ''pay-as-cut'' basis under Section 631(b) which requires timber owners to sell their timber with a ''retained economic interest.'' This means that the timber owner, not the buyer, must bear the risk of any physical loss during the timber sale contract period and must be paid only for the timber that is actually harvested. As a result, this type of sale can be subject to fraud and abuse by the timber buyer. Since the buyer pays only for the timber that is removed and scaled, there is an incentive to waste poor quality timber by breaking the tree during the logging process, underscaling the timber, or removing the timber without scaling. But because 631(b) provides for the favorable tax treatment, many timber owners are forced into exposing themselves to unnecessary risk of loss by having to market their timber in this disadvantageous way instead of the more preferable lump-sum method.

Like many of the provisions in the tax code, Section 631(b) is outdated and prevents good forestry business management. Timber farmers, who have usually spent decades producing their timber ''crop'', should be able to receive equal tax treatment regardless of the method used for marketing their timber.

In the past, the Joint Committee on Taxation has studied this legislation to consider what impact it might have on the Treasury and found that it would have no real cost—only a ''negligible change'' according to their analysis.

The IRS has no business stepping in and dictating the kind of sales contract a landowner must choose. My legislation will provide greater consistency by removing the exclusive ''retained economic interest'' requirement in the IRC Section 631(b). Reform of 631(b) is important to our nation's non-industrial, private landowners because it will improve the economic viability of their forestry investments and protect the taxpayer from unnecessary exposure to risk of loss. This in turn will benefit the entire forest products industry, the U.S. economy and especially small landowners.

SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 26—AUTHORIZING THE ROTUNDA OF THE CAPITOL TO BE USED ON JULY 18, 2001, FOR A CEREMONY TO PRESENT CONGRESSIONAL GOLD MEDALS TO THE ORIGINAL 29 NAVAJO CODE TALKERS

Mr. BINGAMAN submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 26

Resolved by the Senate (the House of Representatives concurring), That the Rotunda of the Capitol is authorized to be used on July 18, 2001, for a ceremony to present Congressional Gold Medals to the original 29 Navajo Code Talkers. Physical preparations for the ceremony shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.

AMENDMENTS SUBMITTED AND PROPOSED

SA 110. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 27, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; which was ordered to lie on the table.

SA 111. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 27, supra; which was ordered to lie on the table.

SA 112. Mr. DOMENICI (for himself, Mr. ENSIGN, and Mr. SESSIONS) proposed an amendment to the bill S. 27, supra.

SA 113. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 27, supra; which was ordered to lie on the table.

SA 114. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 27, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 110. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 27, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; which was ordered to lie on the table; as follows:

On page 37, between lines 14 and 15, insert the following:

SEC. 305. LIMITATION ON REIMBURSEMENT FROM CAMPAIGNS FOR CONTRIBUTIONS BY SENATE CANDIDATES AND IMMEDIATE FAMILIES OF SENATE CANDIDATES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 101, is amended by adding at the end the following:

''SEC. 324. LIMITATION ON REIMBURSEMENT FROM CAMPAIGNS FOR CONTRIBUTIONS BY SENATE CANDIDATES AND IMMEDIATE FAMILIES OF SENATE CANDIDATES.

''(a) IN GENERAL.—The aggregate amount of contributions made during an election cycle to a candidate for the office of Senator or the candidate's authorized committees from the sources described in subsection (b) that may be reimbursed to those sources shall not exceed $250,000.

''(b) SOURCES.—A source is described in this subsection if the source is—

''(1) personal funds of the candidate and members of the candidate's immediate family; or

''(2) personal loans incurred by the candidate and members of the candidate's immediate family.

''(c) INDEXING.—The $250,000 amount under subsection (a) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c), except that the base period shall be calendar year 2000.''.

SA 111. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 27, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; which was ordered to lie on the table; as follows:

On page 37, between lines 14 and 15, insert the following:

SEC. 305. EXEMPTION FOR STATE AND LOCAL POLITICAL COMMITTEES FROM NOTIFICATION AND REPORTING REQUIREMENTS IMPOSED BY PUBLIC LAW 106–230.

(a) EXEMPTION FROM NOTIFICATION REQUIREMENTS.—Paragraph (5) of section 527(i) of the Internal Revenue Code of 1986 (relating to organizations must notify Secretary that they are section 527 organizations) is amended by striking ''or'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', or'', and by adding at the end the following new subparagraph:

''(C) which—

''(i) engages in exempt function activity solely in the attempt to influence the selection, nomination, election, or appointment of any individual to any State or local public office or office in a State or local political organization, and

''(ii) is subject to State or local contribution and expenditure reporting requirements relating to selections, nominations, elections, and appointments to such offices, and reports under such requirements are publicly available.''.

(b) EXEMPTION FROM REPORTING REQUIREMENTS.—Paragraph (5) of section 527(j) of such Code (relating to required disclosures of expenditures and contributions) is amended by striking ''or'' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting '', or'', and by adding at the end the following new subparagraph:

''(F) to any organization which—

''(i) engages in exempt function activity solely in the attempt to influence the selection, nomination, election, or appointment of any individual to any State or local public office or office in a State or local political organization, and

''(ii) is subject to State or local contribution and expenditure reporting requirements relating to selections, nominations, elections, and appointments to such offices, and reports under such requirements are publicly available.''.

(c) EXEMPTION FROM REQUIREMENTS FOR ANNUAL RETURN BASED ON GROSS RECEIPTS.—Paragraph (6) of section 6012(a) of such Code is amended by striking ''section)'' and inserting ''section and an organization described in section 527(i)(5)(C)''.

(d) EFFECTIVE DATE.—Notwithstanding section 402, the amendments made by this section shall take effect as if included in the amendments made by Public Law 106–230.

SA 112. Mr. DOMENICI (for himself, Mr. ENSIGN, and Mr. SESSIONS) proposed an amendment to the bill S. 27, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; as follows:

On page 37, between lines 14 and 15, insert the following:

SEC. 305. USE OF PERSONAL WEALTH FOR CAMPAIGN PURPOSES.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following:

''(i) USE OF PERSONAL WEALTH.—

''(1) REQUIRED DECLARATION.—

''(A) IN GENERAL.—Not later than 15 days after the date a candidate for the office of Senator is required to file a declaration of candidacy under Federal law, the candidate shall file with the Commission a declaration stating whether or not the candidate intends to expend personal funds in connection with the candidate's election for office, in an aggregate amount equal to or greater than $500,000.

''(B) PERSONAL FUNDS.—In this subsection, the term 'personal funds' means—

''(i) funds of the candidate (including funds derived from any asset of the candidate) or funds from obligations incurred by the candidate in connection with the candidate's campaign; and

''(ii) funds of the candidate's spouse, a child, stepchild, parent, grandparent, brother, sister, half-brother, or half-sister of the candidate and the spouse of any such person, and a child, stepchild, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate's spouse and the spouse of such person.

''(C) FORM OF STATEMENT.—The statement required by this subsection shall be in such form, and shall contain such information, as the Commission may, by regulation, require.

''(2) INCREASE IN LIMITS.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, in any election in which a candidate for the office of Senator declares an intention to expend more personal funds than the limit described in paragraph (1)(A), expends personal funds in excess of such limit, or fails to file the declaration required by this subsection, the increased contribution limits under subparagraph (B) shall apply to other eligible candidates in the same election.

''(B) LIMIT AMOUNTS.—The increased limits under this subparagraph are the following:

''(i) In the case of an election in which a candidate declares an intention to expend, or expends, personal funds in an amount equal to or greater than $500,000 but not more than $749,999, the limits under paragraphs (1)(A) and (2)(A) of subsection (a) shall be 3 times the applicable limit.

''(ii) In the case of an election in which a candidate declares an intention to expend, or expends, personal funds in an amount equal to or greater than $750,000 but not more than $999,999—

''(I) the limits under paragraphs (1)(A) and (2)(A) of subsection (a) shall be 5 times the applicable limits; and

''(II) the limits under subsection (h) shall not apply.

''(iii) In the case of an election in which a candidate declares an intention to expend, or expends, personal funds in an amount equal to or greater than $1,000,000—

''(I) the limit under subsection (a)(1)(A) shall be 5 times the applicable amount;

''(II) the limits under subsection (a)(2)(A) with respect to a contribution from a State or national committee of a political party, (d), and (h) shall not apply.

''(3) ELIGIBLE CANDIDATE.—In this paragraph, an eligible candidate is a candidate who is not required to file a declaration under paragraph (1) or amended declaration under paragraph (5).

''(4) INAPPLICABILITY OF INCREASED LIMITS.—If the increased limitations under paragraph (2) are in effect for a convention or a primary election, as a result of an individual candidate, and such individual candidate is not a candidate in any subsequent election in such campaign, including the general election, the provisions of paragraph (2) shall no longer apply to eligible candidates in such subsequent elections.

''(5) AMENDED DECLARATION.—

''(A) IN GENERAL.—Any candidate who—

''(i) declares under paragraph (1) that the candidate does not intend to expend personal funds in an aggregate amount in excess of the limit described in paragraph (1)(A); and

''(ii) subsequently does expend personal funds in excess of such limit or intends to expend personal funds in excess of such limits, such candidate shall notify and file an amended declaration with the Commission and shall notify all other candidates for such office within 24 hours after changing such declaration or exceeding such limits, whichever first occurs, by sending such notice by certified mail, return receipt requested.

''(B) ADDITIONAL NOTIFICATION.—After the candidate files a declaration under paragraph (1)(A) or an amended declaration under subparagraph (A), the candidate shall file an additional notification with the Commission and all other candidates for such office each time expenditures from personal funds are made in an aggregate amount in excess of—

''(i) $750,000; and

''(ii) $1,000,000.

''(6) ENFORCEMENT.—The Commission shall take such action as it deems necessary under the enforcement provisions of this Act to assure compliance with the provisions of this subsection.''.

SEC. 306. USE OF CONTRIBUTIONS TO REPAY PERSONAL LOANS.

(a) IN GENERAL.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by section 305, is amended by adding at the end the following:

''(j) LIMITATION ON REPAYMENT OF PERSONAL LOANS.—Any candidate who incurs personal loans in connection with the candidate's campaign for election shall not repay (directly or indirectly), to the extent such loans exceed $250,000, such loans from any contributions made to such candidate or any authorized committee of such candidate after the date of such election.''.

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

Mr. WARNER. Mr. President, I rise today in support of the Domenici amendment.

As chairman of the Rules Committee during the 105th Congress, I had the honor of presiding over numerous hearings on campaign finance reform. As a result of these two years of hearings, discussions with numerous experts and colleagues, and the result of over two decades of participating in campaigns and campaign finance debates, I have developed some strong opinions on the issue of campaign finance reform. In fact, during the 105th and 106th Congresses, I introduced my own campaign finance reform bills. One aspect of both bills was a provision designed to level the playing field for candidates running against self-financed candidates.

Candidates with personal wealth have a distinct advantage because of their constitutional right to spend their own funds. The prospect of facing a self-financed candidate can be daunting and may prevent many talented potential candidates from entering a political contest. My bill contained provisions similar to Senator DOMENICI'S amendment before use now that raise contribution limits for candidates running against self-financed candidates. Just as my bill raised contribution limits incrementally according to how much the self-financed candidate spends on his or her campaign, Senator DOMENICI'S amendment does the same.

Mr first criteria when analyzing issues of campaign finance reform is that the legislation must be consistent with first amendment. The Congress must respect and protect the constitutional right of individuals, groups, and organizations to participate in advocacy concerning political issues, and this includes self-financed candidates. This amendment does not constrain the first amendment rights of the self-financed candidate, it merely levels the playing field and opens up the political process to those of more modest means.

I urge my colleagues to support this amendment.

Beginning on page 22, strike line 1 and all that follows through page 24, line 2 and insert the following:

SEC. 212. REPORTING REQUIREMENTS FOR INDEPENDENT EXPENDITURES.

(a) TIME FOR REPORTING CERTAIN EXPENDITURES.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434), as amended by sections 103 and 201, is amended—

(1) in subsection (c)(2), by striking the undesignated matter after subparagraph (C); and

(2) by adding at the end the following:

''(f) TIME FOR REPORTING CERTAIN EXPENDITURES.—

''(1) EXPENDITURES AGGREGATING $1,000.—

''(A) INITIAL REPORT.—A person that makes or obligates to make independent expenditures aggregating $1,000 or more after the 20th day, but more than 24 hours, before an election shall file a report describing the expenditures within 24 hours after that amount of independent expenditures has been made or obligated to be made.

''(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person filing the report shall file an additional report each time that independent expenditures are made or obligated to be made aggregating an additional $1,000 with respect to the same election as that to which the initial report relates.

''(2) EXPENDITURES AGGREGATING $10,000.—

''(A) INITIAL REPORT.—A person that makes or obligates to make independent expenditures aggregating $10,000 or more after the 90th day and up to and including the 20th day before an election shall file a report describing the expenditures within 24 hours after that amount of independent expenditures has been made or obligated to be made.

''(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person filing the report shall file an additional report each time that independent expenditures are made or obligated to be made aggregating an additional $10,000 with respect to the same election as that to which the initial report relates.

''(3) CONTENTS OF REPORT.—A report under this subsection—

''(A) shall be filed with the Commission;

''(B) shall contain the information required by subsection (c).''.

(b) AFFIDAVIT REQUIREMENT.—

(1) REQUIRED FROM PERSON MAKING EXPENDITURE.—Section 304(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(c)), as amended by subsection (a), is amended—

(A) in paragraph (2)(B), by striking ''certification'' and inserting ''affidavit (in the case of a committee, by both the chief executive officer and the treasurer of the committee)''; and

(B) by adding at the end the following:

''(4) Not later than 48 hours after making any independent expenditure, a person described in paragraph (1) shall file the affidavit described in paragraph (2)(B) with respect to the expenditure with the Commission.''.

(2) REQUIRED FROM CANDIDATE REFERRED TO IN EXPENDITURE.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434), as amended by subsection (a), is amended by adding at the end the following:

''(g) AFFIDAVIT REQUIREMENTS.—

''(1) COMMISSION.—Not later than 48 hours after receipt of an affidavit under subsection (c)(4), the Commission shall notify the candidate to which the independent expenditure refers and the candidate's campaign manager and campaign treasurer that an expenditure has been made and an affidavit has been received.

''(2) CANDIDATE.—Not later than 48 hours after receipt of notification under paragraph (1), the candidate and the candidate's campaign manager and campaign treasurer shall each file with the Commission an affidavit, under penalty of perjury, stating whether or not the independent expenditure was made in cooperation, consultation, or concert, with, or at the request or suggestion of, the candidate or authorized committee or agent of such candidate.''.

(c) CONFORMING AMENDMENT.—Section 304(c)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(c)(3)) is amended by inserting ''or subsection (f)'' after ''this subsection''.

SA 114. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 27, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; which was ordered to lie on the table; as follows:

On page 7, line 24, before ''; and'', insert the following: ''so that a reasonable person would not disagree that the meaning of the communication, taken as a whole, was to urge the election or defeat of a clearly identified candidate.''

On page 15, line 20, insert the following:

''(iv) promotes or supports a candidate for that office, or attacks or opposes a candidate for that office (regardless of whether the communication expressly advocates a vote for or against a candidate) so that a reasonable person would not disagree that the meaning of the communication, taken as a whole, was to urge the election or defeat of a clearly identified candidate.''

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON HOUSING AND TRANSPORTATION

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the subcommittee on Housing and Transportation of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Monday, March 19, 2001, to conduct a hearing on ''The Health of H.U.D.'s Federal Housing Administration Insurance Fund.''

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

SUBCOMMITTEE ON STRATEGIC

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Subcommittee on Strategic of the Committee on Armed Services be authorized to meet during the session of the Senate on Monday, March 19, 2001 at 2:30 p.m., in open session to receive testimony on the fiscal year 2000 report to Congress of the panel to assess the reliability, safety, and security of the United States nuclear stockpile.

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

PRIVILEGES OF THE FLOOR

Mr. FEINGOLD. Mr. President, I ask unanimous consent that Jeff Lehman, an intern in my office, be granted privileges of the floor during the debate on S. 27, and that privileges of the floor be granted for the duration of the debate on S. 27 to the members of my staff whose names appear below:

Bill Dauster, Ari Geller, Farhana Khera, Trevor Miller, Mary Murphy, Brian O'Leary, Mary Frances Repko, Thomas Reynolds, Mary Ann Richmond, Bob Schiff, Sumner Slichter, Kitty Thomas, Tom Walls, Adam Waskowski, Hilary Wenzler.

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

Mr. REID. I ask unanimous consent that Martin Siegel, a staff member of the Senate Judiciary Committee working with Senator SCHUMER, be granted the privilege of the floor during the pendency of this legislation.

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

BANKRUPTCY REFORM ACT OF 2001

On March 15, 2001, the Senate amended and passed S. 420, as follows;

S. 420

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Bankruptcy Reform Act of 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 or any guarantee including 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 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:

''(__) 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.

ORDERS FOR TUESDAY, MARCH 20, 2001

Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m. on Tuesday, March 20. I further ask unanimous consent that on Tuesday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of S. 27, the campaign finance reform bill.

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

Mr. MCCONNELL. I further ask unanimous consent that the Senate stand in recess from the hours of 12:30 p.m. until 2:15 p.m. for the weekly policy conferences to meet.

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

PROGRAM

Mr. MCCONNELL. Mr. President, for the information of all Senators, the Senate will begin consideration of another amendment to the campaign finance reform bill beginning at 9:30 a.m. tomorrow. A vote is expected to occur at approximately noon, prior to adjourning for the weekly party conferences. When the Senate reconvenes at 2:15, further amendments will be offered. By a previous agreement, there will be up to 3 hours of debate prior to a vote in relation to amendments. Therefore, Senators may expect votes approximately every 3 hours throughout the day.

ORDER FOR ADJOURNMENT

Mr. MCCONNELL. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order following the remarks of Senator LIEBERMAN.

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

The Senator from Connecticut is recognized.

Mr. LIEBERMAN. I thank the Chair. I thank the Senator from Kentucky.

CAMPAIGN FINANCE REFORM

Mr. LIEBERMAN. Mr. President, I rise to speak about S. 27, the so-called McCain-Feingold campaign finance reform proposal, of which I am honored to be a cosponsor.

In taking up this proposal today, the Senate is embarking on a historic journey. Over the next couple of weeks, we will have an opportunity to do something that is really quite rare around here; that is, to debate, consider, and ultimately vote on the essential nature of our political system. That vote I believe will have a significant effect on the vitality and, indeed, on the viability long term of our Democrat democracy.

No less than our forefathers who drafted the Constitution, we will be asked in the days ahead to take a stand on how we believe our Government should work and to whom its leaders should be held accountable.

These are the questions we will be considering and debating in this proposal:

Do we want a government in which power comes from the people, and those who are privileged to exercise that power are ultimately accountable to the people?

Will we uphold the ideal of our democracy so that the passion and force with which people articulate their views and the votes that they cast on election day are the means through which they influence our Government's direction, or do we want a system where the size of a person's wallet or the depth of an interest group's bank account count more than a person's views or votes?

I do not believe that anyone in this body would embrace the latter vision of our Republic. But that is precisely, I believe, where our Government is headed if we do not enact the bill we are debating today. For too many years, we have allowed money and the never ending chase for it to undermine our political system, to breed cynicism among our citizens, and to compromise the essential principle of our democracy. For, after all, America is supposed to be a country where every citizen has an equal say in the Government's decisions, and every citizen has an equal ability, in the words of the Constitution, to petition the Government for a redress of grievances.

As that great observer of America's Democratic genius Alexis de Tocqueville put it when he analyzed our Nation's political system during the 19th century:

The people reign in the American political world as the Deity does in the universe. They are the cause and the aim of all things; everything comes from them, and everything is absorbed in them.

How far we have come. I question whether any current observer of American politics could repeat de Tocqueville's statement with a straight face.

Look at what has become of our system. Virtually every day in this city an event is held where the price of admission far exceeds what the overwhelming majority of Americans can ever dream of giving to a candidate or a political party. For $1-, $5-, $10-, $50- or $100,000, wealthy individuals or interest groups can buy the time of candidates and elected officials, gaining access and thereby influence that is far beyond the grasp of those who have only their voice and their votes to offer.

Our national political parties publicly tout the access and influence big donor donations can buy. One even advertises on its web site that a $100,000 donation will bring meetings and contacts with Congressional leadership throughout the year, and tells us it is ''designed specifically for the Washington-based corporate or PAC representative'' a donor group whose entry price is $15,000.

For that amount, the party's web site tells us, donors get into a club whose agenda ''is simple—bringing the best of our party's supporters together with our congressional leadership for a continuing, collegial dialogue on current policy issues.''

Needless to say, the political parties selling these tickets to access and influence have found buyers aplenty. In 1997, I spent the better part of a year participating in the Governmental Affairs Committee's investigation into campaign finance abuses during the 1996 campaign. Our attention was riveted by marginal hustlers such as Johnny Chung who compared the White House to a subway, saying, ''You have to put in coins to open the gates,'' and Roger Tamraz, who told us that he did not even bother to register to vote because he knew that his donations would get him so much more.

Appalling as these stories were, they, in the end, obscured a far greater scandal; that is, the far more prevalent collection of big soft dollar donations comes not from opportunistic hangers on but from mainstream corporations, unions and individuals.

Staggering amounts have gone to both political parties. During the election cycle that just ended, the parties collectively raised $1.2 billion, almost double the amount raised in 1998, and 37 percent more than in the last Presidential cycle.

The bulk of those increases came in the form of soft money—the unlimited large dollar donations from individuals and interest groups. Republicans raised $244.4 million in soft money while Democrats raised $243 million. For Republicans, it was a 73-percent increase over the last cycle, and for Democrats

it nearly doubled what they raised during the last cycle.

When compared to election cycles further back, the numbers become all the more jolting. The 1996 soft money record that was blown away by this cycle's fundraising was itself 242 percent higher than the 1992 soft money fundraising in the case of Democrats and in the case of Republicans 178 percent higher. The roughly $262 million in party soft money raised in 1992, itself, dwarfed the approximately $19 million raised in the 1980 cycle, and the $21.6 million raised in the 1984 cycle was also dwarfed by those numbers.

The bottom line is that since soft money, and the loophole that allowed it into our political system, entered the system some 20 years ago, it has grown exponentially in each cycle, from barely $20 million in total in 1980 to nearly $500 million—a half a billion dollars—last year. And it is difficult to see any end in sight to this exponential growth of soft money except S. 27, the McCain-Feingold campaign finance reform proposal.

Is it any wonder, with these numbers, that the American people—they who are supposed to be the true source of our Government's authority—have been so turned off by politics that many of them no longer trust our Government or even bother to vote?

This must end or our noble journey in self-government will veer further and further from its principled course. When the price of entry to our democracy's discussions starts to approach the average American's annual salary, something is terribly wrong. When we have a two-tiered system of access and influence—one for the average volunteer and one for the big contributor—something is terribly wrong. And when the big contributor's ticket is for a front-row seat, while the voter's is for standing room only, something is most definitely terribly wrong.

Our opponents will continue, I understand, to see the situation differently. Money, they tell us, is just speech in another form. And the outlandish increases we have seen in political giving, they say, are actually signs of the vibrancy of our marketplace of ideas. It is a market place all right, but what is for sale is most certainly not ideas, and what is threatened most certainly is not free speech.

Free speech is a principle we all hold dear. But free speech is about the inalienable right every American has to express his or her views without Government interference. It is about the vision the framers of our Constitution enshrined in that great document, a vision that ensures both we in Congress and those outside—every citizen—will never be forced to compromise our American birth right to offer opinions, even and particularly when those are unpopular or discomforting to those in power.

That simply is not at issue in this debate, not at issue as a result of the McCain-Feingold proposal. Absolutely nothing in this bill will do anything to diminish or threaten any American's right to express his or her views about candidates running for office or about any problem or any issue in American life. Indeed, if more money in the system were a sign of more Americans speaking and more Americans being better informed, then we would have significantly more vibrant elections, dramatically more informative campaigns, increasingly larger voter turnout, and better and better public debates than we had 20 years ago before soft money exploded onto the scene.

I challenge anyone in this body or outside to say that is the case. It most certainly is not. To the contrary, this campaign finance reform proposal would actually enhance our polity's free speech rights. Under the current system, the voice of monied interests drowns out the voice of average Americans, often preventing them from being truly heard in our public policy debates. In that sense, it is the current system, with its addiction to soft money and all its maleffects, that limits free speech, and it is this bill, the McCain-Feingold bill, that will restore Americans' true ability to exercise their rights of expression without limit and with full effect.

In short, Mr. President, what would be threatened by this bill is not speech but something entirely different, the ever increasing and disproportionate power that those with money have in our political system. That is threatening a principle that I would guess all of us hold just as dearly—perhaps more dearly—as the principle of free speech, and that is the principle of democracy, that literally sacred ideal that shaped our Republic and still does, which promises that each person has one vote and that each and every one of us, to paraphrase the words from the Bible, from the heads of the tribes to the priests of the temple to the hewers of wood and the bearers of water, each of us has an equal right and an equal ability to influence the workings of our government.

As it stands now, it is that sacred principle—I use that adjective intentionally—that is under attack. It is that sacred principle that will remain under attack until we do something to protect it. That something, I submit, is campaign finance reform.

Unless we act to reform our campaign finance system, people with money will continue, as they give it, to have a disproportionate influence in our system. The American people will continue to lose faith in our government's institutions and their independence, and the genius of our Republic, that it is our citizenship, not our status, that gives each of us equal power to play a role in our country's government, will be lost.

Before yielding the floor, I will say a couple of words about some of the alternative plans that have been proposed. As do Senators MCCAIN and FEINGOLD, I welcome any sincere effort at reform. None of us would ever presume to say that our way is the only way. What we will absolutely reject is any suggestion that something is reformed just because a person who proposes it says it is reformed.

The problem we are dealing with, as I have said this evening, is that there is too much money in the system coming from sources such as corporations and unions that under our laws are not supposed to be contributing to these national elections at all and coming from individuals who, since the post-Watergate reforms, were supposed to give a limited amount, no more than $2,000 to any one campaign. Anyone with a proposal that does not address this critical problem, which is the problem of soft money and the loophole that has invited it, is not proposing reform. That is the essence of what this is about. It is that simple, ultimately.

For example, I have heard some say that true campaign finance reform requires so-called paycheck protection. I oppose that principle on its merits. It is a bad idea under any circumstances. There are others who support McCain-Feingold who disagree with me and support paycheck protection who think it is a good idea. All of us should be able to agree that whatever we think of paycheck protection on its own, it is not campaign finance reform. It won't get a single dollar that should not be in our political system out of the system. It won't do a single thing to stop the most malignant aspect of our campaign finance system today, which is unlimited soft money.

The bottom line is this: For too long we have watched as our Nation's greatest treasure, its commitment to democracy, has been pillaged by the ever escalating chase for money. It is time for this Senate to say that enough is enough, to remove the disproportionate power of some over our political system, and to restore the political influence and confidence to where our Nation's founding principles say it should be—with the people, with the voters.

Over the next couple of weeks, important weeks in the history of this Senate and Nation, that is what we can do. I pray that we will.

I thank the Chair. I thank my colleagues.

UNANIMOUS CONSENT AGREEMENT—S. 420

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that with respect to S. 420, amendments numbered 43, 54, and 66 be modified or further modified with the changes at the desk. These changes are needed to make technical corrections.

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

The amendments, as modified, are as follows:

AMENDMENT NO. 43, AS MODIFIED

On page 134, line 11 of amendment number 68, strike ''discharge a debtor'' and insert ''discharge an individual debtor''.

On page 244, line 8, strike ''described in section 523(a)(2)'' and insert ''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,''.

AMENDMENT NO. 54, AS FURTHER MODIFIED

On page 13 of amendment number 68 strike line 1 and all that follows through line 3, and insert 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.''.

AMENDMENT NO. 66, AS FURTHER MODIFIED

Strike line 1, page 22 to line 17, page 22 of amendment number 68 and insert in lieu thereof—

''(f) An individual debtor in a case under chapter 7, 11, or 13 shall file with the court at the request of the Judge, U.S. 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''.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m. on Tuesday, March 20, 2001.

Thereupon, the Senate, at 7:17 p.m., adjourned until Tuesday, March 20, 2001, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate March 19, 2001:

COAST GUARD

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD UNDER TITLE 14, U.S.C., SECTION 211:

To be ensign

QUINCEY N ADAMS, 0000
MARC H AKUS, 0000
LISA A ALBRECHT, 0000
NATHAN W ALLEN, 0000
RYAN J ALLEN, 0000
CHRISTOPHER M ARMSTRONG, 0000
AMANDA M AUSFELD, 0000
CHARLES L BANKS JR., 0000
DAVID M BAUER, 0000
ANDREW J BEHNKE, 0000
JOSEPH T BENIN, 0000
MICHAEL A BENSON, 0000
JONATHAN D BERKSHIRE, 0000
ROBERT J BERRY II, 0000
FRED S BERTSCH IV, 0000
VALERIE A BOUCHARD, 0000
RUBEN E BOUDREAUX, 0000
KEVIN C BOYD JR., 0000
MICHAEL J BOYES, 0000
JEFFREY A BREWER, 0000
CHAD R BRICK, 0000
MORGAN T BROWN, 0000
BRYAN J BURKHALTER, 0000
CRAIG R BUSH, 0000
RICHARD C BUTLER, 0000
JESSICA M BYLSMA, 0000
MICHAEL J CALHOUN, 0000
IAN L CALLANDER, 0000
BRIAN R CARROLL, 0000
PAUL R CASEY, 0000
ERIC M CASPER, 0000
JACOB L CASS, 0000
JOSEPH L CASTANEDA, 0000
BARBARA CHABIOR, 0000
RYAN M CHEVALIER, 0000
MICHAEL P CHIEN, 0000
MELISSA CHILDERS, 0000
SCOTT P CIEPLIK, 0000
TRAVIS S COLLIER, 0000
JOSEPH R COOPER, 0000
MICHAEL N COST, 0000
JUSTIN K COVERT, 0000
WILLIAM G CROCKER, 0000
JAMIE B CRONENBERGER, 0000
MELISSA J CURREN, 0000
STACIA F CWIKLINSKI, 0000
TIO C DEVANEY, 0000
MICHAEL S DIPACE, 0000
AARON N DOWE, 0000
KEVIN F DUFFY, 0000
MARY M DWYER, 0000
DANIEL J EVERETTE, 0000
CHRISTOPHER W FERTIG, 0000
JAMES W FIFE III, 0000
ROBERT B FINLEY, 0000
FRANK J FLORIO III, 0000
ZACHARY R FORD, 0000
MATTHEW P FRAZEE, 0000
BRIAN B GALLEANO, 0000
LEE E GITSCHIER, 0000
ROBERT H GOMEZ, 0000
KRISTA J GORDON, 0000
JOHN A GOSHORN, 0000
BROOKE E GRANT, 0000
RICHARD O GUNAGAN, 0000
GREGORY M HAAS, 0000
RUSSELL S HALL, 0000
JEREMY M HALL, 0000
MARCUS A HANDY, 0000
BYRON H HAYES, 0000
ANDREW J HOAG, 0000
JONATHAN R HOFLICH, 0000
WHITNEY H HOUCK, 0000
SAMUEL J HUDSON, 0000
NICOLAS A JARBOE, 0000
MAX M JENNY, 0000
KHRISTOPHER D JOHNS, 0000
DAVID F JOHNSON, 0000
MICHAEL A KARNATH, 0000
ROBIN H KAWAMOTO, 0000
KEVIN A KEENAN, 0000
KRISTY A KENDIG, 0000
TIMOTHY J KEYSER, 0000
AJA L KIRKSEY, 0000
MAURA L KOLARCIK, 0000
JOHN P KOUSCH, 0000
DAVID J KOWALCZYK JR., 0000
KEVIN M KURCZEWSKI, 0000
ERIKA J LINDBERG, 0000
COLIN B MACINNES, 0000
MAUREEN D MAJEWSKI, 0000
PAUL J MANGINI, 0000
KELLY MASTROTOTARO, 0000
RYAN P MATSON, 0000
JOSEPH W MATTHEWS, 0000
MICHAEL D MCDONNELL, 0000
BRANDON P MCGOWAN, 0000
BLAKE A MCKINNEY, 0000
JAMES D MCMANUS, 0000
BRAD M MCNALLY, 0000
JOSEPH W MCPHERSON III, 0000
JOHN M MCTAMNEY IV, 0000
SARA A MESERVE, 0000
LAURA K MILLEN, 0000
JASON R MITCHELL, 0000
FRANCISCO L MONTALVO, 0000
LEAH F MOONEY, 0000
BENJAMIN P MORGAN, 0000
MATTHEW A MOYER, 0000
RYAN T MURPHY, 0000
MICHAEL P NEEDHAM, 0000
MARK R NEELAND, 0000
DION K NICELY, 0000
JUSTIN W NOGGLE, 0000
KAREN A NORCROSS, 0000
GREGORY F NORTE, 0000
MARTIN L NOSSETT IV, 0000
JAMES M OMARA IV, 0000
ROGER E OMENHISER JR., 0000
MARK G ORLANDO, 0000
BRENDAN P OSHEA, 0000
SCOTT D OSTROWSKI, 0000
ANDREA J PARKER, 0000
CHESTER A PASSIC, 0000
JEFFREY L PAYNE, 0000
JAMIE M PENDERGRASS, 0000
THOMAS T PEQUIGNOT, 0000
DONTE D PERRY, 0000
CATHERINE A PHILLIPS, 0000
JEFFREY R PLATT, 0000
JORGE PORTO, 0000
CHRIS R PRAY, 0000
KEVIN J PUZDER, 0000
KEITH D PUZDER, 0000
MEREDITH A QUEEN, 0000
MEG M RAPELYE, 0000
JENNIFER S RAYWOOD, 0000
SHEILA A REISER, 0000
THOMAS J RILEY III, 0000
PAUL G RISHAR, 0000
KATINA M ROGERS, 0000
KYLE W RYAN, 0000
JAN A RYBKA, 0000
KEVIN B SAUNDERS, 0000
BENJAMIN J SCHLUCKEBIER, 0000
HEATHER N SENYKOFF, 0000
BROOK W SHERMAN, 0000
JOSEPH F SILKOWSKI, 0000
KAREN SIMON, 0000
LORING V SITTLER, 0000
LAURA J SMOLINSKI, 0000
JOAN SNAITH, 0000
EDWARD L SOLIVEN, 0000
TERRY A STADERMAN II, 0000
JESSICA R STYRON, 0000
JAMES K TERRELL, 0000
EMILY L THARP, 0000
ALLYSON M THOMPSON, 0000
KRISTINA L THOMSEN, 0000
DAVID A TORRES, 0000
MICHAEL A VENTURELLA, 0000
MATTHEW J WALKER, 0000
WILLIAM R WALKER, 0000
TERRANCE F WALLACE, 0000
JAMES W WIMBERLEY JR., 0000
CHRISTOPHER L WRIGHT, 0000
KATHRYN L WUNDERLICH, 0000

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. JAMES SANDERS, 0000
BRIG. GEN. DAVID E. TANZI, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. KEVIN P. CHILTON, 0000
BRIG. GEN. JOHN D. W. CORLEY, 0000
BRIG. GEN. TOMMY F. CRAWFORD, 0000
BRIG. GEN. CHARLES E. CROOM JR., 0000
BRIG. GEN. DAVID A. DEPTULA, 0000
BRIG. GEN. GARY R. DYLEWSKI, 0000
BRIG. GEN. MICHAEL A. HAMEL, 0000
BRIG. GEN. JAMES A. HAWKINS, 0000
BRIG. GEN. GARY W. HECKMAN, 0000
BRIG. GEN. JEFFREY B. KOHLER, 0000
BRIG. GEN. EDWARD L. LAFOUNTAINE, 0000
BRIG. GEN. DENNIS R. LARSEN, 0000
BRIG. GEN. DANIEL P. LEAF, 0000
BRIG. GEN. MAURICE L. MCFANN JR., 0000
BRIG. GEN. RICHARD A. MENTEMEYER, 0000
BRIG. GEN. DALE W. MEYERROSE, 0000
BRIG. GEN. PAUL D. NIELSEN, 0000
BRIG. GEN. THOMAS A. O'RIORDAN, 0000
BRIG. GEN. WILBERT D. PEARSON JR., 0000
BRIG. GEN. QUENTIN L. PETERSON, 0000
BRIG. GEN. LORRAINE K. POTTER, 0000
BRIG. GEN. JAMES G. ROUDEBUSH, 0000
BRIG. GEN. MARY L. SAUNDERS, 0000
BRIG. GEN. JOSEPH B. SOVEY, 0000
BRIG. GEN. JOHN M. SPEIGEL, 0000
BRIG. GEN. CRAIG P. WESTON, 0000
BRIG. GEN. DONALD J. WETEKAM, 0000
BRIG. GEN. GARY A. WINTERBERGER, 0000

WITHDRAWALS

Executive message transmitted by the President to the Senate on March 19, 2001, withdrawing from further Senate consideration the following nominations:

THE FOLLOWING-NAMED PERSONS TO THE POSITIONS INDICATED, WHICH WERE SENT TO THE SENATE ON JANUARY 3, 2001:

BONNIE J. CAMPBELL, OF IOWA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE EIGHTH CIRCUIT, VICE GEORGE G. FAGG, RETIRED.

JAMES E. DUFFY, JR., OF HAWAII, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT, VICE CYNTHIA HOLCOMB HALL, RETIRED.

BARRY P. GOODE, OF CALIFORNIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT, VICE CHARLES E. WIGGINS, RETIRED.

ROGER L. GREGORY, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FOURTH CIRCUIT, VICE A NEW POSITION CREATED BY PUBLIC LAW 101–650, APPROVED DECEMBER 1, 1990, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

KATHLEEN MCCREE LEWIS, OF MICHIGAN, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT, VICE CORNELIA G. KENNEDY, RETIRED.

ENRIQUE MORENO, OF TEXAS, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT, VICE WILLIAM L. GARWOOD, RETIRED.

HELENE N. WHITE, OF MICHIGAN, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT, VICE DAMON J. KEITH, RETIRED.

SARAH L. WILSON, OF MARYLAND, TO BE A JUDGE OF THE UNITED STATES COURT OF FEDERAL CLAIMS FOR A TERM OF FIFTEEN YEARS, VICE LOREN A. SMITH, TERM EXPIRED.

JAMES A. WYNN, JR., OF NORTH CAROLINA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FOURTH CIRCUIT, VICE JAMES DICKSON PHILLIPS, JR., RETIRED.

THE FOLLOWING-NAMED PERSON, WHICH WAS SENT TO THE SENATE ON JANUARY 4, 2001:

ALSTON JOHNSON, OF LOUISIANA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT, VICE JOHN M. DUHE, JR.

THE FOLLOWING-NAMED PERSONS, WHICH WERE SENT TO THE SENATE ON JANUARY 5, 2001:

JAMES V. AIDALA, OF VIRGINIA, TO BE ASSISTANT ADMINISTRATOR FOR TOXIC SUBSTANCES OF THE ENVIRONMENTAL PROTECTION AGENCY, VICE LYNN R. GOLDMAN, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

NINA M. ARCHABAL, OF MINNESOTA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2006, VICE NICHOLAS KANELLOS, TERM EXPIRED, TO WHICH POSITION SHE WAS APPOINTED TO DURING THE LAST RECESS OF THE SENATE.

JAMES H. ATKINS, OF ARKANSAS, TO BE MEMBER OF THE FEDERAL RETIREMENT THRIFT INVESTMENT BOARD FOR A TERM EXPIRING SEPTEMBER 25, 2004, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

GEOFF BACINO, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL CREDIT UNION ADMINISTRATION BOARD FOR THE TERM OF SIX YEARS EXPIRING AUGUST 2, 2005, VICE NORMAN E. D'AMOURS, TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

BETTY G. BENGTSON, OF WASHINGTON, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2006, VICE RAMON A. GUTIERREZ, TERM EXPIRED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

ALLEN E. CARRIER, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM EXPIRING MAY 19, 2004, VICE DUANE H. KING, TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

RON CHEW, OF WASHINGTON, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2006, VICE ROBERT I. ROTBERG, TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

EDWARD CORREIA, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2002, VICE MICHAEL B. UNHJEM, TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

GEORGE DARDEN, OF GEORGIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR THE TERM EXPIRING DECEMBER 17, 2003, VICE ZELL MILLER, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

DENNIS M. DEVANEY, OF MICHIGAN, TO BE A MEMBER OF THE UNITED STATES INTERNATIONAL TRADE COMMISSION FOR A TERM EXPIRING DECEMBER 16, 2009, VICE THELMA J. ASKEY, TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

JAMES F. DOBBINS, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AN ASSISTANT SECRETARY OF STATE (EUROPEAN AFFAIRS), VICE MARC GROSSMAN, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

JAMES A. DORSKIND, OF CALIFORNIA, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE, VICE ANDREW J. PINCUS, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

BILL DUKE, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2006, VICE CHARLES PATRICK HENRY, TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

MICHAEL V. DUNN, OF IOWA, TO BE A MEMBER OF THE FARM CREDIT ADMINISTRATION BOARD, FARM CREDIT ADMINISTRATION FOR A TERM EXPIRING OCTOBER 13, 2006, VICE MARSHA P. MARTIN, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

FRED P. DUVAL, OF ARIZONA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING OCTOBER 6, 2002, VICE ANN BROWNELL SLOANE, TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

ROSS EDWARD EISENBREY, OF THE DISTRICT OF COLUMBIA, TO BE MEMBER OF THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM EXPIRING APRIL 27, 2005, VICE STUART E. WEISBERG, TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

JAYNE G. FAWCETT, OF CONNECTICUT, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM EXPIRING MAY 19, 2006, VICE ALFRED H. QOYAWAYMA, TERM EXPIRED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

TONI G. FAY, OF NEW JERSEY, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2001, VICE JOHN ROTHER, TERM EXPIRED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

ANITA PEREZ FERGUSON, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING SEPTEMBER 20, 2006, VICE MARIA OTERO, TERM EXPIRED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

DONALD L. FIXICO, OF KANSAS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2004, VICE ALAN CHARLES KORS, TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

GREGORY M. FRAZIER, OF KANSAS, TO BE CHIEF AGRICULTURAL NEGOTIATOR, OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

HSIN-MING FUNG, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2006, VICE SPEIGHT JENKINS, TERM EXPIRED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

HENRY GLASSIE, OF INDIANA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2006, VICE MARTHA CONGLETON HOWELL, TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

JAMES JOHN HOECKER, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION FOR THE TERM EXPIRING JUNE 30, 2005, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

PAULETTE H. HOLAHAN, OF LOUISIANA, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2004, VICE MARY S. FURLONG, TERM EXPIRED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

ELWOOD HOLSTEIN, JR., OF NEW JERSEY, TO BE ASSISTANT SECRETARY OF COMMERCE FOR OCEANS AND ATMOSPHERE, VICE TERRY D. GARCIA, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

MARY D. HUBBARD, OF ALABAMA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2004, VICE THEODORE S. HAMEROW, TERM EXPIRED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

TIMOTHY EARL JONES, SR., OF GEORGIA, TO BE A COMMISSIONER OF THE UNITED STATES PAROLE COMMISSION FOR A TERM OF SIX YEARS, VICE MARIE F. RAGGHIANTI, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

ARTHENIA L. JOYNER, OF FLORIDA, TO BE A MEMBER OF THE FEDERAL AVIATION MANAGEMENT ADVISORY COUNCIL FOR A TERM OF ONE YEAR (NEW POSITION), TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

JOHN R. LACEY, OF CONNECTICUT, TO BE CHAIRMAN OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR A TERM EXPIRING SEPTEMBER 30, 2003, VICE DELISSA A. RIDGWAY, TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

MIGUEL D. LAUSELL, OF PUERTO RICO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2003, VICE JOHN CRYSTAL, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

EDWIN A. LEVINE, OF FLORIDA, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, VICE DAVID GARDINER, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

ROBERT MAYS LYFORD, OF ARKANSAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2002, VICE HARVEY SIGELBAUM, TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

SHERYL R. MARSHALL, OF MASSACHUSETTS, TO BE A MEMBER OF THE FEDERAL RETIREMENT THRIFT INVESTMENT BOARD FOR A TERM EXPIRING OCTOBER 11, 2002, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

MARILYN GELL MASON, OF FLORIDA, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2003, VICE JOEL DAVID VALDEZ, TERM EXPIRED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

LARAMIE FAITH MCNAMARA, OF VIRGINIA, TO BE A MEMBER OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR A TERM EXPIRING SEPTEMBER 30, 2001, VICE JOHN R. LACEY, TERM EXPIRED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

ALLAN I. MENDELOWITZ, OF CONNECTICUT, TO BE A DIRECTOR OF THE FEDERAL HOUSING FINANCE BOARD FOR A TERM EXPIRING FEBRUARY 27, 2007, VICE BRUCE A. MORRISON, TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

SUSAN NESS, OF MARYLAND, TO BE A MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION FOR A TERM OF FIVE YEARS FROM JULY 1, 1999, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

NAOMI SHIHAB NYE, OF TEXAS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2006, VICE BEV LINDSEY, TERM EXPIRED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

DAVID Z. PLAVIN, OF NEW YORK, TO BE A MEMBER OF THE FEDERAL AVIATION MANAGEMENT ADVISORY COUNCIL FOR A TERM OF ONE YEAR (NEW POSITION), TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

DONALD L. ROBINSON, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2002, VICE GARY N. SUDDUTH, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

PETER F. ROMERO, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AN ASSISTANT SECRETARY OF STATE (INTER-AMERICAN AFFAIRS), VICE JEFFREY DAVIDOW, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

VICKI L. RUIZ, OF ARIZONA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2006, VICE HAROLD K. SKRAMSTAD, TERM EXPIRED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

BARBARA J. SAPIN, OF MARYLAND, TO BE A MEMBER OF THE MERIT SYSTEMS PROTECTION BOARD FOR THE TERM OF SEVEN YEARS EXPIRING MARCH 1, 2007, VICE BENJAMIN LEADER ERDREICH, RESIGNED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

GERALD S. SEGAL, OF PENNSYLVANIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2003, VICE SHIRLEY W. RYAN, TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

ISLAM A. SIDDIQUI, OF CALIFORNIA, TO BE UNDER SECRETARY OF AGRICULTURE FOR MARKETING AND REGULATORY PROGRAMS, VICE MICHAEL V. DUNN, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

BETH SUSAN SLAVET, OF MASSACHUSETTS, TO BE CHAIRMAN OF THE MERIT SYSTEMS PROTECTION BOARD, VICE BENJAMIN LEADER ERDREICH, RESIGNED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

KENNETH LEE SMITH, OF ARKANSAS, TO BE ASSISTANT SECRETARY FOR FISH AND WILDLIFE, DEPARTMENT OF THE INTERIOR, VICE DONALD J. BARRY, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

ISABEL CARTER STEWART, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2006, VICE DAVID FINN, TERM EXPIRED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

SHIBLEY TELHAMI, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 2001, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

DENNIS P. WALSH, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING DECEMBER 16, 2004, VICE SARAH MCCRACKEN FOX, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

JUDITH A. WINSTON, OF THE DISTRICT OF COLUMBIA, TO BE UNDER SECRETARY OF EDUCATION, VICE MARSHALL S. SMITH, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.