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# *Senate*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

**NOTICE**

If the 106th Congress, 1st Session, adjourns sine die on or before November 10, 1999, a final issue of the Congressional Record for the 106th Congress, 1st Session, will be published on November 30, 1999, in order to permit Members to revise and extend their remarks.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT–60 or S–123 of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m. through November 29. The final issue will be dated November 30, 1999, and will be delivered on Wednesday, December 1, 1999.

If the 106th Congress does not adjourn until a later date in 1999, the final issue will be printed at a date to be announced.

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By order of the Joint Committee on Printing.

WILLIAM M. THOMAS, *Chairman.*

**NOTICE**

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MICHAEL F. DiMARIO, *Public Printer.*

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

PRAYER

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

*I commit my way to the Lord*
*And trust also in Him*
*And He shall bring it to pass*
*rest in the Lord and*
*Wait patiently for Him.—Psalm 37:5,7.*

Blessed God, Your omniscience both comforts and alarms us. You know all about us: our strengths and weaknesses, our hopes and hurts. So often, instead of waiting patiently for You, we wait to commit our needs to You. Here we are at the end of another work week. There is work to be done before we can break for the weekend. Help us to believe that what we commit to You will come to pass if You deem it best for us. We need to experience the peace of mind and body that comes when we do what You guide us to do and leave the results to You.

Bless the Senators with the profound peace that comes from giving You their burdens and receiving Your resiliency and refreshment. May this be a great day because they, and all of us who work with them, decide to rest in Your presence and wait patiently for Your power to strengthen us. Through our Lord and Savior. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable CONRAD BURNS, a Senator from the State of Montana, 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.

## RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The Senator from Montana is recognized.

## SCHEDULE

Mr. BURNS. Mr. President, today the Senate will resume consideration of the bankruptcy reform legislation under the previous agreement. As a reminder, all first-degree amendments must be relevant with the exception of those specified in the agreement and must be filed by 5 p.m. today. The leader has announced that votes are possible during today's session on amendments to the bill or on finalizing the appropriations process. The leader also announced that there will be votes on Monday at 5:30 p.m. as well as on Tuesday morning at 10:30 a.m. The Tuesday morning votes will be on or in relation to the issues of minimum wage and business costs.

I thank my colleagues for their attention.

## MEASURE PLACED ON CALENDAR

Mr. BURNS. Mr. President, I understand that there is a joint resolution at the desk due its second reading.

The PRESIDENT pro tempore. The clerk will read the resolution the second time.

The bill clerk read as follows:

A joint resolution (S.J. Res. 37) urging the President to negotiate a new base rights agreement with the Government of Panama in order for United States Armed Forces to be stationed in Panama after December 31, 1999.

Mr. BURNS. Mr. President, I object to further proceedings on this resolution at this time.

The PRESIDENT pro tempore. Objection is heard. Under the rule, the joint resolution will be placed on the calendar.

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

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

The bill clerk proceeded to call the roll.

(Mr. BURNS assumed the chair.)

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

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

## RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

## BANKRUPTCY REFORM ACT OF 1999

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 625, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 625) to amend title 11, United States Code, and for other purposes.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, what is the parliamentary situation on time, or is there a time limitation?

The PRESIDING OFFICER. The Chair knows of no time limits.

Mr. LEAHY. That is my understanding.

Mr. President, I see my good friend, the Senator from Iowa, on the floor. I will speak in my capacity as ranking member of the Senate Judiciary Committee. I know Senator HATCH has spoken in his capacity as chairman of the committee. I know the Senator from Iowa, Mr. GRASSLEY, is here as chairman of the appropriate subcommittee, and Senator TORRICELLI of New Jersey will be here as ranking member of that subcommittee.

This is an important issue. It is safe to say every American agrees with the basic principle that debts should be repaid. It certainly is a principle I was brought up to believe and one my fellow Vermonters share. In fact, this country is blessed with prosperity, and the vast majority of Americans are able to meet their obligations. But for those who fall on financial hard times, bankruptcy should be available in a fair and balanced way. In fact, our country's founders believed the principle was so important they enshrined it in the Constitution, one of the few such specific reliefs enshrined in the Constitution.

Article I, section 8, of the Constitution explicitly grants Congress power to establish uniform laws on the subject of bankruptcies throughout the United States.

We in Congress have a constitutional responsibility to oversee our Nation's bankruptcy laws. Unfortunately, more and more Americans are filing for bankruptcy. In fact, 1.4 million Americans filed for bankruptcy last year. That was an increase in the number of filings from 1997, and in 1997 there was an increase in the number of filings from 1996. I find this trend extremely disturbing because the economy is doing so well. Even this morning, we hear of unemployment at an all-time low, inflation is steady, and the economy is booming. The unemployment rate keeps going down, inflation remains low, and the Nation's personal bankruptcies keep going up.

Vermont has traditionally had one of the lowest rates of bankruptcy per capita in the Nation. But in my home State of Vermont, personal bankruptcies have increased in each of the last 4 years, with annual personal bankruptcies more than doubling since 1994. I said this has occurred even though we have kept our low ranking compared to other States in the number of personal bankruptcy filings per capita. We will be able to keep that ranking because personal bankruptcy rates have gone up far more dramatically in other States.

If the rise in personal bankruptcy is caused in part by some Americans abusing the bankruptcy system, then we in Congress should move in a major, balanced way to correct our bankruptcy laws. Working together, we saw a way we could do this. We did last year. Democrats and Republicans molded a bill that corrected abuses by debtors and creditors, and it preserved access to the bankruptcy system for honest debtors.

The distinguished senior Senator from Illinois, Mr. DURBIN, who worked with the distinguished Senator from Iowa, Mr. GRASSLEY, did yeoman's work on last year's bill. They produced a bipartisan bill. As I recall—my colleague from Iowa can correct me if I am wrong—I believe it passed the Senate with something like 97 votes and only 1 or 2 votes against it. It is pretty amazing to have that strong support when we have a piece of legislation that balances such contrasting, sometimes conflicting, interests around the country. It is a credit to the two Senators who crafted it. They balanced the competing interests of debtors and creditors to put together a bill that is fair to all.

I am on the floor today because I have a concern that the bill before us strays from the blueprint of last year's balanced reforms in the Senate. For example, today's bill requires the means

testing of debtors to complete chapter 7 filings based on expense standards that are formulated by the Internal Revenue Service.

Last year, Congress was exposing the IRS as an agency out of control in its enforcement of the Internal Revenue Code, but now we say we will trust the IRS with enforcement of the bankruptcy code. We were saying last year they could not enforce the Internal Revenue Code, the area of their own expertise, but now we say we will let them help enforce the bankruptcy code, an area in which they have no expertise or jurisdiction. In my State, we say that lacks common sense.

This means testing severely restricts a judge's discretion to take into account individual debtors' circumstances. As a result, it has the potential to cause an unforgiving and inflexible result of denying honest debtors access to a postbankruptcy fresh start and would go against basically the way the bankruptcy code has been followed since the beginning of this country.

I believe most Americans, perhaps not all but most Americans, who file for bankruptcy honestly need relief from their creditors to get back on their feet financially. We have recent research that shows stagnant wages and consumer credit card debt are the primary reasons for the rise in bankruptcy filings. If there are abuses in the credit industry, then we should move in a major and balanced way to correct them.

I believe last year's Senate consumer bankruptcy reform bill, which, as I said, passed this Chamber by a near unanimous vote of 97–1, provides us with a blueprint for balanced reforms.

Moreover, the latest study by the nonpartisan American Bankruptcy Institute found that only 3 percent of chapter 7 filers could afford to repay some portion of their debt. To force the other 97 percent of chapter 7 debtors to submit to this arbitrary means test in trying to reach 3 percent lacks common sense and poses an additional burden on the 97 percent for something that does not apply to them. The Congress seems to be stepping on people it should not.

To the credit of the Senator from Iowa and the Senator from New Jersey, they are working to moderate the bill's arbitrary means testing provisions, and I commend them for working together to improve the underlying bill. I also commend the Senator from Illinois, Mr. DURBIN, and the Senator from New York, Mr. SCHUMER, for their leadership on this issue. I hope we can significantly improve the bill's means test provisions in the coming days, and we can if we want to work at it.

I am also concerned that today's bill, at least as it is now, prior to any amendments, is missing a key ingredient from last year's balanced reforms in the Senate: consumer credit information and protection.

Last year's Senate-passed bill required the disclosure of information on credit card fees and charges and also protection against unjustified credit industry practices. As the Department of Justice stated in its written views on the bill:

> The challenge posed by the unprecedented level of bankruptcy filings requires us to ask for greater responsibility from both debtors and creditors. Credit card companies must give consumers more and better information so they can understand and better manage their debt.

The administration has made it clear that for the President to sign bankruptcy reform legislation into law, it has to contain strong consumer credit disclosure and protection provisions. I agree with that. The credit card industry has to shoulder some responsibility for the nationwide rise in personal bankruptcy filings.

Last year, credit card lenders sent out 3.4 billion solicitations—3.4 billion. There are only 260 million people in this country, from the child born this morning on through. We are talking about 12 credit card solicitations per year for every man, woman, and child in America.

I constantly hear from parents that their 10-year-old child may receive a letter: You have been preapproved for credit; X number thousands of dollars. Here is your credit card.

I am not as concerned about the 10-year-old because usually the parent will grab that. I am a little bit concerned about the 16- or 17-year-old who has been eyeing a stereo set, or whatever, and they get the credit card preapproved. How about the college kids who get four or five of those in the mail: You have been preapproved. Suddenly they say: Wow, I'm worth $75,000. I have it right here in plastic. Unfortunately, when they spend it, they have to pay it back. We need a little more responsibility on this.

Do we want to send a 10-year-old down to the store with $3,000 worth of credit in their credit card? I would think not. But I also don't want the credit card companies crying when they do this and then the bills do not get paid. A little bit of effort should be made first to make sure you know who you are preapproving.

I add, there are times when somebody's pet has been preapproved. My eldest son has two beautiful Labrador retrievers—nice dogs, friendly dogs but, as most labs, probably more friendly than bright. I am not sure I want to give them credit cards. And for all the Labrador retriever owners who might have heard that and will call my office, please understand, I do like those dogs, but I am still not going to give them a credit card.

Clearly, the billions of credit card solicitations that are sent to Americans every year have contributed to an era of lax credit practices. That, in turn, contributes to the steep rise in personal bankruptcy filings. I am hopeful we can add credit industry reforms to this bill in the coming days.

Senators TORRICELLI and GRASSLEY have prepared a managers' amendment that incorporates many credit industry reforms proposed by Senators SCHUMER, REED, DODD, and others. I commend these Senators for working together on these bipartisan credit card reforms. I am pleased, actually, to cosponsor the amendment I have just referred to because it adds more balance to the bill.

Another area where we can add needed balanced reform to this legislation is in the homestead exemption. You have States—Florida and Texas, for example—where debtors are permitted to take an unlimited exemption from their creditors for the value of their home. We understand the policy reasons for protecting one's home. But I think the policy was determined when you think of the average home. Unfortunately, this exemption has led to wealthy debtors abusing their State laws to protect multimillion-dollar mansions from their creditors.

I do not think we intend somebody to be able to run up millions of dollars of debt, have a multi-multimillion-dollar mansion and say: Wait a minute. I need my humble home.

Home may be where the heart is, but it is not necessarily where the bankruptcy protection should be. This is a real abuse of bankruptcy's fresh start protection.

The distinguished Senator from Wisconsin, Mr. KOHL, has been a leader in trying to end homestead bankruptcy abuses. He has, again, prepared a bipartisan amendment to cap any homestead exemption at $100,000. I hope the full Senate will adopt the Kohl amendment to place reasonable limits on homestead exemptions.

The distinguished Senator from Massachusetts, Mr. KENNEDY, plans to offer an amendment to increase the minimum wage over the next 2 years from $5.15 to $6.15 an hour. I am proud to be a cosponsor of this amendment, as I have been before.

It is more than appropriate to help working men and women earn a living wage on a bill related to bankruptcy. These minimum-wage workers are some of the same Americans who are struggling to make a living every day and might be forced into bankruptcy by job loss or divorce or other unexpected economic event.

More than 11 million workers will get a pay raise as a result of a $1 increase in the minimum wage. We ought to agree to help millions of hard-working American families live in dignity.

I plan to offer an amendment that would save the taxpayers millions of dollars in wasteful spending and improve the bill by revising the requirement for all debtors to file with the court copies of their tax returns for the past 3 years. If the requirement was in effect last year, the 1.4 million Americans who filed for bankruptcy would have produced at least 4.2 million copies of their tax returns.

It might sound like a great idea, but the Congressional Budget Office estimates it will cost taxpayers about $34

million over the next 5 years for the courts to store and provide access to more than 20 million tax returns. It is a pretty big expense for very little benefit.

Every time we do something with one of these mandates, it may sound great, but we ought to ask ourselves, what does this cost? What do we get out of it? My amendment makes more sense. It does what the original amendment wanted to do but without the cost. It would strike the requirement. It would, instead, permit any party in interest—a creditor, judge, trustee or whoever—to request copies of a debtor's tax returns once the bankruptcy is filed. It is a targeted approach, targeted to verify a debtor's assets and income. I think it is workable and efficient because most bankruptcy cases involve debtors with no assets and little income, thus no need for the review of tax returns and no need for the taxpayers to spend $34 million to store paper nobody is ever going to look at.

So let's not pile up millions and millions and millions of these pieces of paper, hire hundreds and hundreds of people to store them, and then have something nobody is ever going to look at anyway.

I have consulted with our bankruptcy judge and trustee in Vermont. I will continue to do so. They caution that we remember the purpose bankruptcy serves: a safety net for many of our constituents. Those who are using it are usually the most vulnerable of America's middle class. They are older Americans who have lost their jobs or are unable to pay their medical debts. They are women attempting to raise their families or to secure alimony or child support after divorce. They are individuals struggling to recover from unemployment.

As we move forward with reforms that are appropriate to eliminate abuses in the system—and we should eliminate such abuses—we need to remember that people use the system, both the debtors and the creditors. We need to balance the interests of creditors with those of middle-class Americans who need the opportunity to resolve overwhelming financial burdens.

On a personal note, I welcome the distinguished Senator from New Jersey, Mr. TORRICELLI, who is the new ranking member of the Administrative Oversight and the Courts Subcommittee, to the challenges this matter presents. I know he and his staff have been working hard in good faith to improve this bill.

As the last Congress proved, there are many competing interests in the bankruptcy reform debate that make it difficult to enact a balanced and bipartisan bill into law. Unfortunately, overall, the Congress failed to meet that challenge last year, even though I believe we met it here in the Senate, in the Grassley-Durbin bill, which passed 97 to 1. I was pleased and proud to be a supporter of that. The mistake came in the conference. It broke down into a partisan fight, as though there is a difference between a Republican or a Democrat who is seeking bankruptcy relief or a difference between a Republican or a Democrat creditor whose interests have to be protected in bankruptcy.

This is an American issue. We handled it as such in the Senate a year ago. We should do it again. I hope we can set, again, the standard, Republicans and Democrats in the Senate working together to pass and enact into law balanced legislation that will correct abuses by both debtors and creditors in the bankruptcy system. We are going to be better off for it. I hope that is what we can do.

Mr. President, I yield to the distinguished Senator from Iowa.

Mr. GRASSLEY. Mr. President, before the Senator from Vermont leaves the floor, I want to thank him for his comments. He has expressed very well some statements about parts of the bill on which he has questions. I want to assure him, most of those—in fact, the way the Senate works, probably all of those—will have to be addressed in some way through the various amendments which are likely to be adopted. We do have a very close working relationship, even at this point, on some of those things with people on the Senator's side of the aisle. We will try to do that.

If I could also make the Senator from Vermont aware of a study he referenced, the study done by the American Bankruptcy Institute on the utility of chapter 7 debtors to repay their debts—the Senator may not know this, but we have had the General Accounting Office look at this study; in fact, all the studies on this question. The General Accounting Office has concluded that this specific study by the American Bankruptcy Institute was flawed. In fact, it understated the repayment ability in a very significant way.

I do not expect the Senator to accept that right now, just because I have said it. I hope he will be able to take a look at that and see if there are any remaining questions that he might have which we could address, and if we can't do that and the Senator might be considering some amendments that are a direct result of the American Bankruptcy Institute study, that we would have an opportunity to talk about it before he might move in that direction.

Overall, his statement is very accurate, stating some disagreements, some questions he has. Hopefully, we will be able to address those questions.

Mr. LEAHY. Mr. President, I appreciate the words of the Senator from Iowa. He and I have been here for a long time. We have worked on an awful lot of issues, from defense matters to agricultural matters. Over those years, I have always enjoyed working with him. We will continue on this. I realize there will not be votes today, but I think this would be a good time for Senators who are trying to reach areas of accommodation and agreement to do so. Either I or my staff will be here to work with the staff of the Senator from New Jersey and the Senator from Iowa in any way we can be helpful.

I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I know Senator TORRICELLI is expected to come to the floor to make a statement. While we are awaiting his arrival, I will address the Senate on a small but very important part of this legislation. That is the one that deals with chapter 12, making it permanent, as part of the bankruptcy reform legislation, so we do not have to, every 4 or 5 years or, as has been the case in the last 12 months, since it has sunsetted, had to reauthorize it two or three times on a short-term basis.

We are all in agreement it should be made permanent. People who have opposed making it permanent as a separate bill have thought it was necessary to do it at the same time as we offer the overall bankruptcy reform legislation. Hopefully, with this bill, S. 625, being adopted, we will never in the future have to deal with a separate reauthorization of a sunset chapter 12 because why should we have to sunset chapter 12, a provision that is made specifically for farming, when we don't do it for chapter 13, that is made specifically for individuals or small businesses, or chapter 11 that works very well for major corporations in America.

I want to visit with my colleagues about some very important provisions in the bill before us that are vital to family farmers in the Midwest generally, in Iowa in particular, as well as the country as a whole. Agriculture, wherever it is, is something unique and different from a lot of businesses in their situations, where sometimes they have a decline not only in income that might make bankruptcy be considered but also a decline in value of real estate that, previous to chapter 12, made it very difficult to keep up with the needs of a chapter 11 bankruptcy procedure.

As we all know from the recent debate we had within the last month on the emergency Ag appropriations bill, many of America's farmers are facing financial ruin. We have some of the lowest commodity prices in 30 years. Pork producers have lost billions of dollars in equity, not just in income but billions of dollars of equity, with the lowest prices of pork in 60 years that we had just 12 months ago. Pork producers have not only lost, but the price of corn is currently well under the cost of production. The cash market for soybeans has reached a 23-year low. This is all in addition to poor weather conditions in parts of the United States, particularly the drought of the East Coast, the drought of Texas, the fires in Florida, and flooding in various parts of the Midwest.

These circumstances have sent many farming operations in a tailspin. Clearly, we need to make sure family farmers continue to have bankruptcy protection available to them and a protection that satisfies the uniqueness of farming, as we have had other sections of the code try to be written to meet the uniqueness of other business arrangements within our society and our economy.

Particularly, chapter 12 is going to be needed in good times as well as bad times—maybe not used in good times, but it needs to be there to meet the different arrangements of the different segments of the country and also the different drought and flooding conditions that happen from time to time, as well as the unpredictability of the economy, particularly the international economy, when the Southeast Asian financial crisis brought a downturn in our exports and squeezed the farmers' income at this particular time.

Title X of S. 625 of this bill makes chapter 12 permanent and makes several changes to chapter 12 to make it more accessible for farmers and to give farmers new tools to assist in reorganizing their financial affairs.

Back in the mid-1980s when Iowa was in the midst of another devastating farm crisis, I wrote chapter 12 to make sure family farmers would receive a fair shake when dealing with the banks and the Federal Government. At that time, I didn't know if chapter 12 was going to work or not, so it was only enacted on a temporary basis.

Chapter 12 has been an unmitigated success. As a result of chapter 12, many farmers in Iowa and across the country are still farming and contributing to America's economy. With a new crisis in farm country now, just 15 years from the last one, we need to make sure chapter 12 is a permanent part of Federal law, and this bankruptcy bill does exactly that.

As was the case with the dark days of the mid-1980s, some are predicting that family farms should consolidate and we should turn to corporate farming to supply our food and agricultural products. As with the 1980s, some people seem to think family farms are inefficient relics that should be allowed to go out of business. This would mean the end of an important part of our Nation's economy and a certain heritage that is connected with it. And it would put many hard-working American families—those who farm and those whose jobs depend on a healthy agricultural sector—out of work.

But the family farm didn't disappear in the 1980s, and that crisis was very bad as well. It was not only an income crisis, as is the situation now, but there was a tremendous drop in equity at that particular time.

I believe chapter 12 is a major reason for the survival of many financially troubled family farms. We have an Iowa State University study prepared by the outstanding Professor Neil Harl. He found that 84 percent of the Iowa farmers who used chapter 12 were able to continue farming. Those are real jobs for all sorts of Iowans in agriculture and in industries that depend upon agriculture. According to the same study, 63 percent of the farmers who used chapter 12 found it helpful in getting them back on their feet. In short, I think it is fair to say chapter 12 worked in the mid 1980s and it should be made permanent so family farmers in trouble today can get breathing room and a fresh start if that is what they need to make it.

But the most obvious reason for having it is that chapter 11, written for corporate America, does not fit the needs of agriculture or the economics of agriculture.

The Bankruptcy Reform Act before us doesn't just make chapter 12 permanent. Instead, the bill makes improvements to chapter 12 so it will be more accessible and helpful for those in the agricultural community. First, the definition of the family farmer is widened so that more farmers can qualify for chapter 12 bankruptcy protection. Second, and perhaps most important, my bankruptcy bill reduces the priority of capital gains tax liabilities for farm assets sold as part of a reorganization plan. This will have the beneficial effect of allowing cash-strapped farmers to sell livestock, grain, and other farm assets to generate cash flow when liquidity is essential to maintaining a family farm operation. These reforms will make chapter 12 even more effective in protecting America's family farms during this difficult period.

So it is really imperative that we keep chapter 12 alive. Before we had chapter 12, banks held a veto over reorganization plans. They would not negotiate with people in agriculture, and the farmer would be forced to auction off the farm, even if the farm had been in the family for generations. Now, because of chapter 12, the banks are willing to come to terms. We must pass S. 625 to make sure America's family farms have a fighting chance to reorganize their financial affairs.

Before I yield the floor, I see my good friend and coworker on this legislation, the Senator from New Jersey, Mr. TORRICELLI, has come to the floor to make some remarks. As I said last night and I want to say today, because he wasn't able to be here last night, I really appreciate that from day 1 of our even visiting about the possibility of putting together a bipartisan bill, as we had done in the previous Congress, because he was new to the committee and to this effort, not participating at the committee level in the efforts I had with Senator DURBIN of Illinois during the previous Congress on a bill that just about made it through—not knowing those things could work out, we sat down and visited about that possibility.

That initial visit brought us to putting together the legislation that is before us, legislation as introduced with the idea that he and I may not have agreed to everything down to the last jot and tittle with that legislation, but that we would be able, through the ensuing months, to work out differences and come to an agreement and get a bill out of committee. He has kept his word, and he has worked with us.

I don't know whether people who don't participate in the legislative process know how much easier that is, such a better environment in which to write legislation and to make public policy. I don't see that often enough. I see it in this legislation through the cooperation of Senator TORRICELLI. Obviously, that sort of cooperation is two ways: He gives; I give. People who look to him for leadership—he has to carry some water for colleagues of his who want him to work things out. I have to do the same thing. But whether it is as a water carrier for our colleagues or whether it is for the individual philosophy of Senator TORRICELLI or myself, we have been able to bring this together. I thank him for that cooperation.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. TORRICELLI. Mr. President, I thank Senator GRASSLEY for what has been a valuable partnership in crafting what I believe to be extremely important legislation. It would be fair to conclude that without the tenacity of Senator GRASSLEY, this Senate would not be considering bankruptcy legislation. Without his reasonableness in reaching some of these provisions, it would not be the kind of progressive legislation that I believe is before us today.

I also note that I am a successor to Senator DURBIN who, like Senator GRASSLEY, has invested not months but more than a year in crafting this legislation. Senator DURBIN's contributions are on virtually every page. Working with Senator DURBIN and, indeed, with Senator GRASSLEY has not only been a pleasure; it has been a productive exercise. For that, I am very grateful.

These are unusual times in our country, such an extraordinary combination of economic circumstances. Unemployment is low, home ownership is at record levels, and, for the first time in years, the Federal Government is operating with a surplus. This would lead many to believe these are not only good economic times but perfect economic times. This, of course does bear closer scrutiny.

There are several troubling aspects with the modern American economy. They are not unrelated. One is a rapidly declining rate of personal savings—indeed, in the last quarter, the lowest savings rate by American families in our history.

The second is the rapid, almost inexplicable rise in consumer bankruptcies. In 1998 alone, 1.4 million Americans sought bankruptcy protection. This represented a 20-percent increase since 1996 and a staggering 350-percent increase since 1980.

We can differ on the reasons. We can have our own theories. But something is wrong. That ''something'' is not only jeopardizing the economic security of American families, it is providing a staggering financial burden on small businesses and American financial institutions.

It is estimated 70 percent of the these bankruptcy situations were filed in chapter 7, which provides relief for most unsecured debt. Just 30 percent of these petitions were filed under chapter 13, which requires a repayment plan.

There are, obviously, disagreements about what has caused this dramatic increase. It is probable there is no one reason but a confluence of problems. Some suggest that culturally the stigma of bankruptcy has been removed and people no longer feel any inhibition in admitting their financial circumstances and seeking total relief from personal obligations. Others believe it is simply abuse of a system in which it is too simple to avoid responsibility. Others argue that a reliance on debt and a decrease in personal savings has left record numbers of Americans vulnerable to this change and leading to these extraordinary levels of bankruptcy.

Obviously, in the complexities of modern life—with low savings rates, high levels of debt, attentions of our current culture, unexpected events, divorce, a health crisis, given the enormous cost of health care in the Nation, the loss of a job or the loss of job skills because of changes of technology—any one of them, no less a combination of them, can take an American family who believes it is living with financial security and force them under a crushing debt into bankruptcy.

The reality, of course, is a majority of these bankruptcies are hard-working American people, low- or middle-class families, who largely, through no fault of their own, sometimes due to these circumstances that I have outlined, find themselves with overwhelming financial problems and they simply cannot deal with the crushing blow. For all the abuses, the fact remains that accounts for most of these bankruptcies.

At the same time, in a recent study the Department of Justice has found that 13 percent of all those debtors filing under chapter 7, or an incredible 182,000 people, can afford to repay a significant amount of this debt. This would mean to creditors, family-owned businesses, small retailers, and important financial institutions, an incredible $4 billion that could be returned to creditors but is avoided through what I perceive to be a misuse of the bankruptcy system.

These are the factors, the statistics, and the concerns that led Senator GRASSLEY and I to offer this comprehensive bankruptcy reform.

The bill before the Senate strikes a balance making it more difficult for the unscrupulous to abuse the system, while ensuring that bankruptcy protection for families who need it will find it available.

These abuses which result in this $4 billion loss to creditors is not paid by some distant institution off our shores separated from the realities of American life or our economy. This is money avoided through the unscrupulous use of the bankruptcy system that is added onto every piece of clothing you buy in the store, every automobile you purchase from a show room, every credit card you use, and every bank loan that you take.

Those hard-working Americans who pay their bills are forced, through bankruptcy, through no fault of their own, to share these costs. That is what brings us here today.

At its core, the Grassley-Torricelli bill is designed to assure that those with the ability to repay a portion of their debts do so by establishing clear and reasonable criteria to determine repayment obligations.

It provides judicial discretion to ensure that no one genuinely in need of debt cancellation will be prevented from receiving a fresh start. Recognizing that a fresh start and an ability to have a new life have been at the core in this country, that has been the reason for bankruptcy protection since the establishment of the Republic. We believe in second chances in life. We also don't believe in people escaping obligations they can meet or misusing the legal system.

It is because, however, of our concern that vulnerable people who genuinely use the system for a new start in life would have their position jeopardized by our legitimate efforts to find those who are abusing the system that we have designed a flexible means testing system in the bankruptcy bill for the first time. Under current law, virtually anyone who files for complete debt relief under chapter 7 will receive it.

The Grassley-Torricelli bill creates a needs-based system by establishing a presumption that a chapter 7 filing should be either dismissed or converted to a chapter 13 when the debtor has sufficient income to repay at least $15,000, or 25 percent of their outstanding debt. That is the essence of the needs-based system. It is a simple presumption. You can pay $15,000, or 25 percent. It is not closed to you. There is no prohibition. But there is a presumption that you can pay. You need to meet that presumption only for those individuals.

I believe this is a flexible yet very efficient screen to move debtors to the ability to repay a portion of their debt into a repayment plan, while at the same time ensuring judicial discretion and a fair review given the debtor's individual circumstances.

In addition, the bill contains several important consumer safeguards to prevent unfair harassment by creditors. It requires the Attorney General and the FBI Director to designate one prosecutor and one agent in every district to investigate reaffirmation practices that violate Federal law.

This is an important element of this bill to ensure that individual creditors do not seek their own remedy outside of the law, forcing people who cannot repay or should not be repaying, given their individual circumstances and income, to do so.

It penalizes creditors who refuse to negotiate reasonable repayment schedules prior to bankruptcy.

The emphasis remains on settlement through negotiations—not litigation and conflict.

Importantly, the bill also does everything possible to guarantee that child support payments in bankruptcy are not jeopardized, are a priority, and continue.

This was the priority in the Judiciary Committee—that we would reform this system, we would provide new opportunities for debtors to collect, new safeguards for people in bankruptcy, but that child support payments and family obligations will remain paramount.

I believe in the balance that is achieved in this legislation, and that Senator GRASSLEY and I have met that objective. It was critical to do so because more than one-third of bankruptcies in the United States involve spousal or child support orders. This bill will not be a vehicle for people escaping their family obligations.

In half of these cases, women are creditors trying to collect court-ordered support from their former husbands. These support orders are a lifeline for these families. I believe this legislation has protected it, recognizing the vulnerability of these families, and why this was a priority in the legislation.

Mr. President, 44 percent of single parent families with children under the age of 18 had incomes below the poverty line in recent years. The child support amounting to an average of nearly $3,000 is often the only thing that keeps a single parent and a dependent child off public assistance. Senator GRASSLEY and I have achieved this protection and I believe this fair provision of protecting these families by elevating child support from its current place as seventh on the repayment priority list to first place. This is critical for Members of the Senate to understand. Currently, these child support payments are seventh on the list of priorities. Under the Grassley-Torricelli legislation, it will now be first priority. No bank, no insurance company, no credit card company, no retailer—no one—will have higher priority than the children or the spouses involved in these cases.

There were other concerns in the Judiciary Committee which needed to be addressed, other balances that have been achieved that the Senate should recognize. First, the managers' amendment that will be offered incorporates the language offered by Senator FEINGOLD to remedy a provision in the bill carried over from the legislation of a previous year which would have made

debtors' attorneys responsible for costs and fees. That provision would have made it impossible for many middle-income people, people of modest means, to ever get an attorney. In cases where there is any judgment to be reached, any questions on the merits, it would have been impossible to get an attorney, disenfranchising many Americans from the entire bankruptcy system. A motion brought by the trustee to move the debtor from chapter 7 into chapter 13 and the original filing was, we found, not substantially justified. Those costs would have been incurred by the attorney. The managers' amendment will protect against this provision.

Second, the managers' amendment will include a safe harbor, exempting every debtor with income below the median income from the means test. This provision will ensure low-income people with no hope of prepaying their debts are not swept into the means test.

A final point I raised that is resolved by the managers' amendment is the use of IRS standards in the bill. Currently, the bill uses living expense standards formulated by the IRS in determining what portion of their debts an individual has the ability to repay. These standards were not formulated with bankruptcy in mind and provide virtually no flexibility to account for the debtor's actual expenses. They were, therefore, not appropriate. The managers' amendment will clarify the Justice Department and Treasury have the authority to draft bankruptcy appropriate standards and not use the IRS standards previously used.

For each of these provisions and their incorporation in this legislation, we are very indebted to members of the Judiciary Committee: Senator FEINGOLD, for his efforts in recognizing the possible abuses of putting these costs on to bankruptcy attorneys if the cases were lost; and Senator DURBIN, at his insistence and my own, we provided for an appropriate means test; and for the Department of Justice coming up with its own means test standards. Senator DURBIN, in particular, was very helpful with these provisions. Senator GRASSLEY, recognizing their merits, has brought them into the legislation. It is, therefore, far better legislation because of each of these provisions.

There is, however, one final area which also must be addressed to ensure the bill is both balanced and bipartisan. It is critical the bill not only address the debtor's abuse of bankruptcy but also overreaching and sometimes abusive practices of the credit industry. Any American who gets their own mail understands some change is taking place in the American economy—the extraordinary solicitation of customers, by the 3.5 billion individual efforts by the credit card industry to get new customers. This represents 41 mailings for every American household every year; 14 for every man, woman, and child in the Nation. No one disputes both the right and the advisability of the credit card industry seeking solicitation of new customers who are creditworthy, have incomes and the need for available consumer credit. It is right and an important part of our economy. That is not the objective of this legislation.

Our concern in balancing provisions dealing with consumer abuse of the bankruptcy laws with credit industry abuse of consumers focuses instead on people of modest incomes who are offered credit they could never afford, debt they will incur that they can never deal with, young people and the elderly, in credit obligations they do not even understand. The situation, indeed, has become so serious with students that 450 colleges nationwide have banned the marketing of credit cards on their campuses. Low-income families are being targeted with the same frequency as students—the endless solicitation of debt they cannot meet and should not incur.

Since this decade began, Americans with incomes below the poverty line have doubled their credit usage. The result is entirely predictable. Mr. President, 27 percent of families earning less than $10,000 have consumer debt that is more than 40 percent of their income. Modest-income families, sometimes high school students, often people on public assistance, receiving hundreds if not thousands of credit solicitations by companies that should recognize with any due diligence that is fully available to the industry that these debts can never be paid. I have granted to the industry that unfortunate changes in our culture, abuses of the bankruptcy laws, and a host of other reasons have led to needed changes in the bankruptcy laws to avoid these abuses. No one can credibly argue there is not some need of the industry to do so as well.

In this legislation we offer the consumers must be given information about the consequences of their debt: fair disclosure if only the minimum debt is paid as required by the credit card company or the bank; how long will it take for repayment to be made; and what will it cost, information that should be made available to every consumer, people believing if they make the minimum payments they will actually ever be out of debt. We want them to recognize the years and the enormous costs of doing so.

Senator GRASSLEY, working with Senator SCHUMER, Senator DURBIN, and others, has reached an accommodation that I think is fair to the industry but will provide real consumer protection through disclosure. The adoption of that amendment is as vital to a balanced bill as the protection of child support, the moving of people into repayment schedules, and a means test.

This is an extraordinary piece of legislation. It is a challenge to all those who believe this Senate cannot operate on a bipartisan basis. There will be opposition to bankruptcy reform. It may be 5, 10, 15 or 20 votes, but it will be a small minority. This is genuinely bipartisan legislation. It can be adopted without rancor after months, if not years, of effort by Senators from both sides of the aisle. It is fair; it is balanced for the credit card industry and consumers.

I end as I began, expressing my gratitude to Senator GRASSLEY and members of the Judiciary Committee, and I compliment the Senate on what I believe will be a worthwhile and informative debate as we adopt this comprehensive bankruptcy reform.

I yield the floor.

Mr. GRASSLEY. Mr. President, there does not appear to be an effort on the part of Members to consider this bill which is up for discussion. It will take a few days to get through all the amendments. Given the lateness of the year as far as the total legislative session is concerned and considering all the other work that needs to be done to wind up this legislative session, there may not be an appreciation of all the amendments we have to deal with on this bill. I encourage Members who have amendments to come here on the floor to offer their amendments. This bill is very complex. Some of the amendments are also going to be very complex. So please come here and offer your amendments.

AMENDMENT NO. 1730

(Purpose: To amend title 11, United States Code, to provide for health care and employee benefits, and for other purposes)

Mr. GRASSLEY. Mr. President, I call up amendment No. 1730 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative assistant read as follows:

The Senator from Iowa [Mr. GRASSLEY], for himself, Mr. TORRICELLI, and Mr. LEAHY, proposes an amendment numbered 1730.

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

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. GRASSLEY. Mr. President, we have a situation now in which several nursing home chains, maybe even some independent nursing homes, are going into bankruptcy. When this happens, we do not have public policy in place to guarantee the economic and accounting decisions that the bankruptcy involves take into consideration the needs of the residents of these nursing homes.

If a hospital goes bankrupt, the basic question then is, What happens to the patients? The moving of elderly patients, particularly those who have been in a single nursing home for a long period of time, is a very traumatic experience. Many times, the trauma that results from that removal leads to almost immediate death. I suppose a more accurate statement would be that under any circumstance, patients' welfare varies from case to case.

If a bankruptcy trustee is thinking about patients, he may act to protect them. If he is not thinking about the patients, they could end up on the street. This has happened before, and it could happen again. The amendment I am offering today with Senator TORRICELLI and Senator LEAHY would modify our bankruptcy laws to deal with the failures of health care businesses. Our intent is simply to protect patients in a system that is not designed to protect them.

The fate of patients caught in business failures does not always make headlines. But when it does, the stories can be quite moving. The Los Angeles times on September 28, just 2 years ago, described the terrible consequences of a sudden nursing home closing:

It could not be determined Saturday how many more elderly and chronically ill patients may be affected by the health care company's financial problems. Those at the Reseda Care Center in the San Fernando Valley, including a 106-year-old woman, were rolled into the street late Friday in wheelchairs and on hospital beds, bundled in blankets, as relatives scurried to gather up clothes and other personal belongings.

As horrifying as this example is, it could easily be repeated. What happened at the Reseda Care Center, less than 2 years ago, could happen again and again across the country.

The Nation's bankruptcy laws are geared towards creditors and debtors. One purpose of the bankruptcy system is to ensure that creditors receive what debtors owe them. To this end, bankruptcy trustees concentrate narrowly on the bottom line. They try to maximize the amount of money returned to creditors. In a system so focused on finances, the human toll is often merely an ancillary concern.

Unfortunately, the poor financial conditions that led to the Reseda Care Center's collapse are increasing. Large portions of the health care industry are financially ailing. Almost one-third of our hospitals could face foreclosure. At least two of the Nation's largest nursing home chains are in deep financial trouble and may file for bankruptcy. We have had some chains already do that. Two large nursing home chains that declared bankruptcy, before they declared bankruptcy, had already cut 10,000 jobs. An increasing number of home health agencies are shutting their doors. All in all, health care business failures were up 15.5 percent between 1996 and 1997.

Thousands of patients tie their fate to health care providers. They have no alternative. Yet Federal law shows absolutely no consideration for patients' well-being during the process of bankruptcy. While the State of California has tried to prevent any more surprise nursing home evictions, each Federal bankruptcy judge decides whether any State law applies in an individual case. No Federal law protects patients in bankruptcy cases. With simple changes to the bankruptcy code, our amendment will fill this very dangerous gap in patient protection.

Specifically, one section covers the disposal of patient records. It provides clear and specific guidance to trustees who may not be aware of State or Federal requirements for maintaining these records, or confidentiality issues associated with patient records. Another section of our amendment makes the cost of closing a health care business, such as transferring patients to another health care facility, a top priority debt. This ensures these expenses will actually be paid.

In the ideal situation, though, we want to even keep these patients from being moved if that is possible, and I think it is possible. In fact, we have had the assurances of some of these chains that have gone into bankruptcy already that they are providing for the continuing care of their patients.

But perhaps the heart of this amendment, as I point to the third and main part of it, is the requirement that the bankruptcy judge appoint an ombudsman to act as an advocate for patients of health care businesses in bankruptcy. This ensures judges are fully aware of all the facts when they guide health care providers through bankruptcy. Prior to a chapter 11 filing, or immediately thereafter, the debtor may employ a consultant to help in its reorganization effort. The first step is usually cutting costs. Sometimes this step may result in a lower quality of patient care. An ombudsman, under our amendment, would provide an institutional voice for the patients to help ensure an acceptable level of patient care.

Our amendment also requires a trustee to make the best effort to transfer patients to another facility in the face of a health care business closing. This is designed to prevent a trustee from putting patients out on the street.

Our amendment provides a tremendous benefit for patients with a minimal impact on creditors and debtors. As policymakers, we must eliminate the possibility of midnight evictions at bankrupt nursing homes and hospitals. We must ease the fear of abandonment in individuals who are at a very vulnerable stage in their lives.

This is the amendment. We have had about 6 months pass since the first talk of bankruptcies by some major chains in the United States took place. I happen to also be chairman of the Senate Aging Committee. In that capacity, I consulted with HCFA when these first threats of bankruptcy came forth and we did not have the bankruptcy protection for the patients that our amendment proposes. I asked HCFA about plans for this, or what plans each of the States had for States that would have nursing homes in bankruptcy. We found a total vacuum of either Federal concern or Federal policy and, also in most States, that to be the situation.

Last spring, I asked the Health Care Financing Administration to start instituting a process that the States will go through as they license nursing homes. They should be concerned with the quality of care in nursing homes and have an interim plan for those nursing homes that go into bankruptcy, pending adoption of our legislation.

HCFA has carried out that responsibility very well. We now have word that each of the States have such a plan in place. We want to make sure this is a permanent part of the consideration of bankruptcy courts and, hence, the necessity of our legislation which goes beyond what the Federal Government, through HCFA, and the States through their licensing and quality control departments, has a responsibility to do. They now have in place a plan to deal with nursing home bankruptcies.

Mr. TORRICELLI. Will the Senator yield?

Mr. GRASSLEY. I yield.

Mr. TORRICELLI. Mr. President, I congratulate Senator GRASSLEY on offering the amendment. I am proud to offer it with him.

We could not do comprehensive bankruptcy reform without dealing with the crisis in the health care industry. Last year, bankruptcies by health care providers were up 15 percent. One nursing home company alone, which has 300 nursing homes, left an estimated 37,000 people without beds when it filed for bankruptcy. One, the Doctors Network in California, when it went into bankruptcy, left 1.3 million people without health care.

As the Senator pointed out in his remarks, the bankruptcy laws are designed for creditors and they are designed for people who are debtors, but the customers, in this case the patients, are not provided for.

One of the worst cases in the country was when the HIP health care plan in New Jersey went bankrupt leaving 194,000 subscribers without clear health care provisions. Indeed, it has left New Jersey hospitals, almost all of them, in the red this year because their bills were not being paid.

I am very grateful we have been able to join together in offering this amendment to ensure there is an ombudsman; that there is help in getting people into new plans; that their records are protected in privacy. I believe we made a real contribution to helping in these difficult moments in the health care industry, and we will have a better bankruptcy reform bill because of it. I am very happy to work with Senator GRASSLEY and grateful for his leadership.

Mr. GRASSLEY. Mr. President, this is one more example of the bipartisan cooperation we have had on this bill. I hope my colleagues will look at this amendment and that it will not become controversial and we can adopt it. When the overall bankruptcy legislation becomes law, we will have appropriate protection, beyond the protection we give to creditors and debtors in this legislation, for the needs of patients as well.

We should not have these traumatic experiences that happened in Reseda

Nursing Home in San Fernando Valley and the over 100,000 patients who were in jeopardy in the example of the Senator from New Jersey.

I yield the floor.

Mr. LEAHY. Mr. President, I am pleased to join Senator GRASSLEY and Senator TORRICELLI in offering the ''Nursing Home Patients Protection Act'' to S. 625, the Bankruptcy Reform Act of 1999. Our amendment protects nursing home patients in a business liquidation in three fundamental areas: patient privacy, patient rights and prompt transfers to new facilities.

PATIENT PRIVACY

First of all, our amendment ensures patient privacy when a hospital, nursing home, HMO or other institution holding medical records is involved in a bankruptcy proceeding that leads to liquidation. Medical privacy is an issue very important to me, and ensuring that the confidentiality of patients records is maintained should be of paramount importance.

DEFENDING PATIENTS RIGHTS

We have ensured that patients rights are defended as well. Cost cutting is always an issue in the health care system and that can translate into lower patient care quality—a fear to all health care patients. Our amendment establishes an ombudsman to provide a voice for all health care patients, making sure that judges are aware of all the facts in balancing the interests between the creditor and the patients.

NEW NURSING HOME TRANSFER

Finally, our amendment requires that the bankruptcy trustee make all reasonable efforts to transfer all of the bankrupt nursing home's patients to a nearby health care business. The prompt transferring of patients to a new health care facility must be addressed properly during a business liquidation under our legislation.

Mr. President, in my home State of Vermont, two nursing homes in Burlington recently made news due to a bankruptcy proceeding. Birchwood Terrace Healthcare and the Staff Farm Nursing Center are two very excellent nursing home facilities. Each has a corporate connection to the Vencor Corporation, a nationwide healthcare and nursing home provider that recently filed for protection under Federal bankruptcy protection under Chapter 11 of the Bankruptcy Code. While Vencor has pledged these Vermont nursing homes will not be affected by its plans to reorganize while in bankruptcy, I am sure that many Vermonters are alarmed at the prospect of a nursing home with their loved ones filing for bankruptcy. Our amendment should reassure Vermonters that even if a nursing home files for business liquidation under our bankruptcy laws, their loved ones will be protected.

I have been working on the overall issue of medical privacy for many years and I am particularly pleased that our amendment adds new protections for patient medical records for nursing homes in bankruptcy liquidation.

Of course, in the best case scenario any institution holding patient health care records would continue to follow applicable state or federal law requiring proper storage and safeguards. The fact is, however, under current law during a business liquidation an individual would have to wait until there has been a serious breach of their privacy rights before anyone stepped in to ensure that patient privacy is protected. Under current law it is questionable what protection these most sensitive personal records would have during a liquidation.

The reality of this situation and the practical questions of what recourse an individual would have if their personal medical records were not properly safeguarded against a business that is going out of business makes this provision essential. Our legislation would set in law the procedure that an institution holding medical records would have to follow during a liquidation proceeding.

The bottom line is that we do not want to have to wait until there has been a breach of privacy before steps are taken to protect patient privacy. Once privacy is breached—there is nothing one can really do to give that back to an individual.

I urge my colleagues to support our amendment to make sure that nursing home patients privacy and rights are protected during a bankruptcy proceeding.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I am fortunate the remarks I am about to make follow the remarks of my colleagues from Iowa and New Jersey in talking about nursing homes because I want to take a few minutes to talk about another aspect of how the elderly are getting ripped off in this country and what has happened with HCFA, the Health Care Financing Administration, and what they have been trying to do to stop this. What the Senate is doing and what the House has done recently is going to turn the clock back on our attempts to cut out waste, fraud, and abuse in Medicare.

I have been working for over a decade to identify and eliminate waste, fraud, and abuse in the Medicare system. It is a big problem. The Office of Inspector General estimates that last year, Medicare lost nearly $13 billion—that is with a B, billion dollars—to waste, fraud, and abuse in Medicare.

A few years ago, it was over $23 billion a year. So we have made some progress. It is still a huge annual waste of our tax dollars. I call it the Medicare waste tax, and we need to cut the Medicare waste tax.

Since 1989, I have held hearing after hearing, released report after report documenting unnecessary losses to the Medicare program. I commissioned the Office of Inspector General and the General Accounting Office to research and review these unnecessary payments and to make recommendations. On July 28 of this year, I introduced S. 1451, the Medicare Waste Tax Reduction Act of 1999 which incorporates many of these GAO and IG recommendations. If enacted, it would save Medicare and our taxpayers billions of dollars every year.

Medicare fraud is what we hear the most about, some egregious cases where a scam artist has found yet another way to skim millions from the Medicare trust fund. Those are the cases that make the headlines. But my years of investigation and review of this problem indicate that by far the greatest losses to Medicare are not in fraud, but they are due simply to waste and abusive practices. These losses are often directly due to or are encouraged by wasteful Medicare payment policies and practices and a laxity in oversight, as well as weaknesses in the Medicare law that restrict the program's ability to get the best deal possible when purchasing goods and services.

To examine this further, in 1996, my staff and I undertook a study of Medicare payments for medical supplies. This followed a study by the GAO that I had requested earlier on the same topic. We compared Medicare's payment rates for 18 commonly used medical supply and equipment items with what the Veterans' Administration paid. Then we compared it to the wholesale rate and the retail rate.

What we found was startling. This is a chart that depicts what we found. For example, an irrigation syringe—a small syringe like this little one right here, these little plastic syringes—we found that Medicare is paying $2.93 for each one. The Veterans' Administration is paying $1.89. The wholesale price was $1.10. The retail price was $1.95. One can walk into a drugstore and buy one for $1.95. Medicare was paying $2.93 for each one. The potential savings from that alone, if we base it on the wholesale price, is $4.4 million every year just on little plastic syringes.

We had a walker. The Medicare purchase price was 75 bucks. The VA price was $25 for the walker. The wholesale price was $39, and the potential savings was about $17 million a year.

Again, this is not an elaborate device. This is just a simple aluminum holding walker. Medicare was paying $75 each. The wholesale price was $39.

This is a commode chair. This is even more egregious. The commode chair was being paid for by Medicare at the rate of $99.35 each. The VA was paying $24.12 each. The potential savings was $30.6 million a year. This is a commode chair; we have all seen them. A lot of people use them in hospitals and nursing homes.

Potential savings: If Medicare just paid the VA price, not the wholesale price, just what the Veterans' Administration is buying them for, there would be a savings of $30 million a year just for the commode chair.

Those are some of the items we found were being grossly overpaid for by the Medicare system.

So, armed with this information, we began to work to cut this waste. First, I pushed an idea I have advocated for over a decade: Competitive bidding. Competitive bidding, that is how the Veterans' Administration gets the rates it does—good old-fashioned American free enterprise; put them out there for competitive bids.

While Medicare pays bloated prices based on historical charges, the VA, which has much less purchasing power than Medicare, puts out bids that provide for both quality and cost control.

So I wanted to get through competitive bidding. But all we could get through the Congress was a demonstration on competitive bidding.

I do want to point out one of the items on which we were successful in reducing the price on this idea of competitive bidding. One of the demonstration programs we did was oxygen. We found that for oxygen, Medicare was paying more than 50 percent more than the Veterans' Administration. So we had a debate here about reducing the Medicare rate for oxygen. We had a compromise. We cut the rate by 30 percent. That was in the Balanced Budget Act of 1997. We said we were going to reduce the oxygen payments by 30 percent and put it out for competitive bids.

We just got the first bids in on the competitive bidding demonstration for oxygen. Guess what. The suppliers bid to provide home oxygen for about 25 percent less than the 30-percent cut we put in. On top of the 30-percent cut, the bids came in at 25 percent less than that. They are still making money. And they will still be providing regular servicing of equipment, doing it for that much less.

Let me get this straight. A lot of the oxygen suppliers said they could not do this because they would lose money. We did not listen. We went ahead and put through the 30-percent cut. Then we put it out for competitive bids. They then cut it 25 percent more than that.

So look at it this way. If the home oxygen people were making 50 percent more off Medicare than they were making off the Veterans' Administration, and we cut it by 30 percent, put it out for competitive bids, and they came in 25 percent even lower than that, that means they are now 5 percent under the Veterans' Administration. They were making money off VA before, and now they are even less than what VA is on competitive bids. And you know darn well they are not going to bid that unless they are making money on it. They are not going to put a bid out there to lose money.

That is just an indication of how much waste and abuse there is in the Medicare system and why competitive bidding ought not to be a demonstration project but it ought to be the norm, the standard for all of our purchases for Medicare.

We got the demonstration program. However, as a part of the Balanced Budget Act of 1997, we did succeed in giving Medicare a modest version of another waste-fighting weapon I have been pushing for a long time. We provided HCFA, the Health Care Financing Administration, with enhanced ''inherent reasonableness'' authority to reduce Medicare payments when it is clear that current Medicare payment levels are ''grossly excessive.'' In other words, Medicare, HCFA, has an ''inherent reasonableness'' clause. We enhanced that to say they could reduce Medicare payments when they were clearly grossly excessive. I would have liked to have done much more—obviously, put it out for competitive bids—but it is a step in the right direction.

Specifically, what this does is provide Medicare with the authority to reduce payments by up to 15 percent a year for items where Medicare believes there are gross overpayments. That was 2 years ago. After 2 years of prodding, HCFA has finally begun the process of using its new authority to make Medicare a more prudent purchaser. They published a notice of proposed rulemaking on August 13 of this year. This followed an extensive investigation reviewing retail prices, wholesale prices paid by payers other than Medicare, and, of course, the payment amounts made by the Veterans' Administration.

HCFA and their intermediaries then came up with an initial list of 12 items of durable medical equipment and 1 prosthetic device for which Medicare currently pays a grossly excessive amount. HCFA recommended reducing these exorbitant rates, and they projected over a 5-year period, just making these modest adjustments, it would save Medicare and the taxpayers over $487 million—just in the next 5 years.

This chart will begin to show some of these items.

For example, the items here: Lancers, enteral nutrients, eyeglass frames, catheters, test strips, albuterol sulfate; the overpayments are: 36 percent, 16 percent, 21 percent, 24 percent, et cetera. This chart shows the 5-year savings we would get off them. Then this chart shows the overpayment for the folding walkers I just talked about, the commode chairs, and others, for another $120 million. It is a total 5-year savings of almost half a billion dollars just from these items alone.

Let me make it clear, we are only talking about the right of HCFA to reduce grossly excessive payments. Excessive pricing is not determined by comparing prices paid by Medicare to wholesale prices. That is not how we determine excessive pricing. HCFA, in its proposed rule, takes the Veterans' Administration price—what the VA is paying for these same items—and then it adds 67 percent.

Keep this in mind. I will get my commode chair back out here again. For an item such as this commode chair, what the HCFA has said is: We will see what VA is paying for it, not what the wholesale price is. What is the Veterans' Administration paying for it? Then we will add 67 percent over that. That is what we will now pay for that commode chair.

Keep in mind, the companies making these commode chairs are not losing money in the VA system. They would not be selling them to the VA if they were losing money. So you know they are making money off the VA.

Now HCFA says: OK, they were so grossly overpriced before, we are now going to cut it; we are only going to allow a 67-percent markup. Wouldn't you like to have that guarantee in everything you sell the Government?

I see no reason we should pay more than the VA. Medicare is the largest purchaser of medical supplies and equipment in the Nation. Because of this purchasing power, it ought to be able to demand better prices than anyone else. Medicare should not pay any more than any other Federal program does, whether it is VA, CHAMPUS, the Federal Employees Health Benefits Program, or others.

Now, guess what. Even with the 67-percent markup over the VA rate, Medicare is currently paying even more. It is hard to believe.

Now, here are the folding walkers. The VA payment on those is $30.24. The proposed Medicare payment is $50.50. That is with a 67-percent markup. So if they are making money on VA, they are making a killing off of Medicare. Here is the commode chair. VA is paying $37.64; the Medicare payment is $62.85. What a deal. And this is a result of us saying they shouldn't pay grossly exaggerated prices. Evidently paying $62.85 for a commode chair for which the VA is paying $37 is not grossly exaggerated. I think it is. There are a lot of other things, folding walkers and everything else. Here is a folding walker that has a wheel on it. The VA is paying $45.94; the proposed Medicare payment, $75.88.

Even with that, HCFA is moving ahead, barely, to save Medicare and taxpayers a lot of money. We need to do more, and we need to do more rapidly.

If my colleagues think that is bad news, get ready for the really bad news. With almost no discussion, last week the House Ways and Means Committee added a little special interest provision to the Medicare Balanced Budget Refinement Act of 1999. This provision would indefinitely delay cutting this wasteful spending. It would deny Medicare and the taxpayers $½ billion of savings. It does this simply by stopping HCFA from moving ahead. It stops Medicare, its intermediaries and carriers from using this inherent reasonableness authority until the Secretary has published a new rule and those rules are finalized.

Medicare says this would mean a delay of maybe 18, 22, 24 months, another a couple years. If their track record is any indicator, the delay would be a lot longer than that.

I suppose a lot of people on that House Ways and Means Committee got a lot of phone calls from the people who make walkers and commodes and these syringes who said do something about this. It is in the House Ways and Means Committee bill. It would block just these modest attempts to safeguard Medicare. We would still allow them to make 67 percent more than what they are making from VA. That is not enough for them. So they got a little provision slipped in that House bill. Talk about special interest legislation and a rip-off of our elderly and a rip-off of our taxpayers.

What did the Senate do? Well, they tried to do the same thing. The Senate counterpart to that bill, called the Medicare, Medicaid and SCHIP Adjustment Act of 1999, would prohibit use of this inherent reasonableness authority until 90 days after the Comptroller General of the United States releases a report of its proposed impact. That would delay this implementation probably for another year. So the House, if we took the best case scenario, probably would delay it for 2 to 3 years. The Senate bill would delay it for at least a year. I am sure a compromise will be made leaning towards the House side, when this bill goes to conference, by members of the Finance Committee. I want members of the Finance Committee to know we are watching. We want to know what they are going to do to start reducing these exorbitant prices people pay for medical equipment. It is not right to stop or further delay HCFA from implementing at least these modest savings.

We gave HCFA the authority in 1997; 2 years later, they just started to act on this. You can see how long it takes them to do something. Just when they are getting ready to make these cuts, to put more reasonableness in the amounts of money we pay, the Congress says, no, stop; put on the brakes. We can't do this. The Congress is standing by—let me rephrase that. The Congress is not standing by. The Congress, under the bills in the Senate Finance Committee and the House Ways and Means Committee, is actively stopping the progress and the process by which we will save taxpayers billions of dollars, an added tax not only on our taxpayers but on our elderly.

We can do something about it. We have shown we can do something about it. We have shown how much we can reduce costs in oxygen and these other items. But now there are elements in this Congress who say, no, we can't do that.

Well, we are going to watch. We will see what the Ways and Means Committee and the Finance Committee do to stop this rip-off of our taxpayers. We have grappled with ways to reduce Medicare expenditures. We passed this limited provision 2 years ago, giving them the authority just so they wouldn't pay grossly exaggerated prices. HCFA said: OK, we are not going to pay grossly exaggerated prices; we will just pay 67 percent more than VA. That is grossly exaggerated. But even to that modest amount of reduction, the House Ways and Means Committee says no.

We all remember the Pentagon and the $500 toilet seats the Pentagon was buying some years ago. It is great news for all of us that the Pentagon isn't buying them anymore. Unfortunately, Medicare is. Taxpayers don't deserve to be ripped off and to have all of their money go for this gross waste and abuse in the Medicare system. Again, I know it is the waning hours of the Congress. We are all going to be getting out of here, I guess next week, they tell us. There is going to be a balanced budget amendment fix. We are going to look to see whether or not the special interests have gotten their way once again to rip off the taxpayers of this country and the Medicare system.

I may not have the opportunity to take the floor after that is done. We may be recessed or adjourned until next year. But we will be back, as will the taxpayers of this country and the elderly people and their families who have been getting ripped off for far too long. We will be back to make sure we get competitive bidding once and for all to save our taxpayers a lot of money.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. DURBIN. Mr. President, before us is S. 625, a bill relating to bankruptcy. It is a bill with which I have some knowledge and experience because last year I was a member of the Senate Judiciary Committee and a member of Senator GRASSLEY's subcommittee. We spent a great deal of time preparing this bill for consideration on the floor of the Senate. I enjoyed very much working with Senator GRASSLEY on the bill. He has become not only a trusted colleague but a good friend in the process. We have had our disagreements, but we have tried to resolve them amicably and in the best interest of the legislation.

I also salute a number of staff people who have been at this task for a long time: John McMickle, a member of Senator GRASSLEY's staff; Kolan Davis; Jennifer Leach, who now works for Senator TORRICELLI on the Democratic side; Darla Silva, a member of my staff who is with me today on the floor; her predecessor, Victoria Bassetti, now legislative director for Senator JOHN EDWARDS. All of these staff people have put in so many hours that we could not calculate it to consider this significant revision of the bankruptcy law in the United States of America.

As this bill comes to the floor, I still have many concerns about it. I think most honest critics would suggest this was not a bill that came from the demands of our mailbag or the American people. I scarcely find any members of the bar living in the State of Illinois who are begging me for a big change in the bankruptcy law. No, this law was inspired and has been pushed for several years by the credit industry. The credit industry was becoming increasingly concerned that more and more people were filing for bankruptcy. As these people filed for bankruptcy and are discharged from their debts, their creditors and credit card companies receive less money. So they came to Congress and said: We want to change the law and make it more difficult for people to file for bankruptcy.

In other words, when you are down and out and cannot pay your bills, when your income is such that you cannot meet your obligations, when you have tried everything and you have given up hope and you finally have said, ''We have no choice but to declare bankruptcy and to try to start over,'' this law is going to say, stop, we may not let you do it because there are two different kinds of bankruptcy at issue. One is the so-called chapter 7 bankruptcy, where you walk in and, after a court proceeding and all the evidence is presented, the final act of the court is to clear your debt and to say now you can start over. Of course, you start over with very few assets and with that specter of having filed for bankruptcy over your head.

The alternative is something called chapter 13. Chapter 13 says, stop, we won't let you declare bankruptcy, we won't clear off all of your debts, and we are going to make you pay all or part of those debts over a lengthy period of time.

Those are two different outcomes. With one, the slate is wiped clean and the other the slate is still filled with many debts that have to be paid off. This bill attempts to define which people belong in which category, which Americans should be so down and out and up against it that they are allowed to have their debts wiped out completely and those who will continue to pay. It is no surprise that the credit industry is determined to keep as many people as possible on the hook and paying off these debts for a lengthy period of time.

Now, in some cases this is warranted. In some cases, people file for bankruptcy when they have assets and they have the means by which they can pay off at least a substantial portion of their debt. As this bill addresses that problem, I applaud it. I think they are right. People who are gaming the bankruptcy system to avoid paying their honest debts are, frankly, a burden on all of us as consumers, as those who are debtors as well. Those people should be excluded from the process. Life should be difficult for them, no matter how good their attorney, if

they try to walk away from a debt they can pay. But that represents an extraordinarily small minority of those in bankruptcy court. The vast majority of those who walk through the doors of bankruptcy courts in America are in big trouble; they need help and need it quickly.

Unfortunately, this lengthy bill will create a process where some families who are absolutely out of options and have nowhere to turn have to walk through a new process of proof before they will even be considered to be discharged in bankruptcy.

Bankruptcy is an interesting concept, not new to the United States. It has been discussed at length throughout history. The history of the relationship between those who borrow and those who loan goes back to ancient times. Throughout history, those who borrow have not always been treated fairly. Under early Roman law, creditors who were unable to collect the debts owed to them were permitted to cut up the debtor's body and divide the pieces, or leave the debtor alive and sell him into slavery.

Thank goodness things have improved. In America, the delegates of the Constitutional Convention gave Congress the power to establish uniform laws on the subject of bankruptcy. Only one delegate to America's Constitutional Convention objected—Roger Sherman of Connecticut. It is said he was concerned that they didn't make it clear that if you file for bankruptcy, you would not be subjected to the death penalty. That is how onerous debt and collection was in those days. Mr. Sherman observed that bankruptcy was in some cases punishable by death under the laws of England, and he did not choose to grant a power by which that might be done in the United States. In response, Gouverneur Morris said he would agree to a bankruptcy clause because he saw no danger of abuse of power by the legislature of the Government of the U.S. I hope Gouverneur Morris' trust was not misplaced.

I have a statement from a bankruptcy judge in Chicago by the name of Joan Lefkow. Judge Lefkow, when she was inducted to be a part of the bankruptcy judiciary, gave an extraordinary statement about the history of this subject. She talked about Charles Dickens and his Pickwick Papers, of the ''Old Man's Tale About the Queer Client.'' It is a story of a man who is cast into debtors prison by his father-in-law and left by his own father to languish in desperation, while his wife and child starved. Dickens wrote: ''It was no figure of speech to say that debtors rotted in prison.''

In a twist of fate, in this story, the debtor's father, although he had ''the heart to leave his son a beggar,'' put off arranging it until it was too late. Thus, the man was freed from prison and provided a means by which he could exact revenge on the father-in-law who cast him into prison. He hired a lawyer to drive his father-in-law into bankruptcy so he could suffer the same fate as the son-in-law. He directed the lawyer, ''Put every engine of the law in force, every trick that ingenuity can devise and rascality execute; aided by all the craft of its most ingenious practitioners, ruin him! Seize and sell his lands and goods, drive him from house and home, and drag him forth a beggar in his old age to die in a common jail!''

Those were the good old days when a debt led to a big problem when people could end up literally rotting in prison.

We decided in the United States to take a different course of action and to establish a bankruptcy procedure so that American families and businesses faced with that awkward and painful and embarrassing moment might have recourse. Our bankruptcy system is part of it.

But bankruptcy has become extremely technical and convoluted. During the course of this debate, we talk about cram-downs and reaffirmations and panel trustees and automatic stays, nonchargeable debt, prior debt, secured debt, and even something known as ''supper discharge.''

The bankruptcy code is a delicate balance. When you push in one area to create greater rights, or take rights away, it has an impact on another area. That is because no matter how hard you try at bankruptcy court, there is a very limited pie. All we can do is increase the fighting over that small pie, and usually no one wins that fight.

Mr. President, I note that my colleague from Wisconsin is on the floor. I believe he is prepared to offer an amendment. I ask permission of the Chair to yield the floor to my colleague from Wisconsin, and I ask consent that after he has completed his statement, I reclaim my time and continue.

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

Mr. KOHL. I thank Senator DURBIN very much.

Mr. President, I rise to offer an amendment with Senator SESSIONS to eliminate one of the most flagrant abuses of the bankruptcy system—which is the unlimited homestead exemption. This bipartisan measure will cap the homestead exemption at $100,000, which is more than generous. Last year, the full Senate unanimously went on record in favor of the $100,000 cap and emphasized that ''meaningful bankruptcy reform cannot be achieved without capping the homestead exemption.'' I am proud that Senator GRASSLEY—the underlying bill's lead sponsor—is a cosponsor of this measure. Our proposal closes an inexcusable loophole that allows too many debtors to keep their luxury homes, while their legitimate creditors—like children owed child support, ex-spouses owed alimony, State governments, small businesses, and banks—get left out in the cold. Currently, a handful of States allow debtors to protect their homes no matter how high their value. And all too often, millionaire debtors take advantage of this loophole by moving to expensive homes in states with unlimited exemptions like Florida and Texas, and declaring bankruptcy—and then continue to live in a style that is no longer appropriate. Let me give you a few of the literally countless examples:

The owner of a failed Ohio S&L, who was convicted of securities fraud, wrote off most of $300 million in bankruptcy claims, but still held on the multi-million dollar ranch he bought in Florida. A convicted Wall Street Financier filed bankruptcy while owing at least $50 million in debts and fines, but still he kept his $5 million Florida home—with 11 bedrooms and 21 bathrooms. And just last year, movie star Burt Reynolds wrote off over $8 million in debt through bankruptcy, but he still held onto his $2.5 million Florida estate.

Sadly, those examples are just the tip of the iceberg. We asked the GAO to study this problem and, based on their estimates, 4 homeowners in Florida and Texas—all with over $100,000 in home equity—profit from this unlimited exemption and each every year. And while they continue to live in luxury, they write off annually an estimated $120 million in debt that is owned to honest creditors.

My favorite GAO example is a Texas bankruptcy attorney who boasts of refusing representation to anyone who piles up credit card debt on the eve of filing bankruptcy. For that stand against abuse, she deserves credit. But when her own finances went sour, she took a dramatically different view: she wrote off $1.2 million in debt, while holding onto her $400,000 home.

Mr. President, this is not only wrong, it is unacceptable. As you can see, while the unlimited homestead exemption may not be the most common abuse of the bankruptcy system, it is clearly the most egregious. If we really want to restore the stigma attached to bankruptcy—as this bill purports to do—then these high profile cases are the best place to start. Mr. President, we need to stop this high living at the expense of legitimate creditors. But the pending bill falls short. Instead of a cap, it only imposes a 2 year residency requirement to qualify for a State exemption. And while that's a step, it will not deter a savvy debtor who plans ahead for bankruptcy and it will not do anything about in-state abusers such as Burt Reynolds. This $100,000 cap will stop these abuses, without affecting the great majority of States, two-thirds of which responsibly cap the exemption at $40,000 or less.

Let me make one additional point, and respond in advance to the most spurious—of the many spurious—arguments made by the other side: that this issue is really about States rights. Mr. President, that is pure hokum. Anyone who files for bankruptcy is choosing to invoke Federal law in a Federal court to get a uniquely Federal benefit—a

''fresh start'' through a huge debt write-off. In these circumstances, it's only to impose Federal limits. And just because something is in a State ''constitution'' doesn't make it sacrosanct. A cap is not only the best policy, it is sends the best message: That bankruptcy is a tool of last resort, not just a tool for financial planning. And it gives credibility to reform by going after the worst abusers, no matter how wealthy they are. So honestly, this amendment should be a no-brainer. Indeed, if we want to apply antiquated bankruptcy laws, maybe we should resurrect ''the debtors' prison.'' At least then we would be punishing the worst offenders, rather than rewarding them.

AMENDMENT NO. 2516

(Purpose: To limit the value of certain real or personal property a debtor may elect to exempt under State or local law)

Mr. KOHL. Mr. President, I ask unanimous consent to set aside the pending amendment, and I send an amendment to the desk.

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

The clerk will report.

The bill clerk read as follows:

The Senator from Wisconsin (Mr. KOHL), for himself, Mr. SESSIONS, and Mr. GRASSLEY, proposes an amendment numbered 2516.

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

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

The amendment is as follows:

At the appropriate place in title III, insert the following:

**SEC. 3 . LIMITATION.**

Section 522 of title 11, United States Code, as amended by sections 224 and 307 of this Act, is amended—

(1) in subsection (b)(3)(A), by inserting ''subject to subsection (n),'' before ''any property''; and

(2) by adding at the end the following:

''(n)(1) Except as provided in paragraph (2), 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 $100,000 in value in—

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

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

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

''(2) 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.''.

Mr. KOHL. Thank you, Mr. President.

I thank the Senator from Illinois.

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

Mr. DURBIN. Thank you, Mr. President.

I fully support the amendment offered by Senator KOHL and Senator SESSIONS. This gets to the heart of it. This would be a real test as to whether or not we are going to close one of the major loopholes in the bankruptcy law, a homestead exemption loophole where a person goes into the bankruptcy court and says: I am broke. I can't pay my debts.

The court says: Well, I guess we will have to discharge these debts. You can't pay them. But, of course, you keep your home.

Different States define how much value there could be in that home. We have seen in case after case where some have received a lot of publicity and we have people who are holding back homes that are worth hundreds of thousands if not millions of dollars under this homestead exemption and keeping that out of court. This is a ruse. It is a fraud.

I thank Senator KOHL and Senator SESSIONS for their leadership in introducing this amendment. I hope it passes.

Incidentally, this same amendment was defeated in the House of Representatives in the last session. I am not sure if they voted directly on it in this session. But it gives you an indication that some in the House who pound the table for reform in bankruptcy are the last in line when it is going to stop the fattest of cats from protecting themselves from bankruptcy by buying these huge homes and ranches.

I hope Senator KOHL is successful. I will be supporting him in every way I can.

Let me tell you one of the reasons I am here today to discuss this bankruptcy code. It is because of the increase in filings over the last several year. It is true that more people have gone into bankruptcy court.

It is an interesting thing that as our economy improves more people file for bankruptcy. Logic would argue just the opposite. But apparently people get into a frame of mind where they are so optimistic that they get strung out with too much debt. They never think they are going to lose a job.

They never think they will face a divorce. They never anticipate the possibility of medical expenses for which they cannot pay.

Mr. SESSIONS. Will the Senator yield?

Mr. DURBIN. I yield for a question.

Mr. SESSIONS. I ask if I might offer briefly a second-degree amendment to this and then return the floor to the Senator from Illinois.

Mr. DURBIN. I am happy to yield to the Senator for that purpose, with consent I reclaim the floor.

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

AMENDMENT NO. 2518 TO AMENDMENT NO. 2516

(Purpose: To limit the value of certain real or personal property a debtor may elect to exempt under State or local law)

Mr. SESSIONS. Mr. President, I send a second-degree amendment to the KOHL amendment to the floor.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS], for himself, Mr. KOHL, and Mr. GRASSLEY, proposes an amendment numbered 2518 to amendment No. 2516.

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

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

The amendment is as follows:

In the amendment strike all after the first word and insert the following:

**3___. LIMITATION.**

(a) EXEMPTIONS.—Section 522 of title 11, United States Code, as amended by sections 224 and 307 of this Act, is amended—

(1) in subsection (b)(3)(A), by inserting ''subject to subsection (n),'' before ''any property''; and

(2) by adding at the end the following:

''(n)(1) Except as provided in paragraph (2), 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 $100,000 in value in—

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

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

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

''(2) The limitation under paragraph (1) shall not apply to an exemption claimed under subsection (b)(3)(A) by a family farmer for the principal residence of that farmer.''.

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

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

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

Mr. SESSIONS. I yield the floor.

Mr. DURBIN. Mr. President, as I mentioned earlier, there has been a dramatic increase in filings for bankruptcy over the last several years—30 percent in some years.

People ask, How can this be? Of course, I think it is overoptimism. Folks in a good economy don't think anything will go bad; sometimes they do, and people who thought they had the world by the tail end up in bankruptcy court.

There is another factor at work here, as well. As Senator TORRICELLI of New Jersey, the Democratic minority spokesman on this committee, noted earlier, everyone who has a mailbox knows what is going on when it comes to credit cards. There is scarcely a day that goes by in my home in Springfield, IL, that there is not another solicitation for another credit card. In fact, some of the solicitations come in the name of my daughter who married years ago and hasn't been at that address for a long time. Some group has captured her name and address and continues to offer her credit cards on a monthly basis.

I asked my staff how many of them had been solicited likewise. It turned out everybody has received these solicitations. In fact, one of my staffers sent me a recent offer for a credit card that was sent to my godson. He is about 6 years old. I don't think he is creditworthy yet, but obviously some

companies have taken a hard look at him and are considering whether or not Neil Houlihan needs to have a MasterCard at the age of 6. I hope that isn't an indication of what is happening across America.

I think we all know that part of the reason so many people end up in bankruptcy court is because we are flooded with easy credit. Easy credit has a good side and a bad side. Easy credit says to a person who traditionally could not qualify for credit that they now have a chance. I am told historically a waiter or waitress was unlikely to get a credit card because they didn't have a steady and predictable income. Those days have changed, thank goodness. People in those professions and occupations are given that opportunity for credit.

The bad side is that it extends credit, easy credit, to people who are already in over their heads. It doesn't parse out those who deserve credit and who can use it responsibly from those who are just going to dig a deeper hole and find themselves in short order facing a bankruptcy court judge. That, I think, is an indication of why so many people are starting, or did start, to use the bankruptcy courts.

The latest statistics for filings in bankruptcy have started to trail off. What appeared to be a national growing trend has changed. This year, second quarter filing reports show a drop in 42 States, including double-digit decreases in 14 States. We have to ferret out those people who abuse the bankruptcy system, but not at the expense of those families and businesses that need it.

The sad but obvious fact is that the people who declare bankruptcy are poor. The average income of a person who declares bankruptcy is $17,652. In 1981, the average income was $23,254. People in our bankruptcy system are just getting poorer. One would not believe that to be the case listening to the debate, the suggestion that so many people are coming into the bankruptcy court who are loaded with money, who, through crafty attorneys and their own ingenuity, are able to avoid their responsibility.

However, statistics tell a different story. By and large, the people showing up in bankruptcy court are poor people, with $17,652 as the average income of a person filing bankruptcy. If memory serves me, average indebtedness is roughly $25,000. These people have more than a year's income in debt before they finally show up in bankruptcy court.

As distasteful as bankruptcy is, the fact remains: We need the system. We shouldn't change it radically. By and large, it works. Let me give a few examples of people who are filing.

The three major reasons for filing bankruptcy are employment, health care costs, and divorce. Older Americans are less likely to end up in bankruptcy than their younger counterparts. But when they do file, a larger fraction of senior citizens—nearly 40 percent—give medical debt as the major reason for filing. Think about it: A catastrophic illness catching a family by surprise, particularly a senior with limited income and fixed resources, ends up in bankruptcy court because there is no place else to turn.

The second category is women raising families. Both men and women are likely to declare bankruptcy following divorce. Collectively, the bankruptcy sample has 300 percent more divorced people than the population in general. Families already stuck with consumer debt cannot divide their income to support two households and survive economically. Divorced women file bankruptcy in greater proportion than divorced men.

Before being elected to Congress, I was a practicing attorney in Springfield, IL. I was an attorney in hundreds of divorce cases. Almost without fail, the woman at the end of the divorce case had less money to try to meet the needs of her children and herself. Sometimes they are pushed too far. Many times, they end up in bankruptcy court.

Keep in mind as we debate these bills and whether we are going to run people through a means test with all sorts of questions to be answered and, if they miss an answer, thrown out of court, we are talking about older Americans and divorced women who are struggling to keep their family together.

Unemployed workers: More than half the debtors who file for bankruptcy report a significant period of unemployment preceding their filings. For single-parent households, a period of unemployment can be devastating.

Let me comment on this current bill. I favor the bill we passed last year. I think the Senate favored the bill we passed last year by a vote of 97–1. It is pretty odd in this Chamber to have 97 Senators agree on a bankruptcy bill. I think it was a better bill, better than the bill now before the Senate. I hope we make changes in this bill to bring it closer to last year's bill.

The changes should center around three themes: First, ensure fairness to women and children while ensuring that wealthy debtors pay their fair share. This can be accomplished by Senator KOHL's amendment, which Senator SESSIONS has cosponsored, which establishes a cap on the homestead exemption of $100,000 and ensures as well that women are not competing with credit card companies in collecting child support after the bankruptcy is over. This is a critical point that has been raised by Elizabeth Warren of Harvard as well as some 82 different bankruptcy professors across the United States who have written to Members of the Senate and asked them to be very sensitive to the fact that what we do in this law could make life more difficult, if not impossible, for women trying to raise their children after a divorce.

Alimony and child support payments oftentimes are a major part of the income on which they live. When we allow credit card companies and finance companies to grab more in bankruptcy and hang on to more after bankruptcy, it lessens the likelihood that the divorced woman trying to raise a child is going to be able to have any pot of money to draw from for help. It is just the bottom line. This is a pie of limited proportions after a bankruptcy. If the credit card companies can stay there, taking the money away from that former husband who filed for bankruptcy, many times it will be at the expense of his children and his former wife. That is a fact. It is a cruel fact. It is one that has not been overcome to date by anything suggested in this bill or on the floor.

Merely changing the priorities in the bankruptcy system, making the alimony and child support payments a higher priority, takes care of what happens in court, but after bankruptcy, then we have a problem. The same mother of the children trying to draw money from what is left after bankruptcy and income finds she is competing with credit card companies and others that have been given more rights under this bill to claim more money after the bankruptcy has been initiated.

Second, this bill needs to be more cost effective and less expensive for taxpayers. This can be accomplished by providing a safe harbor for means testing for a below-median debtor and streamlining the tests for debtors above the median income to eliminate needless paperwork.

A cliche I learned as a kid, as everybody learned, I am sure, over and over again: You can't draw blood from a turnip. In some cases, people in bankruptcy court, no matter how hard we try or how hard we look, are never going to have the money to pay off the debt. It is more sensible for us to step back and say, let's focus on those who are abusing the system rather than adding more paperwork requirements on those who will never be able to pay off their debts.

Let me give an illustration from the same law school professors who wrote to every Member of Congress about a recently completed study. Since last year's debate on bankruptcy reform, a study was funded by the independent, nonpartisan American Bankruptcy Institute. They found that less than 4 percent of consumer debtors could repay even 25 percent of their unsecured nonpriority debts, even if they could dedicate every penny of income to a repayment plan for a full 5 years. In short, for about 96 percent of consumer debtors, chapter 7 bankruptcy is an urgent necessity.

The fact that most debtors cannot pay more does not mean this means test will not affect them, though. Mr. President, 96 percent of those who file in bankruptcy court cannot pay more, according to the study. They are really up against it. They need to file for bankruptcy. Yet we find in this law the

requirement that they still go through this rigorous standard of means testing and examination to question whether or not they can file for bankruptcy. I hope we will adopt the House standard at least, which says those at median income will be absolved from going through this lengthy test in bankruptcy court. People making median income in this country, filing for bankruptcy, are not likely to be able to pay off many of their debts.

Further, we ought to require that those earning up to 150 percent of median income should be subject to a reasonable screening to determine if it is possible they could pay back some of these debts. But to make every single person who walks into that court go through this process is unfair, it is burdensome, and it is not of any benefit to taxpayers or, ultimately, to creditors.

In addition, this bill needs to acknowledge the credit industry's role in increasing the number of bankruptcy filings. In order for this bill to be balanced, we have to enact additional disclosures on credit cards to allow debtors to make an informed choice about their credit. I had a lengthy list of disclosures included in last year's bill. Some have survived; some have been changed; some will be offered again on the floor. But is it unreasonable for us to say to these credit card companies that shove these credit cards at us faster than we can put them in our wallets, that they at least have to give us an honest monthly statement which tells us a few basic things? Isn't it reasonable to look at that statement, where it lists ''minimum monthly payment,'' and then say: If you make the minimum monthly payment, it will take X months to pay off the balance, and when you pay off the balance, you will have paid X dollars in interest and X dollars on principal?

That is not a tough calculation in the world of computers. The people who send us the bills have all sorts of information they want us to read and absorb. Shouldn't we at least know the bottom line? We may be too deep in debt. Maybe another credit card is not a good idea. That is not an outrageous suggestion where I live. But when we suggested that to the credit industry, they blanched and said: Oh, never can we do that; we cannot make that kind of disclosure.

They certainly can. The question is whether they will. That question will be answered by the Senate when it decides whether the consumers deserve more information so they can make informed credit choices. This is not a question of rationing credit. It is a question of informing debtors and informing those who are going to buy the credit cards as to what their obligations are going to be.

Let me give one example on a chart which is an illustration of the credit card debt in America charted against bankruptcy cases. I think this chart tells the story about why we have more bankruptcy cases in the United States. If you will notice the blue line here, it represents bankruptcy cases from 1962 to 1995. The red line indicates debt-to-income ratio.

Do you want to know why there are more cases being filed in bankruptcy court? People are getting deeper in debt; they have more credit cards. That is what it is all about. When we had the first hearing on the subject, some of the people from the credit industry came in and said:

> American families just don't think there is a moral stigma attached to bankruptcy any longer. They are filing for bankruptcy without really feeling bad about it.

I take exception to that. I am sure there are some who are gaming the system and trying to figure out how to win, but the folks I have run into, filing for bankruptcy was a sad day when they finally had to concede they just hadn't handled things right, or faced a problem they couldn't manage, and had to go to bankruptcy court. It wasn't a proud day for the family. You don't hold a party when you go into bankruptcy court.

When it comes to moral stigma, I said to the people in the credit industry: You say folks are taking bankruptcy more lightly these days. Let me ask about the credit cards you are sending college kids and kids who have virtually no income and no credit history, with no questions asked? And what about those ATM machines at the casinos. You are talking about moral stigma. Is your industry sensitive to the mores of America in the way you offer credit and money to people regardless of whether it is a good idea or not?

I think there are two sides to the story. I think, unfortunately, this bill only addresses one side of it. According to the Federal Reserve Board, there are 429.2 million Visa and MasterCards in circulation in the United States. The number of cards per cardholder increased in 1998 to a total of 4.2 credit cards per person.

In addition to the solicitations we receive in the mail, telephone calls are made. In fact, 1998 was a banner year for solicitations for credit cards. The credit industry sent out 3.45 billion direct mail solicitations during 1998, an increase of 15 percent from the 3 billion in the previous year, and 2.4 billion in 1996.

Interestingly enough, there are only 78 million creditworthy households in the United States. Yet, as you can see by the numbers, there were 3.45 billion credit card solicitations. That is why your mailbox is full at home.

We even have proof the credit industry is targeting people in bankruptcy. Let me show you this. Talk about moral stigma. This is a solicitation offered by FirstConsumers National Bank in Portland, OR, and Beaverton, OR. To whom do they send this solicitation? People who file for bankruptcy. They want them back in debt. Let's get them back into debt.

In case you think it is easy to file for bankruptcy and pick up a credit card, they generously offer you an annual percentage of 20.5 percent, and if you stumble, it goes up to 25 percent interest. So the credit card companies that talk about the morality of the situation are quick to jump on the folks coming out of bankruptcy court and give them a very expensive credit card. That is not much of a fresh start as far as I am concerned.

Why is this occurring? We often debate these issues and don't get down to the bottom line. Why is the credit card industry so intent on reducing the number of people in bankruptcy courts who can discharge their debts? Why do they want to keep people paying on the debts? There is money to be made.

Between 1980 and 1992, the rate at which banks borrowed money fell from 13.4 percent to 3.5 percent. During the same period, the average credit card interest rate rose from 17.3 percent to 17.8 percent. Notice the spread. It used to be you had credit card interest rates of 17.3 percent when the banks were borrowing money at 13.4 percent. Now the credit card interest rate average goes up to 17.8 percent and the banks are borrowing the money they give to you at 3.5 percent. This is a big winner for these credit card companies. They want to keep people getting credit cards as they walk out of the bankruptcy courts. There is money to be made. It is a profitable business. The aggressive marketing campaign is going to continue as long as there is money to be made.

Of course, it is going to mean people are going to get in over their heads. You basically cannot have it both ways. You cannot recklessly offer credit to financially vulnerable people without increasing the number of bankruptcies. The credit industry knows this and so do a lot of conservative magazines. The London-based Economist, in a recent editorial about the reckless marketing of credit cards, wrote:

> Given its readiness to hand out money with almost no questions asked, the credit card industry's demands that Congress stop the rapid increases in filings for personal bankruptcy ring hollow.
>
> No doubt many people have benefited from the credit revolution that gave them an ability to borrow they have been denied in the past. And certainly, borrowers unable to meet their obligations bear some responsibility for their woes.
>
> Yet it is pure hypocrisy for credit card firms to complain that personal bankruptcy has lost its traditional stigma. For they have been deliberately directing their sales efforts at people on the edge of financial distress.

The rise in bankruptcies tracks consumer debts, and that is a fact. So in these times it is even more important for people to be fully informed about and careful about the credit card debt they rack up. That is why this legislation, which gives the consumer as much information as possible, is more important than ever.

I am confident we can approve this bill on a bipartisan basis. I pray we will

not have the same experience as last year. We passed a bankruptcy bill in the Senate by a vote of 97–1. It went to the conference committee, and I was a part of and assigned to that conference committee. We had an introductory session where we smiled at one another, shook hands, and left the room. That was the only meeting of that conference committee.

Within a matter of hours, that same conference committee, with only one political party represented—not my own—came back with a bill and said: Take it or leave it. Thank goodness the Senate said leave it. It was a bad bill. If this bill is going to escape a similar fate, it needs to be negotiated in good faith on a bipartisan basis.

I am offering an amendment designed to penalize a growing category of high-cost mortgage lenders who lead vulnerable borrowers down a rose garden path to foreclosure and bankruptcy. These lenders prey with shame on low-income elderly and financially unsophisticated people, jeopardizing their lifelong investments and hard work in home ownership.

The number of older Americans who are so financially vulnerable that they end up going to bankruptcy court to deal with overwhelming debt is considerable. In 1998, more than 280,000 Americans age 50 or older filed for bankruptcy. The number of Americans age 55 and older filing has grown by more than 120 percent since 1991. Those age 50 and 55 is the fastest growing age group in bankruptcy.

Last year, during the Senate Judiciary's Committee debate on bankruptcy, I offered an amendment designed to curtail one terrible practice that plagues senior citizens: predatory high-cost mortgage loans targeted to the low-income elderly and financially unsophisticated. The amendment was part of the bill that passed 97–1. My colleagues may already be aware of the problems that are cropping up in the home mortgage industry. Let me explain.

In recent years, there has been an explosion in subprime high-interest loan markets. In the Chicago area, these lenders made 50,000 loans in 1997. This map shows foreclosures on subprime loans in Chicago in a 12-month period of time.

In the Chicago area, there were more than 50,000 loans in 1997, 15 times as many as in 1991, when they originated 3,137 loans. Even more dramatic than the increase in subprime loans has been the increase in foreclosures. Subprime lenders foreclosed on 30 loans in the Chicago region in 1993, 2 percent of the foreclosures that year.

In June of 1998 to June 1999, the subprime lenders foreclosed on 1,917 loans, 30 percent of the year's total foreclosures. Why is the growth of this industry of concern? Two reasons: First, these companies use reprehensible tactics and predatory lending practices to conduct their business and, second, because of the vulnerable victims—senior citizens and low-income people—whom they target.

I will tell a story that demonstrates the problem. In Decatur, GA, a 70-year-old woman named Jeannie McNab, retired, living on Social Security benefits, in November 1996 with the help of a mortgage broker obtained a 15-year mortgage loan from a large national finance company in the amount of $54,300. Her annual percentage rate on this mortgage loan was 12.85 percent, and under the terms of the loan, she would pay $596.49 a month until the year 2011 when she then would be required to make a total final payment of $47,599. Think about it: 15 years from now, when this woman is 85 years old, she will be saddled with a balloon payment that she can never possibly make and face the loss of her home and her financial security, not to mention her dignity and her sense of well-being.

She paid a mortgage broker $700 to find and fund this unconscionable loan, a mortgage broker who, to add insult to injury, collected a $1,100 fee from the mortgage lender.

Unfortunately, Mrs. McNab is a typical target of high-cost mortgage lenders. She is an elderly person living alone on fixed income, just the type of person who may suddenly encounter a financial obstacle and turn to this type of loan for assistance.

According to a former career employee of the subprime mortgage industry who testified anonymously last year before Senator GRASSLEY's Special Committee on Aging—this may sadden you:

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

The perfect target, according to this anonymous witness before Senator GRASSLEY's committee. This industry professional candidly acknowledged that unscrupulous lenders specifically market their loans to elderly widowed women, blue-collar workers, people with limited education, people on fixed income, non-English speaking people, and people who have significant equity in their homes. With lump sum balloon payments and terms that cannot be rationalized, they ensnare these folks and take away the only asset they have left on Earth—their home.

When that occurs, these people should not be able to go into court, once that person has defaulted on this mortgage, and recover. They have defrauded the individual who has borrowed the money. They are guilty of predatory loan practices and they should not receive the same treatment as an honest creditor who comes to court looking for compensation.

The amendment which I will offer will do several things. When a person such as Jeannie McNab goes to bankruptcy court seeking help from overwhelming financial distress the lenders caused her, the claim of the predatory home lender is not going to be allowed. If a lender has failed to comply with the requirements of the Truth in Lending Act for high-cost second mortgages, the lender will have absolutely no claim against the bankruptcy estate. The unscrupulous high-cost mortgage lender will not recover the fruits of their ill-gotten gain.

This amendment has been opposed by a lot of mortgage companies and banks that ought to know better. They are standing in defense of these predatory lenders who are taking advantage of vulnerable people and saying: We cannot treat them any differently; we cannot treat them harshly even if they abuse the system.

That is a sad commentary on the credit industry and it is a sad commentary on the mortgage industry that they will not join me and the Members of the Senate in ferreting out those who are exploiting people across America with these second mortgages and subprime mortgages which ultimately are indefensible—absolutely indefensible—as we found time and again. If the credit industry wants to defend those loans, it casts a real question and suspicion and doubt as to their sincerity in dealing with borrowers across America. I hope they will change their point of view and support this amendment.

I made some changes in the amendment to accommodate the industry to make it clear we are not going to deal with technical violations to disqualify those who try to collect in bankruptcy court. We are going after the bad guys.

I added a materiality requirement so the violations must be a material violation in order for the claim to be invalid. The amendment will apply to situations where a lender engages in the practice of lending based on home equity without regard to the borrower's ability to repay, or a lender makes direct payments to a home improvement contractor instead of to the borrower, or when the lender imposes illegal fees, such as prepayment penalties or increased interest rates at default, or imposes a balloon payment due in less than 5 years.

These illegal practices are not technical violations. I ask my colleagues to join me in this effort to protect the elderly by stopping predatory lending practices by adopting this amendment.

I send my amendment to the desk.

The PRESIDING OFFICER (Mr. ROBERTS). The amendment will be filed.

Mr. DURBIN. I thank the Chair.

The PRESIDING OFFICER. The distinguished Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I am pleased to have the opportunity to speak generally on the bankruptcy legislation that is now before the Senate.

First, I praise my friend and colleague from Illinois who has, on all issues, been extremely dedicated, hardworking, and effective on this bankruptcy issue. This is an important

issue and a complex area of the law that has an impact on millions of Americans and, of course, on businesses all across the country.

This is an important debate, and I expect we will be on the floor for some time, because many of us have serious concerns about this bill and expect to offer quite a number of amendments to try to improve it.

As I said, the issues raised by bankruptcy legislation are extremely complicated. The stakes are high. The different viewpoints are passionately expressed by all of the players involved, from the different types of creditors to bankruptcy judges, trustees, and practitioners, to consumers and potential debtors.

We have a long legislative history to contend with here. We have been working on bankruptcy reform legislation for some time now, beginning with the appointment of the National Bankruptcy Review Commission in 1994, and the issuance of the commission's report in 1997. In the last Congress, the Senate passed reform legislation by an overwhelming margin. That bill was itself a compromise among the various interests. But a conference committee sent a much different, much more one-sided bill back to us, and I am happy to say, that bill died at the end of the session.

My view is that the legislation before us is only slightly less objectionable than the legislation that came out of conference last year. S. 625 is not a balanced piece of legislation. It tilts the scales too far in favor of certain types of creditors, and denies reasonable protections of the law not just to those trying unfairly to evade financial obligations they really can afford to meet, but also to honest hardworking families and single parents, who have come upon hard times and need the fresh start and breathing room that our bankruptcy system offers to give them a chance to survive. In too many cases, I am afraid, that will hinder families' ability to meet other obligations, particularly their obligations to their own children and to local taxing authorities.

In many ways, this is a bill at war with itself. Many of the provisions are designed to shift more money into the hands of unsecured creditors, while other provisions are designed to shift that same pot of money back to car lenders and different unsecured creditors. The bill is supposedly intended to move more debtors from the complete discharge of debts available under chapter 7 of the code into chapter 13 repayment plans. But chapter 13 trustees and others have testified that many provisions in the bill will decrease the success of chapter 13 repayment. The bill supposedly increases personal responsibility, and yet it would favor people who have two new cars over people who own older cars or who take public transportation. And the bill is said to be aimed at deadbeats and abusers of the system, not honest but financially troubled low-income people, and yet it penalizes renters, as opposed to homeowners. And whereas we often try to promote small business entrepreneurship in legislation, in this bill we sometimes seem to impose stricter rules on small businesses than we do on large businesses.

So, does the Senate really want to endorse these policies? Is it really our goal to send these mixed messages? I urge my colleagues to pay close attention to this very important debate. We do a lot in this body that in the end seems to just be symbolic. This bill is not symbolism. We cannot simply pass this bill and say we have struck a blow for personal responsibility. Because this bill will have real consequences in the real lives of real people. And I fear that in too many cases those consequences will be very damaging.

I do want to comment for a moment on the process that has brought us here. I mentioned before that the Senate considered bankruptcy legislation in the last Congress. But in this Congress, we didn't have a single hearing on this bill. Let me repeat that because it is so disturbing for a bill of this magnitude and complexity. The Senate Judiciary Committee did not have a single hearing on bankruptcy reform or S. 625—not one.

Now, to be fair, there was one joint hearing that was held over at the House with two subcommittees of jurisdiction—one hearing. And it occurred on a day that Senators happened to be involved in a very long series of votes—I believe it was one of our so-called ''vote-arama'' sessions—which meant that none of the Senators on the subcommittee could take advantage of the lone opportunity for public discussion of this bill. Other than that one hearing, the Senate of the United States had no hearings whatsoever on bankruptcy reform this year.

I did not understand the rush to report this bill from committee without hearings, and I still don't. Why didn't we hear from the bankruptcy judges, and the trustees, and the disinterested academics, and the practitioners about how and whether this bill will work? Why didn't we get their views in a formal and considered way, and try to address their concerns?

To say that this bill is just a repeat of last year's bankruptcy debate is just not right. This legislation is far too complicated and far too reaching to make that facile claim. This bill is actually different from last year's Senate bill in more ways than it is similar. In many ways, it is a brand new piece of legislation for this body. Last year's Senate bill was almost exclusively consumer bankruptcy oriented. This bill not only takes a different approach to consumer bankruptcy, but it has dozens of provisions affecting a variety of tax issues, municipal bankruptcy cases, single asset real estate cases, small business cases, and health care cases, in addition to a host of changes to general chapter 11 bankruptcy that may dramatically change the rules governing the reorganization of our Nation's largest businesses. We never discussed most of these issues at the committee level. We have received many warning signs from those who understand the bankruptcy system far better than any of us do. I am afraid to say, what is being done here is actually irresponsible.

Why has this happened? Well, the sad truth is that all of us know why. A very wealthy and powerful industry has pushed and pushed and pushed for this bill, and so far the Congress has ignored the experts and done the industry's bidding. The credit card industry wants this reform because it wants protection from its own excesses. You see, the industry has flooded the mailboxes, and the phones, and the e-mail in boxes of America with offers of easy credit. Americans received over 3.45 billion credit card solicitations in 1998. Anyone can get a credit cared, even children, even people who have just filed for bankruptcy.

I favor empowering citizens and broadening their options using credit to bring more convenience to their lives as consumers. But the industry has been irresponsible in extending credit to those who cannot handle it. And now the industry has come to Congress for help. Now the industry wants the bankruptcy system to protect it. I say to you, Mr. President, that is not right.

The industry hasn't come to us hat in hand, however. It has come with an open checkbook. As you know, Mr. President, from time to time on the floor in recent months, I have noted that contributions of different players in the legislative process that seek to influence our work here with campaign contributions. This bill is a poster child for the ''Calling of the Bankroll.''

Like so many issues, bankruptcy reform has been transformed from a policy debate to a vehicle for a special interest agenda. The key ingredient in that transformation is money, plain and simple.

In the last election cycle, according to the Center for Responsive Politics, the members of the National Consumer Bankruptcy Coalition, an industry lobbying group made up of the major credit card companies such as Visa and MasterCard and associations representing the Nation's big banks and retailers, gave nearly $4.5 million in contributions to parties and candidates.

How can a single mother in West Allis, WI, for example, who faces overwhelming debt from medical bills and the loss of child support, compete with the might and financial power of this industry? Her family, and her future will be affected by this bill every bit as much as the credit industry, yet she is not represented in the campaign finance game. And I am afraid that this bill in its current form very much reflects her lack of power.

Some of the campaign contributions from these companies seem to be carefully timed to have a maximum effect.

It is very hard to argue that the financial largess of this industry has nothing to do with its interest in our consideration of bankruptcy legislation. For example, on the very day that the House passed the conference report last year and sent it to the Senate, MBNA Corporation gave a $200,000 soft money contribution to the National Republican Senatorial Committee.

In connection with the joint hearing that was held earlier this year, I submitted a written question to Bruce Hammond, the chief operating officer of MBNA. I asked him about the $200,000 contribution to the NRSC in October 9, 1998, just days after the conference committee reached agreement on a version of this bill that everyone agreed was more favorable to the credit card companies than the bill that the Senate had passed.

This is what I asked him:

(A) As CEO, are you involved generally in the decisions to make soft money contributions to the political parties?

(B) Were you involved in the decision to make this particular donation?

(C) How are decisions on soft money contributions made in your company? Who participates in such decisions? What criteria are followed in making such decisions?

(D) Why did MBNA make a $200,000 donation to the NRSC on October 9, 1998?

Mr. Hammond's written response to the questions was very illuminating. Basically, he decided to ignore these direct and simple questions about the soft money donations of his company, and instead wrote the following:

I find the premise for this question troubling, I hope there is no intention to place bankruptcy reform in a partisan political context. All of us who have worked in support of these legislative reforms have been pleased by the support, cooperation and encouragement we have received on both sides of the political aisle. It has been particularly pleasing to note that in this Congress both the House and Senate bills have had as their original co-sponsors prominent and respected Members of Congress from both political parties.

With all due respect, Mr. Hammond has made my point for me. As I noted, the soft money contributions of this industry have gone to both parties. Actually, MBNA Corp. has only given to the Republican party committees in the last few cycles. But other big lenders, such as Visa USA, BankAmerica Corp., and Citigroup, are giving to both parties. That is what is so insidious about these contributions. They aren't about politics, they are about policy. These companies don't just want to influence elections, they want to influence legislation directly.

So the premise of my questions to the chief operating officer of MBNA Corp. was not to suggest that this bankruptcy bill was partisan, it was to get at the bipartisan problem of soft money and its insidious relationship to the legislative process. I'm sorry that Mr. Hammond decided not to answer my questions directly. I suspect that one of the reasons that he didn't is that direct honest answers to these questions would not be something he would want in the legislative history of this legislation. So he chose to simply ignore the questions. That is unfortunate.

Mr. President, in the current Congress we are seeing another influx of campaign contributions from banks and lenders seeking to influence this bill.

Incredibly, PAC contributions from National Consumer Bankruptcy Coalition members totaled $227,000 in March of this year alone. That's a full 20 months before the next election. But guess what. March 1999 was a month during which the Judiciary Committees of both the House and the Senate were considering the bill. Members of the coalition gave nearly $1.2 million in PAC and soft money contributions in the first 6 months of 1999. During that time period, MBNA Corp. gave $85,000 in soft money to the Republican Party committees, while Visa USA Inc. gave $30,000.

Now I want to be clear here once again. Republicans are not alone in taking in hundreds of thousands of dollars from banks and lenders in this election cycle: During the first 6 months of 1999, the Democratic party committees took in more than four times the soft money from banks and lenders than they did during the first 6 months of the last presidential election cycle in 1995. Soft money contributions overall are up by about 80 percent, but the banks and credit card companies have quadrupled their contributions to my party.

Mr. President, we need to keep in mind as we debate this bill, and the many amendments that will be offered, the extent to which bankruptcy reform has come to be seen as a gift to special interests, particularly the credit card companies. In light of that, we bear an even heavier burden to make sure that we are serving the public interest with this kind of far reaching legislation.

We must open our minds to the recommendations of nonpartisan experts in this field. We haven't done that yet, although some progress certainly has been made between the time this bill left the Judiciary Committee and today. I am pleased, for example, that the requirement that debtors attorneys bear personal financial responsibility for the trustee's cost and fees if the debtor loses a motion to convert a chapter 7 filing to chapter 13 has been eliminated. That provision would have had the result of denying many honest American families adequate legal representation, making them even more subject to abusive and predatory practices by creditors.

But we have a long way to go to make this a balanced bill, rather than a wish list for credit card companies. If we don't do that, we will have filed in our duty to the public and will come to regret our actions.

I sincerely hope that once again we can work together to develop a product that will win a near unanimous vote in the Senate as last year's bill did. A bankruptcy reform bill should be the product of a considered and well-informed debate, not a political dance, where money calls the tune.

AMENDMENT NO. 2522

(Purpose: To provide for the expenses of long-term care)

Mr. FEINGOLD. Mr. President. In a moment I am going to offer an amendment to address one of the many unfairnesses of the means test in this bill. This amendment is focused particularly on expenses that a family might incur because it is paying for medical care for a non-dependent family member.

These kinds of expenses often are referred to in our discussions as expenses for long term care. Long-term care, and particularly fundamental long-term care reform, has been a special focus of mine since I was first elected to the Wisconsin State Senate in 1982.

As I discovered when I began working on this many years ago, long-term care is greatly misunderstood. Even today, when people hear long-term care many think of nursing homes and the elderly.

But that is not the whole story.

According to the Long-Term Care Campaign, while the majority of the over 11 million severely disabled Americans needing long-term care services are elderly, nearly half are either working-age adults or children.

And while many do receive their long-term care services in a nursing home, the vast majority of those needing long-term care receive that care at home.

Long-term care touches many more than just those needing services.

Nearly 6 of every 10 Americans have already experienced a long-term care problem in their own family or through a friend, and more than half of these have provided care to someone who needs services.

The National Family Caregivers Association estimates that between 80 and 90 percent of all long-term care is provided by families.

Caregiving can be an enormous burden on families—physically, emotionally, and financially.

As we found in Wisconsin two decades ago, that burden not only takes its toll on families, but on government budgets and taxpayers since all too often the reason an individual enters a nursing home is not due to their condition, but because the family member caregiver is simply no longer able to care for them.

Though I will not speak at length today about the reforms we need to make to our long-term care system, I do want to note this critical point—we need to build on the informal long-term care that families already provide, not only to allow those needing long-term care services to remain where they prefer, at home with their family, but also because the alternative places a huge burden on State and Federal budgets.

Families that provide personal assistance and other forms of care to

loved ones not only help that loved one, they help the taxpayer.

Families provide an estimated $200 billion in long-term care services every year—services that help keep loved ones at home, and out of expensive institutional settings.

But when families are no longer able for physical, emotional, or financial reasons to care for that loved one, changes are that individual will end up in a nursing home on the joint State-Federal program Medicaid.

When taxpayers pick up the Medicaid tab for nursing home care, it isn't cheap.

According to the Long-term Care Campaign, nursing homes cost an average of $46,000 a year, and for those with severe disabilities or dementia, the costs can be even greater.

Mr. President, much as I might like to, we can't use this bankruptcy bill to reform our long-term care system. But at the very least, we should not be making the current long-term care crisis worse than it already is. And that, I fear, is exactly what the bill in its current form does.

In particular, we should not be discouraging families from caring for a disabled or chronically ill loved one. If a family facing financial difficulties can continue to care for a loved one at home, and keep them out of more expensive taxpayer-funded settings, all of us will benefit.

It is for that reason that I offer this amendment—to make sure that a family's ongoing expenses to provide care for a loved one will be recognized as reasonable and legitimate living expenses for purposes of calculating how much a family is capable of contributing toward repayment of debt.

The means test in the bill provides that a debtors are ineligible for a Chapter 7 discharge if they can supposedly repay 25 percent of their debts or $15,000, which ever is less, over a period of 5 years. Basically, the trustee has to analyze the ability of debtors to repay their debts, looking at their monthly income and their monthly expenses. But the expenses are not actual expenses, they are the expenses set out in IRS standards designed for a wholly different purpose. And these standards do not include as necessary expenses amounts paid for the care of non-dependent family members.

So people who file for bankruptcy are presumed to have abused the system if they don't meet the means test using the IRS standards. And they can rebut that presumption only by showing special circumstances that justify additional expenses.

To do so, they have to provide documentation and ''a detailed explanation of the circumstances that makes the expenses necessary and reasonable.'' So under this bill, debtors with significant long term care expenses are deemed abusers of the system, and they may have to litigate to prove that they are not spending too much to care for their family. The bankruptcy courts are going to be called on to pass judgment on whether the expenses for long term care are reasonable. Some people may be forced to forgo bankruptcy because they cannot afford to both hire a lawyer to fight the presumption of abuse and continue to care for their family members.

This is only one of many examples of how use of the IRS standards makes the means test draconian and unfair. I hope as we debate and amend this bill we will make major changes in how this means test operates. And we should start here, with long term care expenses. This amendment simply provides that the monthly expenses to be analyzed under the means test may include the continuation of actual expenses paid by the debtor for the care of household or immediate family members who are not dependent.

Let's think about the alternative for a moment. Imagine a scenario where someone is in the position of filing for bankruptcy and has significant long term care expenses of a aging parent that are for some reason deemed to be not reasonable. If that individual is prevented from filing for bankruptcy, the need for the long term care doesn't go away. It stays. It may be the reason that the person has to file for bankruptcy in the first place, because the additional burden of the long term care expenses makes it impossible to make ends meet and keep up with payments on accumulated debt.

What choice does this person have if the protection of the bankruptcy laws is unavailable? No choice at all. The care must stop, and the person being cared for goes into a public institution with higher costs to the taxpayers and, more important, untold damage to the family.

I challenge my colleagues to tell us how the simple exception to the rigid IRS standards set out in this amendment will lead to abuse. Are people going to go out and arrange for unreasonably extravagant care for their family members in order to file for bankruptcy and get out of debt? I don't think so. In fact, I think it is insulting.

No, the millions of Americans who selflessly care for their loved ones make a sacrifice that we should honor and encourage. Passing this amendment would be a small step toward recognizing that crucial service to our country that they provide. I urge my colleagues to step back from the misery that this bill might very well inflict and adopt this amendment.

Mr. President, I ask unanimous consent that the pending amendment be set aside so I may offer this amendment.

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

Mr. FEINGOLD. Mr. President, I send my amendment No. 2522 to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD] proposes an amendment numbered 2522.

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

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

The amendment is as follows:

On page 7, line 15, strike ''(ii)'' and insert ''(ii)(I)''.

On page 7, between lines 21 and 22, insert the following:

''(II) In addition, the debtor's monthly expenses may include, if applicable, the continuation of actual expenses paid by the debtor for care and support of a household member or member of the debtor's immediate family (including parents, grandparents, and siblings of the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case) who is not a dependent.

Mr. FEINGOLD. Mr. President, I ask unanimous consent to set aside the pending amendment and offer Senator DURBIN's amendment No. 2521, which he discussed and filed this morning, and that the Durbin amendment No. 2521 then be immediately set aside.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 2521

(Purpose: To make an amendment with respect to allowance of claims or interests and predatory lending practice)

Mr. FEINGOLD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative assistant clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD], for Mr. DURBIN, proposes an amendment numbered 2521.

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

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

The amendment is as follows:

On page 29, after line 22, add the following:

**SEC. 205. DISCOURAGING PREDATORY LENDING PRACTICES.**

Section 502(b) of title 11, United States Code is amended—

(1) in paragraph (8), by striking ''or'' at the end:

(2) in paragraph (9), by striking the period at the end and inserting ''; or'' and

(3) by adding at the end the following:

''(10) the claim is based on a secured debt, if the creditor has materially failed to comply with any applicable requirement under section (c), (d), (e), (f), (g), (h), or (i) of section 129 of the Truth in Lending Act (15 U.S.C. 1639).''

On page 201, line 3 strike ''period at the end'' and insert ''semicolon''.

Mr. FEINGOLD. Mr. President, I yield the floor.

Mr. SESSIONS. Mr. President, I thank the Senator for his amendment and the remarks he made. There are some good questions. We do want to help those who are in nursing homes and so forth.

I am somewhat nervous and troubled by the breadth of the language because economics is a fairly crystal science in a lot of ways. This just says you want

to help a dependent. In effect, what he is saying by this amendment is that a debtor who owes people who he has gotten benefits from and promised to pay them money, he won't pay them; he will be able to take money they should get and apply it to the family members to whom he wants to give it.

I don't know whether that is a good proposal for this bill or not. As he said, maybe we can't fix health care in the bankruptcy bill. Maybe not. We will be glad to review that, and I am sure Senator GRASSLEY will.

I wish to make a number of points about some of the issues that have been raised because I do so strongly believe this piece of legislation is good. I believe it is going to make a major step forward in improving bankruptcy and having more fairness, eliminating these complaints that all of us are, in fact, hearing from people in our States who have been abused by the process in bankruptcy. Many times they blame the lawyers, and sometimes so do I. But the truth is, lawyers are using the laws we pass. It is our responsibility, if the law isn't working, to come to this floor and present legislation to fix it.

Over 70 percent of the people believe we need to reform bankruptcy law. This isn't a special interest piece of legislation. But I will say this: There is no doubt that banks and others who regularly go to bankruptcy court see what is going on there on a daily basis. They have every right to call to our attention what they see are problems and injustices. We have a responsibility, if that is so, to fix it. That is fundamental. That is what American law is all about. What we are doing with the bankruptcy bill is trying to reform and improve bankruptcy law, which has had no real analysis since 1978. We have had more than double the filings in bankruptcy since 1978. Indeed, we have had a virtual doubling of bankruptcy filings since 1990, during that period of time.

Larry Summers, the present Secretary of the Treasury, stated that bankruptcy does, in fact, increase interest rates. Businesses have to charge more when more people are bankrupting and not paying back their debts. It raises the interest rates. The present Secretary of the Treasury understands that, and any economist would.

Senator HATCH, chairman of our Judiciary Committee, has pointed out the average cost per family of the debts wiped out in bankruptcy per year is $400. What that means is that somebody is not paying their debt and, in fact, is shifting the burden to other people to pay them for them. Sure, bankruptcy is a historic part of American law. It is something we never want to eliminate. We want to protect that right. It is mentioned in the Constitution but not provided for in detail. Our Founding Fathers recognized we ought to have a bankruptcy system. It has always been a part of the Federal court system, and we, as the Congress, have the responsibility to analyze it periodically to see what abuses and problems are occurring and, where there are problems, to fix them and see if we can't make the system work better.

Now they say we want to talk about credit cards. That is an issue we may want to talk about.

But this piece of legislation was designed to deal with the bankruptcy court system. We have banking committees and others that are dealing with these credit disclosure acts and the kind of bank loans and interest rates credit cards ought to utilize.

In fact, the chairman of the Banking Committee is not happy we are down here amending banking law on a bankruptcy bill that has nothing to do with banking law. Rightly, he should be. I don't think we need to distract ourselves on that. Frankly, I think we ought to just confront this issue that is being raised.

Bankruptcy is the fault of all of the credit card companies, and they are giving too much money to people who are marginal credit risks. They are allowing them to have credit cards—horrible things they are doing, allowing a poor person to have a credit card. That is bad.

We just had a banking bill that almost went down over a debate among those liberals in this body who wanted to ensure that the banks lend more money to at-risk, high-risk borrowers. That is a good thing, not a bad thing. If they weren't lending money to poorer people, weren't allowing them to have credit cards, then they would be much condemned for it, and rightly so. Ninety-nine percent of people who have credit cards pay their debt—99 percent. The banks are not lending substantial sums of money to people who can't pay their debt.

But I will tell you this. If you are living on a fixed income, you have a $25,000-a-year income, you have a family, you are trying to do things, and the tire blows out on your car, you are glad you have a credit card so you can pay for it to be fixed, so you don't have to sit it on the blocks, or you can get your momma, or somebody, to lend you the money to fix the tire. And it allows you to pay it back over a period of time.

It is an odd thing to me that people who think and claim they care about the poor are going to be complaining because credit card companies allow them to have credit cards so they can borrow money when they need to. It becomes a critical thing for them.

Then there is a complaint that somehow this legislation is unfair to women and children. That is a stunning event. From day 1, Senator HATCH and Senator GRASSLEY made a commitment to make a historic change in the way bankruptcy treats child support and alimony. There is a list of things that have to be paid first when you pay off your debts in bankruptcy. They call them priorities. Child support and alimony used to be seventh on that list. From day 1—this bankruptcy bill has proceeded for over 2 years now—we have raised child support and alimony to No. 1, ahead of lawyer fees. That is historic. They are complaining, too. But we made a commitment that nothing would take priority in bankruptcy court over child support and alimony.

It amazes me. I am astounded that those who want to kill this legislation, for reasons I cannot fathom, come down here and complain that the reason they are against it is that it hurts children. This is a historic move to provide unprecedented protections and priorities for children.

I find that a stunning argument to make.

They argue that this is going to penalize a single woman with a child who has financial troubles and needs to go into bankruptcy, and that somehow that woman with that child would be required to pay back some of their debt when they wouldn't have been required to pay some of their debt under the old law, because fundamentally what this bill says is, if you can pay back some of your debts, you ought to. What is wrong with that? If you can pay back some of your debts, you ought to pay some of them back. That is fairness. That is one of the biggest abuses we have. We have young yuppies making $100,000 a year in income, running up a bunch of debts, and then they just wipe them out and start all over again. That is not right. If they can pay back some of those debts, they ought to pay them.

The question is, Won't this abuse women with children at home who have financial difficulties? Let me explain this simply. If there is a mother and a child, a family of two, the median income in America is $40,000. If they make less than $40,000, they will be able to file bankruptcy just as they always have. If two of them are making $40,000 a year—which is a pretty solid income—or below, they will not be subject to these rules that require those who can pay to pay. If they make over $40,000, the judge will have the responsibility to evaluate their debt, evaluate their expenses, and see if they can pay back some. If they can pay back 25 percent, or 30 percent, or 50 percent, or maybe 100 percent, if their income is $100,000 a year, what is wrong with that?

Should a single woman be given preference over a single man with a child?

We have to have simple rules that are fair and objective. All I am saying is, it would take a family with a substantial income before the principles of law would apply that they would have to pay back any money.

There is a suggestion that somehow because a father is paying alimony and he might pay back some of his debt, he will not be able to pay his child support. But as we know, he is required to pay his child support first. And no plan in bankruptcy can be approved by a bankruptcy judge unless this gives priority to repayment of past due child

support and paying current child support. That is a bogus argument.

This bill requires the judge, before he approves a bankruptcy payback plan, to give priority to the payback of child support and alimony. In fact, it will strengthen the ability of children to receive the alimony payment because instead of walking in and filing bankruptcy under chapter 7 and just wiping out all of his debt and starting fresh, the deadbeat dad will be under the control of the bankruptcy court, under chapter 13, and will have to report his income on a regular basis. If he is not paying that, he can be disciplined through the bankruptcy court.

That is not a good argument, I would suggest.

There is a study by a group of professors who said only 4 percent of the people filing bankruptcy could pay even 25 percent of their debt. In that instance, if that is true—and I doubt that; I think the figure is a good bit higher than that but not a lot higher. I am not saying it is a huge number. Maybe it is 15, 20, or 10 percent. But those 10 percent who can pay it, those 4 percent who can pay their debts, why shouldn't they pay them? That is what we are saying. The law will not make them pay if they can't pay. If their income is below the median income, they won't have to pay back the debts at all.

I think that is not an argument that is important to us today.

There is another complaint about mailing credit cards. I heard a lot of people say, I get credit cards in the mail. They are not getting credit cards in the mail. If they are, they ought to call the Federal State law enforcement because it is illegal to send somebody a credit card they haven't asked for. What they are receiving in the mail from credit card companies are solicitations or offerings for credit cards.

I think that is probably good because I don't like those high interest rates on credit cards. I shop around. I don't like paying 18 percent interest. I hope most people can avoid running up any significant debt because that is a high interest rate. But one of the good things that has happened of late is, credit cards are getting competitive. They are offering us to join up: Convert to our credit card, have no interest for so many months, and you are going to have a lower interest rate than you had before. They are getting some competition in the credit card industry.

We are going to come around now and pass a law in this Congress that says a credit card company can't write you a letter and offer you 15-percent interest instead of your current 17-percent interest? What kind of idea is that? We have some poor economic thinking in this Congress.

By the way, as the Secretary of the Treasury under President Clinton has indicated, defaults on payments in bankruptcy drive up interest rates for everyone. It was suggested we have to make these reforms in amendments because old people are not able to pay their debts. Old people are not the ones filing bankruptcy. The figures cited were older people over 55. Filers over 55 have gone up almost 120 percent since 1990, but during that time all filings have gone up 100 percent. Always the older citizens of the country are the least likely to file bankruptcy. They are the most responsible and keep up with their books and manage their debts well. That is not the biggest problem in bankruptcy. Check the ages and it won't be the people 65 years old and up filing bankruptcy in America today. They are responsible. They have learned how to manage their money.

One amendment is to crack down on subprime lenders, banks that loan to poor people. We have legislation attacking banks for redlining areas and not loaning to poor people. We had a big fight over it on the banking bill. The people receiving these loans were viewed as vulnerable and preyed upon. Sometimes they can be vulnerable and sometimes I guess they can be preyed upon. However, one doesn't have to take a loan if they don't think it is better. If a person has $10,000 credit card debt at 18-percent interest and they can get a loan at a bank at 12.5 percent to pay it off and they don't have a good credit rating, but 12.5 percent is better than 18 percent. People make those choices daily. I don't know as part of bankruptcy court reform that we ought to try to reform banking law. That ought to be thought through more carefully.

This bill is essentially the bill that passed 97–1 in this body. It is essentially the bill that passed the House last year by a veto-proof majority. It has already passed the House again this year by a veto-proof majority. There is bipartisan support for it. It is beyond me why we can't have a final vote and get it passed. I have only been in this body a little over 2½ years, and I don't see how we have a bill with this kind of support. It is frustrating trying to get a final vote and do what the people of this country want done. We debated it. They said we have not had hearings. We had hearings for years on it. Everybody knows the issues. We have had staff meetings in excruciating detail.

Senator GRASSLEY has been more than generous in working with those who have concerns about the bill. He has met with the staff, met with the White House. My staff is meeting with a representative from the White House today trying to work out the language on one or two issues that we think we can reach an agreement on. There have been great efforts to make some changes. Why some want to spin this as a bill that is unfair is beyond my comprehension. We had this year a joint House-Senate Committee on bankruptcy—the first time in history—to consider those issues.

My vote is not for sale. I am not going to support a bankruptcy bill or any other bill because of any political contribution. I am offended by those who come on the floor and suggest that is what we are doing. I am prepared to debate any issue on this bill on the merits of what is good for public policy in this country. I am getting sick and tired of sanctimonious Senators suggesting they are above all the rest of us and everybody is corrupt—because industry gives political contributions to both parties. That is not right.

Let's talk about what is wrong with this bill. Let's talk about why something in here is unfair, if it is. If it is unfair, we will fix it. I am not happy with that. I think we need to do better.

Mr. President, 70 percent of the people are in favor of this legislative reform. There is overwhelming popular support for a system the reform of which is long overdue. We can do it. I don't blame the people who are in the process of dealing with it every year for being angry. They have a right to be. There are multiple loopholes in this bankruptcy system that we have seen. We have seen how they work and we can fix them.

One of the driving factors behind increased filings of bankruptcy is advertising by attorneys. Watch their ads. They don't say: Come on down and we will file bankruptcy. It says: Got problems with your debts? Come talk to me.

You talk to them and the next thing you know a person who has never been given an opportunity for a different opinion has suggested they can pay a certain fee and file bankruptcy and they will take care of him; all their debts will be wiped out. And the debtor says: You mean that, really? And the lawyer says: Absolutely; that is the law.

We passed that law. We talk about needs-based reform. What we are saying is, if you can't pay your debts, you have an income below the median income in America, $50,000 for a family of four—that is what the median income is—if you can't pay, you can have traditional benefits of chapter 7 and wipe out your debts, if that is what you choose. However, if you make above that, the judge can order you to pay some of the money back. I think that is only fair. I believe that will eliminate some of the abuses in the bankruptcy system.

Another amendment Senator KOHL and I have offered deals with what I consider another abuse in bankruptcy. I have an example from the New York Times article of last year about some people who used and abused the bankruptcy system.

The First American Bank and Trust Company in Lake Worth, Fla., closed in 1989, and its chief executive, Roy Talmo, filed for personal bankruptcy in 1993. Despite owing $6.8 million, Mr. Talmo was able to exempt a bounty of assets.

During much of the bankruptcy proceedings, Mr. Talmo drove around Miami in a 1960 Rolls-Royce and tended the grounds of his $800,000 tree farm in Boynton Beach. Never one to slum it, Mr. Talmo had a 7,000-square-foot mansion with five fireplaces, 16th-century European doors and a Spanish-

style courtyard all on a 30-acre lot. Yet in Mr. Talmo's estimation, this was chintzy. He also owned an adjacent 112 acres, and he tried to add those acres to his homestead. The court refused.

Mr. Talmo, though, now looks back as a more humbled man, ''Bankruptcy is something I don't want to do again,'' Mr. Talmo said. ''Mine is a sad story. I have my home, but otherwise I was wiped out.''

This is the way it works: The former commissioner of baseball—lots of prominent people do this—runs up a big bunch of bills; the business fails; he owes a lot of people money. So you say: What can I do? I can move to Florida; I can move to Texas; I can buy a big mansion, put all my money there on the Atlantic coast or the gulf coast or the Texas coast or wherever, and I will just put everything I have liquid right now in that house. I will claim it as my homestead and they cannot take it.

Then, after I have wiped out all these people I legitimately and lawfully owe, I can sell my multimillion-dollar mansion and live high the rest of my life. That is what this law allows. It is proper and legal in the American bankruptcy system today, and we ought to put a stop to it.

People say it is States rights. Not so. Bankruptcy is totally a Federal court proceeding. It is referred to in the U.S. Constitution. It is totally a Federal court proceeding and we have, as a Federal Congress, the right to set the standards as we choose them for a homestead exemption. In my view, this is an abuse. It allows people to move in interstate commerce and to defeat totally legitimate creditors and live like kings and not pay back people they owe.

I am going to mention one other example in the New York Times article:

Even when residents of Texas and Florida sell their homes and pay off their mortgages during bankruptcy, they can still walk away rich.

Talmadge Wayne Tinsley, a Dallas developer, filed for Chapter 7 bankruptcy in 1996 after he incurred $60 million in debt, largely bank loans. Under Texas law, Mr. Tinsley could keep only one acre of his 3.1-acre estate, a rule that did not sit well with him. His $3.5 million, magnolia-lined estate included a five-bedroom, six-and-a-half-bath mansion with two studies, a pool and a guest house. All that fit snugly onto one acre.

Yet when the court asked Mr. Tinsley to mark of two acres to be sold to pay off his debts, his facetious offer was for the trustee to come by and peel off two feet around his entire property. The court refused, forcing a sale, but by Mr. Tinsley still did rather well for himself.

He sold his house in October for $3.5 million using the proceeds to write a $659,000 check to the Internal Revenue Service and another for $1.8 million to pay off the mortgage. That left $700,000 for Mr. Tinsley after closing costs and other expenses were deducted from the proceeds, according to court officials. About $58 million of his debts were left unpaid.

I believe there are abuses there. I believe the Kohl-Sessions amendment will deal with it. It is not a question of States rights. The Federal bankruptcy courts have allowed States to set the standard, but it has never been a problem, that the Federal court could set a national standard if they chose.

We, by this amendment, say you could only have $100,000 in equity in your home—not the value but in the equity of your home—and be able to keep it; whereas, over two-thirds of the States limit it to $40,000. So we are just moving down some of those States with extreme laws to a reasonable level. I believe that will eliminate one of the most glaring abuses in the bankruptcy system.

I am pleased to be joined now by the distinguished chairman of the Judiciary Committee, Senator HATCH, who has worked hard to bring this legislation to fruition. I am proud to serve on his committee. I yield the floor.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Utah.

Mr. HATCH. Mr. President, I thank my colleague for his excellent presentation and the work he has done on the Judiciary Committee on this very important bill. It is a very important bill.

AMENDMENT NO. 1729

(Purpose: To provide for domestic support obligations, and for other purposes)

Mr. HATCH. I intend to make it even more important by calling up amendment No. 1729 and asking for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative assistant read as follows:

The Senator from Utah [Mr. HATCH], for himself and Mr. TORRICELLI, proposes an amendment numbered 1729.

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

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. HATCH. Mr. President, I am pleased to express my commitment again this year to reforming the bankruptcy laws in order to adequately protect children and ex-spouses that are owed domestic support. I am grateful that S. 625 includes the language I offered last year along with Senators GRASSLEY and KYL, providing extensive reforms to the bankruptcy laws in the area of child support. Also, I introduced additional enhancements to the bill's protection of domestic support obligations at the Judiciary Committee markup, and I accepted further changes by Senator TORRICELLI, with the agreement that we would continue working on the development of even further enhancements to the bill in this important area. I would like to express my gratitude to Senator TORRICELLI for working with me on these important provisions.

I have continued to work with domestic support enforcement groups and Senator TORRICELLI to improve the bankruptcy laws, and I offer this amendment, along with Senator TORRICELLI, to make a series of additional enhancements to the bill so that we can be certain that this important legislation enables women and children to collect the support and alimony payments they are owed.

Current bankruptcy law simply is not adequate to protect women and children. I have been outraged to learn of the many ways deadbeat parents are manipulating and abusing the current bankruptcy system in order to get out of paying their domestic support obligations. I have in front of me a how-to book called ''Discharging Marital Obligations In Bankruptcy.'' This is why we need to reform our bankruptcy laws.

I am proud of the improvements we are making over current law in terms of ensuring that parents meet their child support and other domestic support obligations in bankruptcy.

This chart indicates:

The Support Provisions Of This Bill Certainly Justify The Praise Given Them By The Most Significant National Public Support Collection Organizations In This Country.

That is a statement made by Phillip Strauss, Legal Division of the Family Support Bureau, the Office of the District Attorney of San Francisco on March 18, 1999, in testimony before the House of Representatives.

The bill's improvements over current law have the support of the country's premiere child support collection organizations. As you can see, the bill's child support provisions are endorsed by the National Association of Attorneys General, the National Child Support Enforcement Association, and all of them, and many others, support what we are trying to do today. I would also like to point out that literally dozens of ex-spouses who are owed domestic support obligations have expressed to me their support for these improvements to bankruptcy law.

We have all heard complaints by those who would attempt to politicize this issue that the bankruptcy bill is somehow harmful to families. I have worked tirelessly, provision by provision, both last year and this year to make this a bill that dramatically improves the position of children and ex-spouses who are entitled to domestic support. No one who actually looks at what the bill says can, in good conscience, say that this bill is not a tremendous improvement for families over current law. There may be those who do not want to see bankruptcy reform, but they cannot, with a straight face, argue that this bill is anything other than a huge positive step for our children. I believe that criticizing this bill without regard for what is in it, and using our children as pawns in the process, is shameful.

I challenge critics of the bill to stop with the vague allegations and take a look at what the bill itself actually does.

First, here is what S. 625 does apart from the additional improvements I have offered in the manager's amendment:

The bill prevents the use of the automatic stay from being used to avoid family support obligations: S. 625 stops deadbeat parents from using bankruptcy to avoid family support obligations.

For example, the bill prevents the automatic stay from being used to put a hold on the interception of tax refunds to be used to pay a domestic support obligation.

The bill enables revocation of driver's licenses and other privileges from deadbeats: The bill prevents the automatic stay from being used to prevent the withholding of driver's licenses when debtors default on domestic support obligations. This is a particularly important provision, given recent news reports about the effectiveness of suspending driver's licenses of people who aren't paying their child support. A Maryland initiative has resulted in $103 million in child support collections just since 1996. We do not want our bankruptcy laws to work as an impediment to effective programs like the one in Maryland.

Without these changes, a person could use current bankruptcy law to stave off a driver's license suspension by using the automatic stay, and undermine the effectiveness of these programs at getting child support to the kids who need it.

The bill gives child support first priority status: Domestic support obligations are moved from seventh in line to first priority status in bankruptcy, meaning they will be paid ahead of lawyers and other special interests.

The bill makes debt discharge in bankruptcy conditional upon full payment of past due child support and alimony.

It requires payment of domestic support obligations for plan confirmation:

And, S. 625 makes domestic support obligations automatically non-dischargeable. This lets ex-spouses seeking to enforce domestic support obligations avoid the legal expenses of litigation that they incur under present law.

The bill provides single parents with new tools to help them collect from an ex-partner in the bankruptcy system.

The bill provides better notice and more information for easier child support collection.

The bill provides help in tracking deadbeats. For example, If there is nonpayment of child support in a post-discharge situation, other creditors with non-dischargeable debt are required to provide the last known address of the debtor on request, a significant help in locating people who have skipped out on their child support obligations.

And, the bill allows for claims against a deadbeat parent's property.

In addition to these improvements over current law that have been part of the bankruptcy reform bill for months, I have worked with Senator TORRICELLI, the National Women's Law Center, and the National Association of Attorneys General to further enhance the domestic support provisions of the bill. I thank each of them for their commitment to further improving the bill, and I am proud of what we have accomplished.

Our amendment has many enhancements over current law.

For example, the amendment allows for the payment of child support with interest by those with means. The debtor can pay interest under the plan if he has sufficient income after paying all other allowed claims.

The amendment prevents bankruptcy from holding up child custody, visitation, and domestic violence cases. Essentially, the amendment exempts proceedings not involving money from being subject to bankruptcy's automatic stay provisions. These include civil cases regarding child custody or visitation, divorce—unless it involves a division of property—and domestic violence.

The amendment facilitates wage withholding to collect child support from deadbeat parents. It accomplishes this by adding a requirement that the trustee provide to the person owed support and the State child support collection agency the debtor's employer's last known name and address. Also, the amendment simplifies the ability of the person owed support to get information on the debtor's whereabouts from other creditors. These measures will assist greatly in the imposition of wage withholding orders if they are not already in effect.

The amendment helps avoid administrative roadblocks to get kids the support they need. The amendment provides an expanded definition of ''domestic support obligation'' to cover those who have not been officially designated as a legal guardian, but who nonetheless are entitled to collect child support on a child's behalf.

Also, the amendment gives priority to parents over government. It divided the new ''first priority'' status into two sub-parts, giving parents who are not receiving benefits the top priority—whether or not the benefits have been formalistically ''assigned'' to the government for collection purposes—and giving next priority to obligations assigned to and owed directly to the government in exchange for the payment of benefits—such as where parents are liable for the costs of treating a child in a mental facility.

A key provision makes staying current on child support a condition of discharge. The amendment allows for conversion or dismissal of chapter 1, 12, and 13 cases where the debtor is not current on presently accruing domestic support obligations. Two checkpoints are imposed in the case at which the debtor must be current with payments: confirmation and prior to obtaining a discharge. This provides a new way of preventing debtors from not paying their domestic support obligations during the gap period between filing and confirmation.

Moreover, the amendment makes payment of child support arrears a condition of plan confirmation. It provides that the Chapter 13 plan must pay all 507(3) arrears claims (those owed to families not receiving benefits) in full, unless the creditor—that is, spouse or child—agrees otherwise.

The amendment puts responsible debtors over government. It permits the cram down of arrears claims over the objection of a 507(a)(4) government arrears claimant—that is, the government collecting in exchange for paying benefits, in Chapter 12 and 13 cases so long as the debtor agrees to commit all disposable income for a five-year period.

This level of detail would ordinarily not be necessary in discussing provisions in a bill on the Senate floor, but I have done so to put the issue to rest once and for all. Let me be clear: With my provisions in the bill, bankruptcy will no longer be used by deadbeat parents to avoid paying child support and alimony obligations.

If we take the time to look at the actual provisions in the bill, it is clear that the bankruptcy reform bill of 1999 provides enormous improvements over current law. I have had a long history of advocating for children and families in Congress, and I support a bill that moves the obligation to pay child support and alimony to a first priority status under S. 625, as opposed to its current place at seventh in line, behind bankruptcy lawyers and other special interests. I support a bill that requires debtors who owe child support to keep paying it when they file for bankruptcy. I support a bill that prevents debtors from obtaining a discharge from the court until they bring their child support and alimony obligations current. And, I support a bill that provides that if a debtor pays child support right before filing for bankruptcy, the child support payment can't be taken away from the kids. Let's take a stand for our nation's kids and pass the Bankruptcy Reform Act of 1999 out of the Senate.

Again I thank my colleagues for the work they have done, especially Senator TORRICELLI, who has done a remarkable job working with Senator GRASSLEY on this bill as a whole, but in particular working with me on this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. TORRICELLI. Mr. President, I express my gratitude to Senator HATCH for the drafting of the Hatch-Torricelli amendment that is before the Senate. Senator HATCH has reinforced his reputation by a commitment to American families and American children that is almost without peer. This is an extremely important amendment, and it strengthens the provisions of the bankruptcy reform legislation as they deal with families.

In drafting bankruptcy reform, Senator GRASSLEY and I were aware that many people were concerned that changes in the bankruptcy laws would

have the unintended consequences of making spouses or children more vulnerable as people sought protection from their family obligations.

Any change in the bankruptcy code obviously and importantly raises questions about family protection because, indeed, one-third of bankruptcies involve spousal and child support orders. In half those cases, women are creditors trying to collect court-ordered support from their husbands. Therefore, the sensitivity that Senator GRASSLEY and I in the general legislation and Senator HATCH and I now offer in this amendment is extremely important for Members of the Senate to have confidence in this bankruptcy reform.

It should be remembered by the Senate that these support orders for support of children and spouses are lifelines for thousands of families struggling to maintain self-sufficiency and remain off public assistance.

Forty-four percent of single-parent families with children under the age of 18 have incomes below the poverty line. With child support amounting to an average of nearly $3,000 a year, it is too often the only thing keeping families out of poverty and desperation.

With these facts in mind, Senator GRASSLEY and I drafted legislation in the managers' amendment that has a very important provision insisting that child support be elevated to first, rather than seventh, in the list of debts to repay by a debtor in bankruptcy.

Addressing the Senate this morning, I wanted to bring attention to this provision more than any other. Under current law, a child or a spouse is seventh in the list of debts to be repaid. Under our legislation, it will now be first, where it belongs.

The amendment Senator HATCH and I are now offering goes even further. With the help of women's groups and Government enforcement agencies, we have now been able to make several important new additions to this legislation.

Hatch-Torricelli, first, prevents civil cases regarding child custody, visitation, and divorce from being held up by an automatic stay. The automatic stay is designed to protect the debtor from coercion by creditors, not to provide the debtor a tactic for delay in dealing with support issues regarding their own children.

Our amendment will ensure that child custody and visitation issues are not held hostage by the filing of a bankruptcy petition. Bankruptcy petitions are not designed to interfere with or delay child support or other related issues in family disputes regarding children and spouses. We will not permit that to happen. Hatch-Torricelli reinforces the strength of that provision.

Second, the Hatch-Torricelli amendment cracks down on those who seek to avoid payment of child support obligations by requiring the trustee to give the person to whom support is owed and State collection organizations information on the debtor's whereabouts. By this provision, not only are we ensuring that bankruptcy reform not interfere with child support, we are making bankruptcy reform a strengthening provision in finding the whereabouts of those who are seeking to avoid family and child support.

It is a reflection of the reality that many people avoid child support by changing jurisdictions, by hiding from law enforcement. We will use the information in bankruptcy to find those who are responsible in avoiding obligations to their children.

Third, the Hatch-Torricelli amendment requires the debtor to pay all child support arrears before the conclusion of a bankruptcy plan unless the spouse agrees otherwise. Not only will bankruptcy reform not be used to complicate child support, people will meet that support, they will deal with their arrears before their bankruptcy petition is acted upon and completed. This will ensure the child support is paid, and paid in full, before the debtor is released from the bankruptcy system.

Importantly, however, we do have a safety valve. If the offended spouse believes this is not in their interest, they can indeed waive this provision. For example, if more money may be available for payment of support obligations after confirmation of the bankruptcy plan because other debts are discharged, then there can be a waiver.

I believe, though we already have good legislation that Senator GRASSLEY and I have offered which would further protect children and spouses, it is now enhanced by the provisions offered by Senator HATCH. I am very proud to be his cosponsor on this important amendment. I believe we have a better bill because of it. I believe American children and families will be strengthened in the bankruptcy proceedings because of it. I am proud to offer it, Mr. President.

I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I wish to commend, as I did earlier, Senators GRASSLEY, TORRICELLI, KOHL, SESSIONS, DURBIN, FEINGOLD, and HATCH for coming forward very promptly to offer amendments to improve this bill.

In the 4 hours we have had today, I see six amendments have been called up. On first blush, I think I am probably going to be supportive of some of these amendments, if not all. I think if we can continue to improve the bill at this rate, we may well end up getting the same kind of a vote—the 97–1 vote—we had last year on this bill.

I would note one thing. I hope Senators will look at this: We have been told of all the money the bill is going to save families in America—$400 each—and that the credit card industry will save $5 or $10 billion by the reforms in this bill.

I have a simple question: If we are going to be giving the credit card companies this $5 or $10 billion in savings from this bill, I am just wondering if they are going to do anything to change some of the charges and interest rates they charge consumers—those in a different era we would consider usury, at best.

So my simple question is this: What language in the bill will guarantee that savings from the bill will be passed on to consumers? Is there anything that says the credit card fees or consumer credit interest rates will be reduced by the huge savings that some say will come from the enactment of this bill?

If the consumer credit industry is going to keep several billions of dollars in savings from enactment of the bill, are those savings going to go to credit card consumers? Even some of the savings? I think that is a fundamental question supporters of the bill should ask themselves as we go forward. We know that more and more, many bankruptcies come about following the enormous—enormous—fees and interest rates charged by credit card companies. They are going to get billions of dollars in savings here. Will they pass any of those on?

Mr. President, I understand we have to file amendments by 5 p.m. today. I send an amendment to the desk and ask that it be appropriately filed.

The PRESIDING OFFICER. It is duly noted. The amendment is submitted.

The Senator from Vermont.

Mr. LEAHY. I am going to make a unanimous consent request in a moment. I will wait until the distinguished chairman comes back on the floor to do it.

This amendment is offered to protect victims of domestic violence in bankruptcy proceedings.

I ask unanimous consent that Senators MURRAY and FEINSTEIN be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered. They will be added.

Mr. LEAHY. Mr. President, I offer this amendment to protect victims of domestic violence in a bankruptcy proceeding. I am pleased that Senators MURRAY and FEINSTEIN are joining me as cosponsors.

Unfortunately, domestic violence pervades all areas of our country. Last year, the Department of Justice reported more than 960,000 incidents of violence against a current or former spouse, boyfriend, or girlfriend occur each year, and about 85 percent of the victims are women.

As if those statistics were not disturbing enough, the report went on to say that only half of the incidents of intimate violence experienced by women are reported to the police. That leaves almost 1 million incidents that go unreported every year.

The pain and terror caused by these crimes of violence are all too often also shared by children, as the Justice Department found that more than half of female victims of intimate violence live in households with children under the age of 12.

As our government and community organizations grow more responsive to the needs of victims of intimate and domestic abuse, more victims are leaving their abusive homes seeking safety and assistance. There are a number of programs, including the Rural Domestic Violence and Child Victimization Enforcement Grants, which I authored in the 1994 crime law, that make victim services more accessible to women and children escaping domestic violence.

For some victims, however, escaping domestic violence means starting a whole new life away from danger. It sometimes means permanently leaving one's home to find safe housing. Safe housing could be across town or in another state—and it often means having to purchase or rent a new home.

Escape from domestic violence sometimes necessitates victims to leave their job, which could leave a woman and her children without an income. Recovery from domestic violence could—and often does—also involve long-term medical and counseling services. These are all necessary expenses which the victim must face.

The amendment that I am proposing today would ensure that victims are not penalized for such expenses in a bankruptcy proceeding.

My amendment would ensure that additional expenses and income adjustments associated with the protection of a victim and the victim's family from domestic violence are included in their monthly expenses under the bill's means test.

I believe that we must ensure that we protect the victims of domestic violence if they are forced to file for bankruptcy. I urge my colleagues to support our amendment.

AMENDMENT NO. 2528

(Purpose: To ensure additional expenses and income adjustments associated with protection of the debtor and the debtor's family from domestic violence are included in the debtor's monthly expenses)

Mr. LEAHY. Mr. President, I am advised by the staff of the distinguished chairman that he would have no objection. I now ask unanimous consent to set aside the pending amendment so I may offer the Leahy-Murray-Feinstein amendment on domestic violence and bankruptcy that I just described.

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

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself, Mrs. MURRAY, and Mrs. FEINSTEIN, proposes an amendment numbered 2528.

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

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

The amendment is as follows:

On page 7, line 22, insert after the period the following:

''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.''

AMENDMENT NO. 2529

(Purpose: To save United States taxpayers $24,000,000 by eliminating the blanket mandate relating to the filing of tax returns)

Mr. LEAHY. Mr. President, I ask unanimous consent to set aside my own amendment in order to offer another amendment.

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

The bill clerk read as follows:

The Senator from Vermont [Mr. LEAHY] proposes an amendment numbered 2529.

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

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

The amendment is as follows:

On page 115, line 23, strike all through page 117, line 20, and insert the following:

''(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 projected 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:

''(d)(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 request those documents.

''(2)(A) At any time, a creditor in a case under chapter 13 may file with the court notice that the creditor requests the plan filed by the debtor in the case.

''(B) The court shall make such plan available to the creditor who request such plan—

''(i) at a reasonable cost; and

''(ii) not later than 5 days after such request.

''(e) An individual debtor in a case under chapter 7 or 13 shall file with the court at the request of any party in interest—

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

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

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

Mr. LEAHY. Mr. President, I am offering this amendment to make this bill more workable in the real world and to save the taxpayers of this country $24 million over the next five years.

This bankruptcy bill now requires filing of millions of copies of personal income tax returns. Section 315(b) of the bill requires debtors to file with the court copies of their tax returns for the three years preceding their bankruptcy filings as well as tax returns filed while the bankruptcy was pending.

If this requirement was in effect last year, the 1.4 million Americans who filed for bankruptcy would have produced at least 4.2 million copies of their tax returns. More than 4 million copies of tax returns would produce mountains of paperwork and clog the files of most, if not all, bankruptcy courts across the country.

Where are the bankruptcy courts going to put these millions of copies of tax returns? And why do the courts need to keep them? Good questions that the sponsors of this bill have not answered.

Most bankruptcy filers have no assets and little income so there is no reason to review their tax returns. These debtors have no ability to repay their debts and their creditors know it. This blanket requirement to file tax returns for the last three years for all debtors, regardless of the debtor's assets or income, fails to make any common sense. It is simply silly.

Moreover, this blanket requirement to file tax returns ignores the reality that many debtors, just like other citizens, may not have access to their tax returns for the past three years.

For example, a recently divorced mother of two children may not have copies of her past tax returns if the couple's tax returns are kept by her former husband. Or a debtor, just like other citizens, may not have copies of past records such as tax returns. In either case, the debtor would have to contact the Internal Revenue Service to request copies of past tax returns before being able to seek bankruptcy relief.

Depending on the quick service of the IRS is not reassuring to an honest debtor who may honestly need bankruptcy relief. This mandate to keep copies of tax returns for the past three years is unnecessary and unrealistic.

Indeed, this burdensome and unworkable mandate is opposed by the Consumer Bankruptcy Legislative Group, Department of Justice, Administrative Office of the U.S. Courts, Judicial Conference, and National Bankruptcy Conference. Bankruptcy judges, creditor and debtor attorneys and other practitioners know this mandate will not work in the real world.

The Leahy amendment strikes this section of S. 625 and replaces it with the option that any party in interest may request and get a copy of a debtor's tax return after the bankruptcy filing.

Under the Leahy amendment, a creditor, judge or trustee may force a debtor to file copies of tax returns if the facts of the case warrant it by simply asking for the returns. In most cases, a

party in interest will not want to review tax returns if a debtor has no assets or little income. But if a creditor, judge or trustee does want to copies of the tax returns then they simply request it under my amendment and the debtor must furnish past and current tax returns.

This is a common sense approach to verifying debtor income and assets when a creditor, judge or trustee wants verification. The current blanket requirement for all debtors to file copies of their tax returns for the past three years will waste millions of taxpayer dollars.

Indeed, the Congressional Budget Office estimates that it will cost $34 million over the next five years to store and provide access to more than 20 million tax returns. Some experts predict it will take up 20 miles of shelf space to store all these tax returns.

The Leahy amendment saves $24 million over the next five years by striking this mandatory tax return filing requirement, according to CBO.

There are better ways to verify debtor income and assets that are workable, efficient and save taxpayer dollars. Under current law, U.S. Trustees and private trustees may review a debtor's tax returns if the facts of the case warrant it.

In addition, the Leahy amendment permits any party in interest to request a debtor to file copies of his or her past and current tax returns. The party in interest does not have to a hearing or even give a reason for wanting the tax returns.

But in the real world, a creditor or trustee will only want to see the tax returns of a debtor in a few cases—cases where there are actual questions about the debtor's assets or income. This targeted approach will save millions of taxpayer dollars and save the courts from filing millions of pages of unnecessary paperwork.

I urge my colleagues to vote for the Leahy amendment to save U.S. taxpayers $24 million and make this bill far more workable in the real world.

Mr. President, I understand we now have eight amendments pending. I note the latest one is a Leahy amendment. I see my distinguished colleague from Alabama on the floor. If somebody else wants to bring up another amendment, I have no objection to mine being set aside so they could do it. I am just trying to get these on the calendar, as the Senator knows and as Senator TORRICELLI and Senator HATCH and others have earlier today.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. SESSIONS. Mr. President, I thank the distinguished ranking member for his comments. I have enjoyed working with him on moving this bill.

I thought I would mention a couple of things that are particularly valuable in the bill that may not be that clearly understood by most people.

I had the privilege of offering a credit counseling amendment early on in this process a year and a half ago. I offered that after having spent almost an entire day at a nonprofit credit counseling agency in my hometown of Mobile, AL. I was extraordinarily impressed with what they do.

They have individuals who come to them in financial trouble. They have a rule: They bring in the entire family. They sit down in a nice conference room, and they go over all the debts that are owed and the income that is coming in. They sit down and see if they can't help that family work their way out of the debt in which they find themselves. They have established over the years respect with financial institutions, such as credit card companies and banks. Those institutions will frequently reduce the amount of money they demand that is owed. They will reduce the interest rate that may be paid, if this person will make a good-faith effort to reorganize their finances and pay what they can pay on the debt.

This is working all over America. In fact, there are credit counseling agencies in virtually every town and city in the Nation. They are serving a valuable purpose. They sit down with individuals and find out what is wrong with the family.

It may not be known to everyone, but it is well known in professional circles that financial disputes are probably the most common cause of divorce in America. We know many people are in financial trouble because of alcoholism. Many people are in financial trouble because of gambling. Gambling is driving an increase in bankruptcy in a number of areas in this country. Some people simply have an inability to discipline themselves. One member of the family feels as though the other one is getting an advantage on them in spending, so they spend more and vice versa. They go on a downward spiral of financial management. We have individuals who have mental health problems who are simply not able to be disciplined about their money.

Credit counseling is a tremendous thing. They care about the families with whom they are dealing. They help work with them to discover a way to work out their problems. It is a good thing.

What this bankruptcy bill requires is that someone, before they file bankruptcy, at least go and talk to a credit counseling agency, to meet with them and see if that agency may have the ability to solve their problem short of filing bankruptcy.

Most people do, in fact, want to pay their debts, and they work hard to try to pay their debts. If they are given this kind of option, where a company will reduce their interest or reduce their debt, they work out a payment plan. The family signs onto it, the mother and father, son and daughter. They can restore pride and confidence. They can learn something about how to manage money. They may well receive marital counseling, mental health treatment, Gamblers Anonymous references, or other help.

What happens in bankruptcy today is that somebody is sued for a debt they haven't paid. They don't know what to do. They have seen on the TV, or in the newspaper: Call this lawyer if you have debt problems. So they call the lawyer and he sits down and says: The thing for you to do is file bankruptcy. There will be a $1,000 fee, and you will wipe out all your debts. They will say something like: How am I going to pay you? I don't have $1,000. He will say something like: You won't have to pay any more payments on your credit card. In fact, go buy everything you can with your credit card because we are going to wipe out all those debts when we file, unless they are short-term debts concurrent with the bankruptcy filing. The lawyer will say: You do that and pay me, and we will wipe out everything. That is what you ought to do.

The lawyer has a financial incentive there. He spends no time with the family. Oftentimes, they tell me the paralegals and staff people fill out all the forms and the paperwork; the lawyer hardly even meets the client. He goes down in court and calls out their name and they come up to him, and he introduces them to the judge. They do the bankruptcy and they go home. And nothing has been done about the fundamental problem in that family, or the lack of discipline which is often the case that causes bankruptcy. Many bankruptcies—a substantial percentage—are due to very severe events. But a substantial portion are also caused by a gradual descent into debt, and a lack of discipline, or some sort of emotional or psychological problem.

I believe if we can give them the choice to go through credit counseling and work out ways to deal with their debts as a family, we will do something good for this country. How many would choose this? I don't know. But most people who have been sued or are getting credit calls over debts they owe from all kinds of debtors and creditors get nervous and don't know what to do. They are told file bankruptcy and that is what they do. They think they have no choice. I believe we can do better than that. This bill will lead us in that direction. I believe it will be a historic step for this system.

We also have people who are filing repeat bankruptcies, people who file bankruptcy again and again. This bill will attempt to reduce that. More than 10 percent of the people who file for bankruptcy have previously filed. In some Federal court districts in America, 40 percent of the consumer bankruptcies are repeat filers. They learned the first time it worked, so they do it

again. They haven't learned the discipline and effort that it takes to maintain an honest credit rating.

So one of the things this act requires is that before a person is discharged from bankruptcy, they will have to have some counseling on how to manage their debt, and perhaps they will not come back again. I think that would be a good thing.

We are concerned about fraud in bankruptcy. The forms are basically self-proving. They are accepted by the court. Whatever a person says their income is and their ability to repay is, it is basically accepted and rarely verified. We find that is a problem. So they will have to file documents with their bankruptcy file. It will include a Federal tax return, monthly income and expenses, their actual wage stubs, how much money they are actually making, so it will allow a judge to decide properly what the right procedure is under the circumstances. It allows that a person to whom a debt is owed gets notice—a small businessman, garage owner, furniture store, or a doctors office gets a note from the court that Billy Jones is filing for bankruptcy, and you are notified as a creditor. This says you don't have to have a lawyer, but you can, in fact, go on your own and defend your interests in the bankruptcy court. You may need a lawyer, in which case you can hire a lawyer. But it will clearly make it known that creditors who have clearly proven debt can go down to the bankruptcy court and establish that debt and defend their interest, without having to spend more money on an attorney than perhaps the debt is worth. I think that would be good.

We are dealing with a huge increase in personal bankruptcies—1.4 million, a 94-percent increase, since 1990. In many States in this country, in many Federal bankruptcy districts, many people are filing under chapter 13. When you file under chapter 13, what you do is you go to court and you say: I owe all this money, judge. I have this much income and I would like to work my way out of it. These people are suing me. I am getting phone calls at home. I want you to have a stay, to stop them all from suing me. Take my money and tell me who to pay and I will pay my money, every bit I can, to pay off these debts.

That is a preferable way, in my opinion, for a person to deal with financial difficulties, if they can't pay their bills. Some people are so far in debt that it will be hopeless; straight bankruptcy chapter 7 is for them.

Under the present state of the law, amazing though it might be, there is no standard on that. The debtor himself can choose whether to go into chapter 13 or chapter 7. He can choose whether or not to pay off his debts. In Alabama, I am proud to say, in the northern district of Alabama, over 60 percent of the individual filers choose to file chapter 13 and repay a large portion of their debt. That is something I think reflects well on the people of the northern district of Alabama. The numbers are high in the other districts in Alabama—over 50 percent, choose Chapter 13. But we know in certain other districts in this country, the number of people filing chapter 13 is under 10 percent. Many of these people have high incomes and could, in fact, easily pay off all or part of their debt.

So that is why we have said in this legislation that if your income is above the median income, which for a family of two is $40,000, and for a family of four, over $50,000—if you are making above the median income, then you ought to be considered by the judge for repayment of as much of your debt as you can under the chapter 13 bankruptcy. So for the first time we will have a realistic way for a judge to objectively analyze these debtors, to see if they can pay back some of their debts.

That is why Senator HATCH says the average bankruptcy costs the average family $400 per year. When people don't pay their debts, somebody else has to pay them. It drives up the cost of business, the interest rates at the bank, and it drives up the charges the furniture store is going to make, or that the doctor office has to charge, to come out ahead if people are not paying their debts. It is that simple.

Paying your debt is a big deal. If we ever get to the point in this country where people don't feel like they have to pay debts back and they can wipe them out whenever they want to, we will have endangered the economic strength and commercial vitality of our Nation. Make no mistake about it. Our legal system and our economic system is based on honesty and integrity and responsibility. People pay their taxes based on their own calculations. They add up the numbers and they write that check to the Federal Government. That is why taxes ought to be low because when we ask too much of people they start cheating; they feel justified in cheating. We have relatively low taxes compared to other nations, and we have the lowest amount of cheating in the world.

We are making some important progress with this legislation. It will help us economically because, as the Secretary of the Treasury, Mr. Summers, has said, bankruptcy costs do add to interest rates. Everybody will pay higher interest rates if the bankruptcy filings are up. If bankruptcies are down, interest rates can drop. It will be passed on to the consumer. It ultimately always is.

I wish to express my appreciation to Senator GRASSLEY, who has worked so hard on this legislation. He has listened to everybody concerned. He has spent an extraordinary number of hours with the members of the Democratic leadership and members of the committee on both sides of the aisle. He has worked with them to achieve a bill that is responsive to virtually every complaint that can be thought up.

Essentially this same bill passed this body 97 to 1 last year. It passed the House with over 300 votes. Why we couldn't get it finally passed last time is beyond my comprehension. It was nothing more than a bunch of obstructive tactics. I can't accept the complaint and refuse to accept the argument that women and children are somehow being abused under this act when every objective analysis would indicate that we are making a historic move toward providing the greater protection that has ever been provided to alimony and child support payments. That is absolutely false. Why people tend to want to attack this bill to delay its passage and frustrate us in this effort is beyond me.

I believe we are eliminating abuses in the system. For example, I point out a landlord who leases an apartment to a tenant; that tenant's lease is for 1 year, that year is up, and he owes the landlord money. The landlord seeks to move him out because he is going to rent the apartment to somebody else. That tenant can file for bankruptcy and stay, or stop, any lawsuits for eviction. Months can go by. And the landlord has to hire an attorney to go to bankruptcy court to try to get the ''stay'' lifted—that is what they call it—on filing the eviction notice so they can go forward with it. This bill would say if your lease is up, you can continue with your case. Eventually the landlord always wins, but often it takes months to get a final hearing, and it will cost him a good deal of money and attorney's fees.

There are many abuses such as this in the system. Those kinds of things ought to be eliminated.

We have had the experience of the existing system since 1978. We have not given it the kind of overhaul it needs. We have completed that now. I am proud of this legislation. I know that Senator HATCH, who chairs the Judiciary Committee and has worked extraordinarily hard on it, also shares that view.

I am also pleased to have the support and leadership of Senator TORRICELLI and the ranking member of the subcommittee. He has worked hard for this bill. He understands the economics behind it. He understands that this is going to help those who are in need and at the same time is not going to allow abuses to occur in the system.

We are at a good point. I think we are going to have a vote next week. I am confident that once again we will have an overwhelming vote for this legislation.

## MORNING BUSINESS

Mr. SESSIONS. Mr. President, I ask unanimous consent that there be a period for the transaction of morning business with Senators permitted to speak for up to 10 minutes each.

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

CONSULTATION ON NOMINATIONS

Mr. GRASSLEY. Mr. President, I have sent a letter to the majority leader requesting that I be consulted on certain nominations. I am asking to be consulted on the nominations of Anthony Harrington to be United States Ambassador to Brazil, Calendar No. 364, and for Charles Manatt to be United States Ambassador to the Dominican Republic, Calendar No. 361. Further, I ask to be consulted on all the promotion lists for career State Department foreign service officers.

I take this step reluctantly but believe it is necessary. The administration is required by law to submit to Congress on 1 November every year the so-called Majors' List, the list of major drug producing and trafficking countries that the President intends to certify on 1 March of the following year. The administration has never met this deadline, despite the fact that Congress extended it several years ago from 1 October to 1 November in order to give the administration more time in which to meet the requirement. Last year the list was over a month late. Despite repeated messages that this deliberate flouting of the law was not acceptable, the administration has again failed to submit the list or to offer any explanations. The list has yet to leave the State Department and must still wait for the laborious interagency review process. There is every likelihood that the list will be significantly late again this year.

With this as background, I have asked to be consulted on any unanimous-consent requests involving consideration of the nominations I have indicated until such time as the administration complies with the law. I will consider additional requests depending on the delay that is involved in the administration complying. I regret this course but I regret more the administration's failure to comply with the law.

TESTIMONY OF GENERAL KLAUS NAUMANN

Mr. LEVIN. Mr. President, yesterday the Armed Services Committee received testimony from recently-retired German General Klaus Naumann, the former Chairman of NATO's Military Committee. In that capacity, General Naumann was NATO's highest ranking military officer and headed the NATO organization which consists of the Chiefs of Defense, i.e. the Chairman of the Joint Chiefs of Staff General Hugh Shelton and his counterparts, of all 19 NATO countries and to which NATO's Supreme Allied Commander, Europe, General Wesley Clark, and Supreme Allied Commander, Atlantic, Admiral Harold Gehman, report.

The topic for the hearing was lessons learned from NATO's Operation Allied Force, the air campaign against the Federal Republic of Yugoslavia.

Mr. President, I ask unanimous consent that a copy of General Naumann's opening statement be printed in the RECORD immediately following my remarks.

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

(See Exhibit 1.)

Mr. LEVIN. I hope that my colleagues will read General Naumann's thoughtful, straight-forward, and insightful statement. But, I want to highlight a few of General Naumann's conclusions—conclusions with which I agree and whose implications I believe merit careful consideration by us all.

First and most importantly, General Naumann concluded that ''it was the cohesion of our 19 nations which brought about success.'' In the course of the hearing, he pointed out that this cohesion was maintained despite the fact that, for example, polls indicated that some 95 percent of Greek citizens opposed the operation.

General Naumann also concluded that ''it will be virtually impossible to use the devastating power of modern military forces in coalition operations to the fullest extent'' but that this disadvantage ''is partly compensated by the much stronger political impact a coalition operation has as compared to the operation of a single nation.'' In that regard, I asked General Naumann for his reaction to a lesson that, I believe, applies. The lesson is not that we ought to use less than decisive force but that if that is not an option, then the judgment that must be made is whether or not the risk in utilizing what I call ''maximum achievable force,'' i.e. the maximum force that is politically achievable and which is less than decisive force, whether the risk involved outweighs the value of proceeding. General Naumann, as General Clark did in a prior hearing, agreed that it was a lesson learned from NATO's air campaign and that the question or balancing test that I posed was the proper one.

General Naumann had a number of other lessons and sage advice for us, such as that the United States should fully support the European Security and Defense Identity (ESDI) within the Alliance and that ESDI can strengthen the transatlantic link. Once again, I strongly urge my colleagues to read General Naumann's statement.

EXHIBIT 1

STATEMENT OF GENERAL (RET) KLAUS NAUMANN, GERMAN ARMY, FORMER CHAIRMAN NATO, MC

(Senate Armed Services Committee Hearing on Kosovo After-Action Review, November 3, 1999)

Mr. Chairman, Senator Levin, Distinguished Senators, it is my honour and indeed a privilege to testify in the Senate Armed Forces Committee on the lessons learnt from Kosovo. I would like to congratulate you, Mr. Chairman, and your colleagues on your effort to review the operation. I feel this is wise and farsighted since the next crisis will come, for sure, although I am unable to predict when and where.

I will discuss first the lessons learnt during the crisis management phase, then the air campaign until the day on which I left NATO, i.e., May 6, 1999 and end with a few conclusions.

With your indulgence I would like to start with a brief remark on the Military Committee (MC) which seems to be a largely unknown animal in the United States of America.

The MC consists of the Chiefs of Defense (CHOD) of all NATO countries and an Icelandic Representative of equivalent rank. The Strategic Commanders (SC), i.e. SACEUR and SACLANT, participate in the MC meetings. The meetings are chaired by an elected chairman who has served as CHOD of a NATO country and who is NATO's highest ranking military officer.

The MC meets three times a year and in its permanent session in which the CHODs/Commanders are represented by a permanent representative of three or two star rank once a week as a minimum. SACEUR and SACLANT report to the MC and through it to the Secretary General and the North Atlantic Council (NAC).

The MC is the source of ultimate military advice for the NAC and it has to translate the Council's guidance into strategic directives for the two SCs.

The MC played a crucial role during the Kosovo Crisis in keeping the NATO nations together. It was in the MC where the OPLANs were discussed and finalized in such a way that a smooth passage in the NAC was guaranteed and during the war the MC acted as the filter which helped to stay clear of micromanagement of military operations. It is my firm belief that this helped to avoid potentially divisive debates and it allowed SACEUR to concentrate on his superbly executed task to conduct the operation.

The Kosovo War itself deserves careful analysis for a couple of reasons.

It was after all the first coalition war fought in Europe in the information age, fought and won by a coalition of 19 democratic nations who did neither have a clearly defined common interest in Kosovo nor did they perceive the events in Kosovo as a clear and present danger to anyone of them. They fought eventually for a principle that is dear to all of them, the principles that Human Rights ought to be respected. They thus demonstrated that this is more important for them than the principle of territorial integrity which has governed International Law since the Westphalian Peace of 1648. This coalition fought without a clear cut mandate by the UNSC in a situation which was not a case of self defense and it stayed together and on course throughout the 78 days of the air campaign. It was the first war ever which at the first glance was brought to an end by the use of airpower alone. But it would be premature and indeed wrong to conclude from that that future conflicts could be fought and won from the distance by the use of airpower. One could say that only if we had clear evidence that it were the results of the campaign which made Milosevic eventually blink. That, however cannot be said by anyone on our side.

In my view the war proved once again the seasoned experience that we military will do best if we plan and fight joint operations and that it would be a deadly illusion to believe that the Revolution in Military Affairs will allow us to fight a war without any casualties.

What lessons did we learn during the Crisis Management Phase of the conflict?

Allow me to start with the rather straightforward statement that we could have done better in crisis management since we simply did not achieve what has to remain the ultimate objective of crisis management, namely to avoid an armed conflict. I do not know whether we ever had a fair chance to achieve it since Milosevic wanted to solve the

Kosovo problem once and for all in spring 1999. He saw presumably no alternative but force and violence after the Kosovars took advantage of the Serb withdrawal which General Clark and I had negotiated on October 25, 1998. Nobody knows when he took his decision but I have reasons to believe that it was in November 1998 and it was most probably a decision to not only annihilate the KLA but also to expell the bulk of the Kosovars in order to restore an ethnic superiority of the Serbs. One point has to be made with utmost clarity in order to destroy one of the myths the Serbs are about to create: It was not NATO's air campaign which started the expulsion of the Kosovars. It began well before the first bomb was dropped and it might have been the result of a carefully premeditated plan.

NATO began to be seized with the situation in Kosovo in early 1998. Again the background of the fighting in Kosovo in spring 1998 NATO ministers expressed their concern at their meetings in Luxembourg and Brussels and began to threaten the use of force in an attempt to stop violence and to bring the two sides to the negotiation table. NATO Defense Ministers decided in June to underpin that threat by a demonstrative air exercise although the NATO military had advised ministers that NATO as such was not ready to act and that any use of military instruments made only sense if there were the preparedness to see it through and to escalate if necessary.

Milosevic who was never unaware of NATO deliberations rightly concluded that the NATO threat was a bluff at this time and finished his summer offensive which led to a clear defeat of the KLA. My first lesson learnt for future crisis management is therefore that one should not threaten the use of force if one is not ready to act the next day. To achieve this is difficult in a coalition in which the slowest ship determines the speed of the convoy.

The responsibility for crisis management did not rest with NATO throughout the crisis. NATO began but then the US took the lead and introduced Ambassador Holbrook to be followed by the OSCE and eventually the Contact Group. When the Contact Group, not surprisingly, failed at Rambouillet and Paris NATO was given back the baton but there was no peaceful solution left. My second lesson learnt is that one should never change horses midstream in crisis management. Whenever possible the responsibility should remain in one hand, preferably in the hands of those who have the means to act. As a minimum one has to make sure that those who have the lead in crisis management efforts of a coalition share the objectives the coalition is committed to.

Another time seasoned experience gained during our successful efforts to prevent a war during the days of the Cold War is that one of the keys to success is to preserve uncertainty in our opponent's mind on the consequences he might face in the case of his rejection of peaceful solutions. NATO nations did not pay heed to that experience during the Kosovo Crisis. It became most obvious when NATO began to prepare for military options but some NATO nations began to rule out simultaneously options such as the use of ground forces and did so, without any need, in public. This allowed Milosevic to calculate his risk and to speculate that there might be a chance for him to ride the threat out and to hope that NATO would either be unable to act at all or that the cohesion of the Alliance would melt away under the public impression of punishing airstrikes. My third lesson learnt is therefore that we need to preserve uncertainty as one of the most powerful instruments of crisis management which does not mean to agree to an escalation ladder without limits and without rigid political control but which means not to speak in public about these limits. To keep publicly all options under consideration and to allow the military to go ahead with planning for joint operations would allow for uncertainty without the hands of politicians being tied.

During the air campaign we had to learn some lessons as well.

First we learnt that even a tiny ambiguity in the formulation of political objectives could have adverse effects on military operations.

The OPLANs for Operation Allied Force had been developed in fall 1998. Both ingredients, the Limited Air Response and the Phased Air Operation had been designed to meet the objective to bring Milosevic back to the negotiation table. When we began the air strikes, however, we faced an opponent who had accepted war whereas the NATO nations had accepted an operation. Consequently it seems advisable to set a political objective such as ''To impose our will on the opponent and to force him to comply with our political demands''. This would allow, first, to use all the elements of power not just the military means to secure our objectives and, secondly, to move as rapidly as possible to the decisive use of force within the political constraints which drive a coalition war.

Translated into military operations this would not change phases 0 and 1 of Operation Allied Force but it would lead to a phase 2 which focuses more and earlier on those targets which hurt a ruler such as Milosevic and which constitute the pillars on which his power rests, namely the police, the state controlled media and those industries whose barons provide the money which allows Milosevic to stay in power.

Secondly, we had to learn how to conduct coalition operations which is of particular interest since most if not all of our future operations will most likely be coalition operations. Coalition operations mean to accept that the pace and the intensity of military operations will be determined by the lowest common denominator and that there will be restrictions due to differing national legislation which could affect air operations in particular. Consequently it will be virtually impossible to use the devastating power of modern military forces in coalition operations to the fullest extent. This is a lasting disadvantage which is on the other hand partly compensated by the much stronger political impact a coalition operation has as compared to the operation of an individual nation.

Looking at Operation Allied Force it is fair to say that the politicians of all NATO nations met most of our military demands and most of them did not embark on micromanagement of military operations. In this context I have to state that the NAC never imposed a limitation which ruled out to bomb any target in Montenegro. On the contrary, the NAC explicitly accepted that we could strike targets on Montenegrin soil if they posed a risk to our forces. I also have to say that the gradualism of the air campaign was much more caused by the political objective which soon saw revision against the background of the dynamically unfolding situation than it was influenced by politically motivated interference.

My lesson learnt from that is that coalition operations will by definition see some gradualism and possibly some delays in striking sensitive targets. The likelihood that this could happen will be the more restricted the clearer the political objectives will be formulated. Coalition operations do, however, not mean that nations can block or veto any operation which is conducted in execution of a NAC approved and authorized Oplan. The only option open to a nation in such a case is to instruct its national contingent not to participate in the respective activity unless the nation would wish to formally withdraw its agreement to the Oplan. It is also noteworthy to state in this context that there are no NATO procedures which could be called a red card rule.

Kosovo taught also and again that NATO's force structure is in contrast to NATO's Integrated Command Structure no longer flexible and responsive enough to react quickly and decisively to unforeseen events. That we saw when Milosevic accelerated his expulsion of the Kosovars in an obvious attempt to counter NATO in an assymetric response and to deprive NATO of its theoretical launching pad for ground forces operations through a destabilization of FYROM and Albania. Luckily we still had the Extraction Force in FYROM and were thus able to react immediately. Without it, it would have taken NATO weeks to deploy and assemble an appropriate force. The lesson learnt is that we have increasingly to be prepared for assymetric response, the more so the stronger and hence invincible NATO is. To cope with these threats will be necessary and hence it is critical for NATO's future successes to enhance mobility, flexibility and deployability of its forces which are inadequate at this time.

The NATO Summit drew the right conclusion and agreed the DCI and the European allies did the same when they decided in Cologne that the EU has to improve defense. My next lesson learnt is that there is a totally unacceptable imbalance of military capabilities between the US and its allies, notably the Europeans. With no corrective action taken as a matter of urgency there will be increasing difficulties to ensure interoperability of allied forces and operational security could be compromised. Moreover, it cannot be tolerated that one ally has to carry on an average some 70%, in some areas to 95% of the burden. This imbalance needs to be redressed and therefore ESDI which is after all an attempt to improve European efforts within NATO deserves the full support of the US and should be used to encourage those allies who are reluctant to implement to live up to their commitments.

What conclusions can be drawn? (1) The integrated Command Structure worked well. What needs to be improved are procedures to achieve unity of command to be exercised by NATO there where parallel existing national and NATO command arrangements are unavoidable. (2) There is a need to think through how crisis management can be improved. Simulation technics may be a helpful tool to be considered. (3) There is an urgent need to close the two gaps which exist today between the US and the European/Canadian allies. The technological gap in the field of C 41 and the capability gap caused by the lack of investment in modern equipment. The DCI is designed to provide some remedy. It should be speedily implemented and the European/Canadian allies should be strongly encouraged to take appropriate action. (4) There is a need to study how NATO can perform better in the field of Information Operations to include better information of the public both in NATO countries and in the adversary's country. (5) Most importantly, it can and it should be said that Operation Allied Force was a success since it contributed substantially to achieve the political aims set by the Washington Summit.

It would be desirable that NATO stated simultaneously that the Alliance will act again should the necessity arise. To do so could help to deter potential opponents and could possibly restrain the one or the other ruler in this world to seek protection against

intervention through increased efforts to acquire weapons of mass destruction.

I would be remiss did I not close by commending the commanders from SACEUR down the chain of command, our forces in the theatre and those back home who supported them so splendidly. They all performed extremely well and you have every reason to be proud of them and your great nation's contribution.

Allow me to close by saying that I was proud to serve this unique Alliance as the Chairman of the Military Committee in such a crucial time and I felt privileged to serve with a man whose superb contribution was crucial for our common success, Javier Solana. This brings me to my final point which we should never forget: It was the cohesion of our 19 nations which brought about success.

Thank you, Mr. Chairman.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair.

## HONORING GOVERNMENT CONTRACTS

Mr. MURKOWSKI. Mr. President, I congratulate my colleague for his remarks on the bankruptcy bill.

I think one thing—while it is not necessarily appropriate to recognize on the bankruptcy bill—we should recognize is the inability of our Federal Government to honor the sanctity of contractual commitments. I can think offhand of the agreement that was made by the Federal Government some two decades ago to take the high-level nuclear waste by the year 1998. The ratepayers paid something in the area of $15 billion into that fund for the Federal Government to meet its contractual obligation. The pending lawsuits are somewhere between $40 billion and $80 billion. Obviously, the Federal Government doesn't set a very good example.

This is not necessarily apropos to bankruptcy, but it is apropos to the theory that we pay our bills, that we honor the sanctity of our contracts. The old saying is, ''Charity begins at home.'' The Government should set the example.

Mr. President, I ask unanimous consent to speak in morning business for approximately 30 minutes.

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

Mr. MURKOWSKI. I thank the Chair.

## TRADE AND FOREIGN POLICY

Mr. MURKOWSKI. Mr. President, with the recent passage of a Senate Finance Committee trade package aimed at liberalizing trade with African and Caribbean countries, and providing Trade Adjustment Assistance for American workers who need help transitioning into different jobs, I thought it an appropriate time to come to the floor of the Senate to discuss the insidious propaganda campaign the Clinton Administration is orchestrating over the phoney charges of ''isolationism'' he has leveled at Congress.

In some ways, I am reluctant to get into this name-calling argument. As I told my six children as they faced the normal school yard taunts, you shouldn't dignify the name caller with a response. Something like the old adage, ''Sticks and stones will break my bones, but names will never hurt me.''

The difference between Washington and the school yard, however, is that it seems that if you repeat a lie long enough, and in enough places, the media will parrot it out to the country and around the world as if it were true. And that is very, very serious for two reasons.

First, it distorts the political process and deceives the American public. More importantly, it sends a false and dangerous signal to the enemies of America that their dream of disengaging America from world leadership may, in fact, be happening. Nothing could be further from the truth, but when the President of the United States, and his flunkies, says it, terrorists around the world applaud.

Certainly there are Republicans, Democrats, Reform Party members and independents who proudly wear the isolationist label, but to try and smear Congress with that label is reprehensible.

So I want to look at what actions the Clinton Administration calls isolationist, and to separate fact from fiction.

Two weeks ago, National Security Advisor Sandy Berger gave a speech to the Council on Foreign Relations decrying as ''isolationist'' and ''defeatist'' such actions as the Senate's refusal to ratify the Comprehensive Test Ban Treaty (''CTBT'') and, as Mr. Berger characterized it, a Congress ''reluctant to support the Climate Change Treaty.''

Mr. President, it should not even pass the straight face test to label Senators such as RICHARD LUGAR and CHUCK HAGEL, among others, as isolationists just because we voted against a treaty that we did not think would preserve our national security in the years and decades ahead.

Would Sandy Berger have the audacity to call former Secretary of State and Nobel Peace Prize Winner Henry Kissinger an isolationist because he was ''not persuaded that the proposed treaty would inhibit nuclear proliferation'' and therefore recommended voting against the treaty?

Does Berger's isolationist tag also apply to six former Secretaries of Defense—James Schlesinger, Dick Cheney, Frank Carlucci, Caspar Weinberger, Donald Rumsfeld and Melvin Laird because they wrote the Senate leadership and stated:

> We believe . . . a permanent, zero-yield Comprehensive Test Ban Treaty incompatible with the Nation's international commitments and vital security interests and believe it does not deserve the Senate's advice and consent.

Mr. President, the Senate rejected a flawed treaty; the fault lies not with so-called isolationists in Congress, but with the appeasers and former ''nuclear freeze'' people who are now in the Clinton Administration and negotiated this treaty which was not in America's national security interest.

As to the Climate Change Treaty, Congress is not reluctant to consider the Treaty. In fact, we have been asking this President to send the Treaty up, but he refuses. And he refuses because 95 Senators expressed the strong sense of the Senate that the Kyoto protocol contain commitments from developing countries to limit or reduce greenhouse gas emissions. Of course, this has not happened. This is not an isolationist fear of technological change. This is a realistic assessment of how you accomplish your goals.

On Monday, USTR Barshefsky also took up the isolationism call. At a speech to the foreign press describing the U.S. agenda for the upcoming WTO ministerial meeting in Seattle, Ambassador Barshefsky said that isolationists ''at times believe that a growing economy and a clean environment cannot coexist.''

Mr. President, I hope the Ambassador does not mean to imply that simply because Congress has not signed off on loading up trade agreements with the baggage of the extreme environmentalist agenda that we are isolationists?

In fact, I wonder if this cry of isolationism is not simply to divert attention from the failures of this Administration to pursue trade opening measures in the face of domestic pressure from Unions?

If expanding trade is so important to the President, he could have welcomed the April 8 offer by the Chinese Premier to make extraordinary concessions to bring China into the World Trade Organization.

But he did not.

If expanding trade is so important to the President, he could have directed his Administration to work with the Finance Committee to craft a compromise on fast track trade negotiating authority that would address the legitimate concerns of those who do not want to see labor and environment slogans used as smoke screens for protectionist measures.

But he did not lift a finger to support fast track for fear of offending his protectionist political supporters in organized labor

So Mr. President, I don't think President Clinton should have sent his National Security Advisor or his USTR out to falsely label my party as the one turning its back on the world.

This is not to say that there are not some countries who should receive a cold shoulder rather than a warm embrace. I do not support aiding and comforting our enemies—like Iraq and North Korea. This is not about a choice between isolationism or engagement. This is about what form of engagement will bring the desired results.

It is in these areas where I think the Administration has a backwards policy—rather than rewarding good behavior, we are rewarding bad behavior.

Since 1994 when the U.S. adopted an ''Agreed Framework'' with North Korea, here are just some of the acts by North Korea:

Launched a three-stage missile last summer, and continues to work on and export missiles capable of hitting the United States;

Worked on vast underground construction complex—historically used by North Korea to cover work on military or nuclear installations;

Taken actions to hinder work of international inspectors sent to monitor North Korea's nuclear program;

Sent submarine filled with commandos to South Korea; and

Violated the military armistice agreement by firing on ROK soldiers.

Today, the North Korea Advisory Group in the House of Representatives released a report that found that ''the comprehensive threat posed by North Korea to our national security has increased since 1994.''

What has been the U.S. response?

DPRK is now the No. 1 recipient of U.S. assistance in East Asia: $645 million since 1995 includes providing at least 45% of fuel needs and over 80% of food aid; and sending 500,000 tons of oil a year, as well as trying to get other countries to come up with the funds for KEDO (Korean Peninsula Energy Development Organization) and for two light-water reactors.

I cannot say for certain that North Korea's government would have collapsed without our help. But I do not think that it will ever fall with two strong American legs holding it up.

And how about U.S. policy toward Iraq?

The U.S. spent $4.5 billion during the Desert Shield operation. From the end of the war until 1999, U.S. spent $6.9 billion on our ongoing operations—including the Desert Fox bombing, enforcing the no-fly zone, monitoring the seas, etc. It is estimated that we are spending $100 million a month currently to police the Northern and Southern no-fly zones. We have dropped over 1,000 bombs on Iraqi radar, air defense, and communications facilities. Occasionally, we've also hit an oil production facility.

But while we are spending all this money to ''keep Saddam in his box'', we are allowing him to rebuild the oil production that funds his war machine.

At the end of the war, a multilateral embargo was imposed on all Iraqi exports, including oil. This embargo was supposed to remain in place until Iraq discloses and destroys its weapons of mass destruction programs and undertakes unconditionally never to resume such activities. This has not happened.

But we allowed the UN Security Council to implement an ''Oil-for-Food'' program that lets Hussein sell $5.2 billion of oil every six months.

In the year preceding Operation Desert Storm, Iraq's export earnings totaled $10.4 billion, with 95% attributed to petroleum exports. Iraq's imports during that same year, 1990, totalled only $6.6 billion.

The U.N. has lifted the sanction on the only export that matters. Iraq's oil production now equals production prior to the war (over 2 million B/D). And now we're going to let Saddam sell even more oil. And we're buying his oil. The U.S. is importing 700,000 barrels a day of Iraqi crude—almost twice what we import from Kuwait.

United Nation's recently announced that Iraq could export $3.04 billion more in oil. This is in addition to the $5.26 billion already authorized for the six-month period.

Incredibly, this new resolution, UNSR 1266, was adopted on the same day that reports surfaced that nearly 10,000 tons of oil smuggled from Iraq was seized from five ships in the Persian Gulf in less than a three week period.

Again, although I cannot say for certain that some of Iraq's friends in the world would not find ways around a total embargo, I do know that without cutting off Saddam's oil lifeline we still face an emboldened dictator.

The Administration seeks to defend this oil-for-food program as a humanitarian gesture, but our own State Department pointed out in a recent study that Saddam Hussein is subverting the program to his own gain.

September 1999 Report by the Department of State finding that Saddam's regime was illegally diverting food and other products such as baby milk, baby powder, baby bottles and other nursing materials obtained under the oil-for-food program. In one example cited by the Department of State:

> Baby milk sold to Iraq through the oil-for-food program has been found in markets throughout the gulf, demonstrating that the Iraqi regime is depriving its people of much needed goods in order to make an illicit profit.

Moreover, the report found that ''the government of Iraq is mismanaging the oil-for-food program, either deliberately or through mismanagement.''

A few weeks ago, Kuwait seized three Iraqi cargo ships illegally exporting dates, lentils and jute seed and cloves used in animal feed.

But we continue to let money flow into this program. We've even allowed Baghdad to use about $900 million of oil revenue to rebuild its oil industry. Perhaps to make up for the fact that we occasionally bomb a facility that we know is used for smuggling gas oil?

The U.S. State Department Report concluded that:

> Saddam Hussein's regime remains a threat to its people and its neighbors, and has not met its obligations to the UN that would allow the UN to lift sanctions.

With this conclusion in black and white, why in the world did the U.S. vote to lift the ceiling on oil. Oil is Saddam's lifeline? It is the only sanction that matters.

Fueling and feeding the enemy is unacceptable to this Senator. Unfortunately, I don't have a vote at the UN and this President has continued to bypass Congress as it pursues appeasement of these two rogue regimes.

If these actions define this Administration's approach to engagement, then I don't want to get married.

Mr. President, I yield the floor.

Mr. President, I have another statement with which I would like to conclude. How much time is remaining?

The PRESIDING OFFICER. The Senator has 12 minutes.

Mr. MURKOWSKI. I might need a couple of more minutes to finish. I ask unanimous consent I may extend my time to a full 15 minutes.

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

## NUCLEAR WASTE POLICY

Mr. MURKOWSKI. Mr. President, I will be responding to some statements that were made during a debate that was held on this floor late last week concerning the Nuclear Waste Policy Amendments Act of 1999, which the leadership attempted to bring before this body. It was objected to by the other side.

I will take this opportunity to go back and forth between truth and fiction regarding this issue, because I think it is important we all have an opportunity to review the facts as opposed to the rhetoric that suggested that some things are risky when, in reality, we have addressed that risk through technology or other means. Last week, there was an allegation made that the radiation release standards for the permanent repository at Yucca Mountain contained in S. 1287 are inconsistent with the range of 2 to 20 millirem suggested by the National Academy of Sciences.

In the real world, somebody has to make these judgment calls regarding what level of radiation the public will recognize as being valid and protective of their interests. This level should be determined not by emotion but by sound science. The question is, Who has the sound science?

We believe the National Academy of Sciences certainly has that scientific expertise to make these judgments. As a consequence, we believe they should play a role in setting the radiation standard, as required by the Energy Policy Act of 1992.

What we are going to do here is respond to the myth by reminding my colleagues that the National Academy of Sciences, in fact, did not make a recommendation for a specific radiation standard nor a range of exposure levels. Going back to page 49 of the NAS report, it states:

> We do not directly recommend a level of acceptable risk.

In fact, the NAS said the appropriate risk level was a decision for policymakers. Congress is the ultimate decisionmaker on policy. S. 1287 establishes the basis for regulations that protect the public health and safety and the

environment from radiation releases at repositories.

My good friends and colleagues from Nevada will have you believe I have something against the people of Nevada. I do not have a constituency with regard to this issue because in Alaska we do not have an operating nuclear plant, therefore we do not have nuclear waste. However, as chairman of the Energy and Natural Resources Committee, I have an obligation and an oversight responsibility to address and resolve this issue.

The reality is, I am very sensitive to the feelings of the people in Nevada regarding the waste. But we have to store it somewhere. The logic has always been that the best place to store this waste is in an area where we have had 50 years of nuclear testing, out in the desert. That is what we have done in the study of the feasibility of placing a permanent repository at Yucca Mountain, where we have expended over $6 billion already.

S. 1287 is consistent with existing law, which required the National Academy of Sciences to recommend a standard that protects people in Nevada. This chart shows the annual radiation doses allowed by various regulations. I think it is important to recognize the standard in S. 1287 is more stringent than required by Nevada law. Nevada has an administrative code, section 459.35, which states that ''the total effective minimum dose to any member of the public from any licensed and registered operation does not exceed 100 millirems per year.'' S. 1287 would result in a standard that is only one-quarter of that set by Nevada itself.

To me, this is a responsible approach. I will repeat one more time: This bill will result in a standard that is one-quarter of the standard set by Nevada itself. We are certainly sensitive to the demands of Nevada that health and safety be protected. S. 1287 will ensure that releases of radioactivity from the repository will not result in an annual dose to an average member of the population in the vicinity of the site in excess of one-tenth the radioactivity received from natural background sources by the average U.S. resident.

This standard is lower than guidelines recommended by the preeminent international and national advisory organizations. These organizations include the International Commission on Radiological Protection and the congressionally chartered National Council of Radiation Protection and Measurement to provide guidance on radiation protection to countries worldwide.

I have another chart showing sources of radiation exposure. The term ''millirem'' may not mean much to most people, but let me put this in perspective.

The standard we have set in S. 1287 will limit a possible exposure of 25 to 30 millirems per year to the people who might receive the most exposure over the next 10,000 years.

As this chart shows, we all get 80 millirems a year of extra radiation working where? Right in this Capitol Building. Each one of us—all the pages, everybody—get 80 millirems a year of extra radiation, and it is from the stone in the Capitol which contains naturally reoccurring radiation. Maybe we ought to tear the Capitol down. That is one way to get rid of all extra radiation.

After all, we all get more than three times as much radiation above-background levels in a year as this bill, S. 1287, will allow the closest individual to Yucca Mountain, which is the proposed site of the permanent repository. The next chart shows the location of the permanent repository. This is the Nevada Test Site. This is the area we have used previously for more than 800 nuclear weapons tests. That is where we want to store our Nation's nuclear waste.

I have another chart that shows other examples, and this is in comparison to the EPA's draft rule which would limit Yucca Mountain to exposures, assuming that people in Nevada drink untreated ground water, to levels as low as one-tenth of a millirem.

This is in violation of existing law. One of my five principles reflected in this legislation is that Yucca Mountain rules for radiation should be set by the Nuclear Regulatory Commission, not by the Environmental Protection Agency.

Some have asked why. This is the reason why: The 1992 Energy Policy Act required the Environmental Protection Agency to issue regulations governing the maximum annual effective dose equivalent to individual members of the public consistent with the study of the National Academy of Sciences. Instead, what EPA did is issue draft regulations that are counter to the recommendations of the National Academy of Sciences.

One has to wonder why. Is it to kill this effort? Some within the Environmental Protection Agency would like to see the nuclear industry in this country go away, die, buried, gone forever. Regardless, we have an obligation to recognize that about 20 percent of our power is generated from nuclear power. We have created significant waste and have an obligation to address it.

S. 1287 is consistent with the NRC's proposed regulations for Yucca Mountain which are consistent with the National Academy of Sciences report. The Environmental Protection Agency continues to push for unrealistic, unnecessary, counterproductive standards that have nothing to do with protecting the health of Nevadans. Proof of that is they want these standards to equal drinking water standards, as low as one-tenth of a millirem for a separate ground water protection standard. The NRC measures radiation exposures to all individuals from all sources as required by law, including exposures from drinking water.

I question whether the Safe Drinking Water Act should be applied to ground water from this area where we have had 50 years of nuclear testing and over 800 tests. If the water becomes tap water, then perhaps the act should apply, but not while the water is still in the ground.

EPA wants to take extreme, strict standards that were designed to apply to drinking water out of a tap and apply it to water in the ground whether people drink it or not. What they are saying is you cannot achieve the process of getting this site licensed if you set a standard that is unattainable.

I am not hung up on standards and who dictates standards, but I am committed to getting this legislation through, protecting the public, and ensuring we have a standard that is achievable based on the best science available. I will not support a standard that the EPA dictates that will simply make the project unachievable at the expense of the taxpayers, who probably have over $15 million already in this process, let alone the expenditure of another $50 million to $80 million for not having taken the waste.

Let me clear up a very important point. The Nuclear Regulatory Commission standard fully protects the people in Nevada. Whether the drinking water standard is applied to ground water has nothing to do with how much additional exposure there is from this facility.

EPA applied similar regulations to the WIPP in Carlsbad, NM, to the transuranic nuclear waste disposal facility. This is Government waste from weapons production facilities. WIPP is a Government facility in the salt caverns of Carlsbad, NM.

The drinking water standard was not an issue when WIPP was licensed by EPA because WIPP is a salt mine and has no potable water around it. One wonders whether EPA thinks all nuclear waste should be disposed of in a salt cavern. I am not sure everyone in this body will agree.

The National Academy of Sciences did not recommend that the Safe Drinking Water Act be applied to ground water. Instead, it addressed requirements necessary to limit the overall risk to individuals as required by law.

Finally, the NAS concluded the decision regarding the acceptable levels of protection at Yucca Mountain is a policy decision. I believe it is appropriate that Congress make the decision regarding the level of protection and that the NRC set the standard. In short, the statement of the administration position bases its objections on a disregard of both existing law and the reality of the Federal Government's obligation to take nuclear waste beginning in 1998.

There is a question of whether the EPA standard will harm health and safety nationwide. Do not believe the draft EPA regulations are a victimless crime. By ignoring this requirement and insisting on a standard that no repository probably can meet, a standard

that provides no additional protection for health and safety to the people in Nevada, EPA and the opponents of Yucca Mountain will harm health and safety across the country. Why? Because the current storage was not designed for this hazardous waste. It was designed to be removed, because there was a commitment made by the Federal Government pursuant to a contract beginning in 1998.

The Federal Government has failed to perform under that contract. As a consequence, the waste stays where it is. Some of the Governors have said: Well, we are concerned about this waste staying in our State. And if indeed, as this legislation proposes, the Government takes title of the waste site, we are fearful it will stay in our State. I would say to our Governors: If this legislation does not pass, it is just where it is going to stay. It is going to stay in those States.

This chart shows where it is. It is in over 80 sites around the United States, all over the east coast. The chart shows in brown where our commercial reactors are. We have shut down reactors with spent fuel shown in the green. That isn't going to move until we get the repository for it. We have military reactors, Navy reactors, and we have the Department of Energy reactors and waste around the country.

My point is, this legislation is a mandate to address a problem. It might not be perfect, but if you have a better answer, come on aboard and let's try to address our responsibility.

In the remaining minutes, let me conclude by reminding you that the Department of Energy's draft environmental impact statement on Yucca Mountain concludes that the public would be at a far greater risk of latent cancer if high-level radioactive waste in used fuel were left at the 80 sites around the country.

If you are comparing apples to apples, the draft EIS assumes that in either case, people completely walk away from the repository and the on-site storage facilities after 100 years. This is the standard assumption of the EISs. For people living near the repository—with spent fuel shielded by natural and engineered barriers hundreds of feet below the ground and hundreds of feet above the water table—the long-term effects are very negligible.

The Department of Energy concludes that there would be virtually no latent cancer fatalities—much less than 1—over 10,000 years. On the other hand, the consequences of leaving the material at a score of sites around the Nation are certainly far greater. And that is where we are now.

In the absence of institutional controls, on-site storage would lead to ''about 3,300 latent cancer fatalities over 10,000 years as storage facilities across the United States degraded and radionuclides from spent fuel and high-level radioactive waste reached and contaminated the environment.''

The Department of Energy calls the outcome of this ''no action'' scenario a ''considerable human health risk.'' High-level nuclear waste is in the backyard of our constituents, young and old, across the land. In further presentations, we are going to spell out specifically where it is, the street it is on, across from the school, across from the church.

As DOE points out in the environmental impact statement, each year that goes by, our ability to continue storage of nuclear waste at each of these sites in a safe and responsible way diminishes. It is irresponsible to let this situation continue—literally, a crime against the future. We cannot let that happen.

A myth is: The release standards for the Waste Isolation Pilot Plant program were set at 3 millirems.

Reality: The 3-millirem standard did not apply at WIPP. This is the Safe Drinking Water Act level which EPA has chosen to apply to ground water. However, WIPP is in a salt dome and contains no potable ground water, so the drinking water standard did not apply.

Myth: If you do not pass this bill, the Yucca Mountain will open on schedule.

The reality is, the antinuclear activists and the Nevada delegation are doing everything they possibly can to stop Yucca Mountain from opening, including encouraging the EPA to issue a counterproductive and impossible-to-meet standard for radiation.

Further myth: Nuclear waste storage casks are safe for storage but not for transport. The reality of that is, properly licensed nuclear storage waste casks are safe for both storage and transport. We in the United States have transported over our highways 2,400 shipments of spent nuclear fuel by the nuclear energy industry and others, over the past 25 years. This chart shows the network of where it has traveled. It has moved all over the country, up and down the east coast, through the Rocky Mountains, through the Midwest, and up and down the east coast.

There have been 2,400 shipments of spent nuclear fuel by the nuclear energy industry and others over 25 years. No fatality, injury, or environmental damage has ever occurred because of a radioactive cargo. It isn't that we could not have an accident, but we take steps to ensure that the risk is at a minimum. I suggest we have had an occasion where we have had a truck break down but the casks have performed as designed; they have not broken up. The nuclear disasters the Nevada Senators have promised would happen simply have not happened. Technology is the answer. Technology is available for safe transportation, and it is already paid for.

We look at Europe. They are moving high-level radioactivity from their nuclear plants by ship, by railroad, as well as highways.

Senate bill 1287 provides the authorization to coordinate a systematic, safe transportation network to move spent fuel to a storage facility.

A further myth: Leaving the spent fuel where it is only costs $5 million per site.

Reality: At a hearing before the Energy and Natural Resources Committee, the NRC Chairman testified that the startup costs of building a dry cask storage facility at a reactor would be $6 million, plus $1.5 million per year for new casks and operation, plus $5 million per year for maintenance after the reactor is shut down.

But the real question is, What will it cost the taxpayer? The DOE has collected, as I have previously indicated, over $15 billion from the ratepayers, the people who pay their electric bills, under a binding contract to move the spent nuclear fuel. The Federal Government did not meet that binding contractual term to take it beginning in 1998. Damages, I have indicated, for nonperformance of that contract have been estimated between $40 and $80 billion. The Government is ignoring the sanctity of its contract. That amounts to $1,300 per American family.

Here is how the damages break down: The cost of storage of spent nuclear fuel, $19 billion; return of nuclear waste fees, $8.5 billion; interest on nuclear waste fees, $15 to $27 billion; consequential damages for shutdown of 25 percent of the nuclear plants due to insufficient storage—power replacement cost—$24 billion.

Well, this is billions upon billions.

If regulators prohibit additional on-site storage, utilities may be forced to close plants and buy replacement power at an average cost of $250,000 to $300,000 per day for a typical reactor.

Finally, let me conclude by exposing the ultimate myth. That myth is: 80 nuclear storage waste sites are safer than 1 centralized storage site at the Nevada Test Site, a site so remote that it has been used to explode nuclear devices for 50 years.

Let's put the picture of the Nevada Test Site up one more time. The reality of this is simple, really. Why should we leave spent nuclear fuel at nuclear powerplants in 34 States when there is a less costly storage method with an increased magnitude of safety?

The picture shows, the proposed site of where we will put it, the one site. The point is, let's put it in one site where we can monitor it. If we want, we can have an appropriate repository so that if at some time we want to have a retrievable capability, we can do so, as technology advances.

DOE's own environmental impact statement calls the outcome of the ''no action'' scenario a ''considerable human health risk.'' Transporting used nuclear fuel to a central storage facility in the Nevada desert is the only sensible approach.

I do not have to remind my colleagues that the Federal Government made a promise and signed contracts with utilities—including those in many of individual Members' States—that it would start disposing of spent nuclear fuel in 1998.

The evidence is squarely on the side of reaffirming this vital commitment. It makes good sense to consider the Nevada Test Site, an isolated, unpopulated, desert location where we used to test nuclear bombs. You have seen that on the picture behind me.

When you test a nuclear bomb, even underground, radioactivity can and does escape. It does get into the ground water and sometimes even the atmosphere. My colleagues from Nevada have supported continued bombing tests on the test site but don't support storage of spent nuclear fuel in an NRC-licensed and monitored facility. I just don't understand why. Why was the Nevada Test Site good enough to test leaky bombs but suddenly is not good enough for safe and secure spent fuel storage? I know there is a little politics in it. I understand politics. Leaving used nuclear fuel at a nuclear plant site defies common sense, makes a mockery of Government accountability, reneges on a promise made by the Government, and is extremely costly to the taxpayer.

Spent fuel pools at reactor sites were never intended to be used for long-term storage. As you remember, a few years ago, radioactive tritium gas leaked into Suffolk County, Long Island, ground water from the spent nuclear fuel storage at Brookhaven National Laboratory. In response, the Department of Energy removed the spent fuel and shipped it for storage to another DOE site. All we are asking is that DOE perform the same task which it is legally obligated to perform for civilian nuclear reactors.

Without a Federal spent fuel storage facility or an additional on-site temporary storage, which many opponents of this bill also actively oppose, some utilities will be forced to close plants down prematurely. In fact, 26 reactors will exhaust existing storage capacity in the next couple of years. To understand the calamity this would bring about, consider what would happen if you started chipping away at 20 percent of this Nation's electric supply or what the skies would look like if this base load capacity were replaced by fossil-fuel-burning plants of the older technology. As some of you are aware, the temporary shutdown of nuclear plants in the Northeast and Midwest had authorities planning for rolling blackouts during the hottest days this last summer.

The Senate must pass Senate bill 1287 and start developing the integrated spent fuel management programs that Congress has mandated and engineers and scientists have thoroughly designed safe technology for storage and for transportation of spent fuel, and for which electricity consumers in this country have paid. The Federal Government has promised it would dispose of this waste. It is now time for the Federal Government to stand up and be counted and do its job. S. 1287 is the solution.

Mr. SESSIONS. Will the Senator yield for a question?

Mr. MURKOWSKI. I am happy to yield.

Mr. SESSIONS. The distinguished Senator from Alaska indicated that we have already spent $6 billion on this facility in Yucca Mountain?

Mr. MURKOWSKI. The Senator is correct. We've actually spent a little bit more than that. We have the tunnel basically done. The facility is designed to be a permanent repository for this high-level waste.

Mr. SESSIONS. They are not just going to lay it out on the ground. There is a tunnel into the ground in the desert out there?

Mr. MURKOWSKI. That is correct. It is the intention to put the waste in casks, and the scientific community is going to have to certify that this waste will withstand whatever conditions that there might be for 10,000 years.

Mr. SESSIONS. It will be inside casks and then inside a concrete tunnel?

Mr. MURKOWSKI. The Senator is correct; concrete and rock.

Mr. SESSIONS. Do any people live right around there? Are people going to be living next to this facility?

Mr. MURKOWSKI. Well, there won't be anybody living next to the facility. Forty-some-odd miles away is the nearest living soul to that particular area. Las Vegas is, of course, over the mountains.

Mr. SESSIONS. Forty miles is a long way. I notice your chart showed that if you stood 6 feet from a trainload of this waste that was being sent out there, you would get about one-tenth as much exposure as we get here in the Senate?

Mr. MURKOWSKI. That appears to be the case, because of the stone with which the building was built.

Mr. SESSIONS. It strikes me, if you were 40 miles away, you wouldn't get the little 5-millirem exposure. It would be infinitesimal, what anybody in Nevada would be exposed to as a result of storing this waste in one facility.

Mr. MURKOWSKI. I appreciate you pointing that out again.

As you know from the chart, it does say 80 millirems is the exposure we get here in the Capitol. If you live in a brick house, you get 70 millirems. You get 53 millirems of additional exposure from cosmic radiation in Denver, as a result of the higher altitude. The average radiation from the ground is 26 millirems. An x ray is 20. A dental x ray is 14, and you have to write a check for it. A round-trip flight from New York to Los Angeles is 6. Exposure for a half hour from a transport container to a truck 6 feet away is 5 millirems.

It is important that we put these in perspective.

Mr. SESSIONS. I thank the distinguished Senator for his leadership on this issue.

Since I have been in the Senate, I don't think I have ever seen a public policy issue more bizarre than the inability of this Nation to remove nuclear waste from five sites in my home State of Alabama and all over the United States to one safe and secure location. Why that can't be accomplished and why those continue to frustrate our efforts to carry out the law is beyond me.

I know the Senator said $6 billion had been spent on fixing this site so far. I understand everybody who pays their electric bill pays a certain percentage of that bill for storing of nuclear waste. Does the Senator know how much has been paid in by the citizens of America to make this a safe site for this disposal?

Mr. MURKOWSKI. In responding to the Senator from Alabama, a little over $15 billion has been paid to the Federal Government. The Federal Government agreed to take the waste beginning in 1998. Clearly, that date has come and gone.

Mr. SESSIONS. I can see why the Senator began his remarks raising the concern that the Federal Government should honor its commitments.

Mr. MURKOWSKI. I might add also, there is a significant legal obligation for noncompliance with that contractual agreement, somewhere between $50 and $80 billion. I happen to be a banker and know something about money, but I am not as familiar as perhaps a lawyer would be with the significance of a settlement for damages, but it is going to cost the taxpayer a bundle.

Mr. SESSIONS. I think that is important. Money cost is important, $15 billion already spent.

For the Senator's edification and those in the body, in Alabama, outside of the education budget, the State general fund budget is less than $1 billion a year. This is 15 annual general fund budgets for the State of Alabama we have invested, and to date there has been no movement.

I thank the Senator for leading the effort on this. I believe his remarks are a comprehensive demolishment of any objection by a rational human being to carrying out the legislative mandate of this Congress. We need the President to be helping rather than frustrating. We need to pass this law. I was a Federal attorney for a long time. The Federal Government has the power and does, on a daily basis, condemn properties all over America for public use. This is 40 miles away from people. It is the appropriate location where we have done nuclear testing.

I stand in amazement that we are unable to bring it to a conclusion and thank the distinguished Senator.

Mr. MURKOWSKI. The only explanation I can give my friend from Alabama is, for reasons I can only assume are associated with the objections from antinuclear groups, this administration has simply chosen to ignore its obligation on the issue of nuclear waste. We have an industry that is strangling on its own waste. Our technology has created that waste. On the other hand, we are dependent for about 20 percent

of our power on nuclear power generation. Obviously, it has made a substantial contribution to the air quality because there are no air emissions from nuclear power. As we look at the French, they are almost 90-percent dependent on nuclear energy.

They have chosen not to be held hostage by the Mideast as they were in the 1973–74 timeframe. So they have developed almost entirely their power generation on a nuclear power generating industry and their sophistication of disposing of the waste is through technology. They take the waste and reprocess it, recover the plutonium, put it back in the reactors, and burn it, and hence reduce the proliferation. The residue is vitrified like a glass and that is buried, but it has a relatively short life.

So while we are committed to permanently disposing of our high-level waste at Yucca, there is another alternative that we have precluded ourselves from pursuing, which, in my opinion, is probably the right way to go, and it is the way the Japanese are going as well.

Mr. SESSIONS. Well, the Senator mentioned that 20 percent of our power is nuclear. I have had some occasion to study this issue. I served on the Clean Air Committee of the Environment and Public Works Committee. The President has committed us to his view of reducing emissions into the atmosphere by 7 percent, during a period of time when our demand for electricity is going to nearly double; but 20 percent of our electricity comes from nuclear power in the United States, is that right?

Mr. MURKOWSKI. That is right.

Mr. SESSIONS. We haven't had a new nuclear plant built in almost 20 years.

Mr. MURKOWSKI. That is correct.

Mr. SESSIONS. How are we going to increase production of power and at the same time shut down the nuclear energy that other nations are using regularly?

Mr. MURKOWSKI. That is a very interesting point the Senator has brought up, because if we look at the clean air proposal of this administration and the proposal that 7½ percent could come from renewables, we have to question whether we have that technology.

Somebody said if you took every square foot of New Mexico and Arizona and put solar panels across, you would only get half of 1 percent, because it gets dark once in a while and the wind doesn't blow all the time. So we have real problems with facing reality in the administration's proposal. There is no mention of the role of nuclear power in that proposal. Nor do they consider hydroelectric generation as a renewable, which is beyond me, because it rains, the lakes fill up, and the hydro works. But it is a mentality currently within this administration.

I appreciate the Senator bringing up these points, but in the clean air proposal by this administration, there is no role for nuclear. Clearly, there has to be.

Mr. SESSIONS. I had the privilege of representing this Congress, with a number of other Senators, at a European conference of the North Atlantic Assembly. The President's own appointee as Chairman of the International Atomic Energy Administration, or association, Mr. John Rich, made a marvelous talk. I can sum it up fairly by saying that he concluded there is no way this Nation, or the world, can ever meet our clean air global warming goals without the enhancement of nuclear power. He demolished the idea that renewables, or others, could come close to filling the gap. This is the President's own appointee.

I don't know. Maybe he ought to go sit down in the White House, or with the Vice President, and discuss these issues because we are facing a crisis. We need to maintain our atmospheric purity as much as we can. We certainly don't need to be increasing. I thank the Senator for his time.

Mr. MURKOWSKI. I thank my friend. I see my friend from New Mexico will be seeking recognition.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, first, I wish to say I wasn't present in the discussion about clean air and the ambient air standards, as they might pertain to nuclear power in America and what might happen to the nuclear power we have, the powerplants, and what might happen in the future. But I know, even without being here, that it was a very enlightened discussion about the fact that if you are looking for a cleaner world and for the ambient air of the world and in America in the future, to sustain economic growth, for it to be clean and livable, anybody who leaves nuclear power off the map and doesn't even talk about it is absolutely missing the greatest opportunity we have to accomplish what all of those who want clean air set out to do. In fact, I think the Senator shares this observation with me. The Kyoto agreement, with all of its preamble work—the whereases—was totally void of a reference to nuclear power.

Mr. MURKOWSKI. That is correct.

Mr. DOMENICI. I discussed that report with one of the most eminent physicists in the world. What he said to me was: I looked from cover to cover, and since I could not find one word on nuclear power, I put the report down and said it cannot be one that is really objective and realistic.

Now, that is better than I can say it. I think that is what the Senator has been saying and what my friend from Alabama, who has regularly talked with me about nuclear power and clean air, has said. It is amazing, if we can just come to the floor and talk about the other sources of energy and what they have done to human life in terms of deaths in mining, the deaths on the trains that have carried coal, and all of the other things related to producing energy that we use willfully and without great concern about the danger and the risks, and then put that up alongside nuclear power from its origin, it will look like a big giant heap of coal versus a little tiny package of salt over here that will represent the harm we have caused to people and the environment with nuclear power. They are not even in the same league in terms of damage to people, deaths to people, and the like. It has been a very safe industry, and in the United States, it has been truly miraculous that with this kind of engineering we have had two accidents and neither were fatal.

Mr. MURKOWSKI. No fatalities. I thank my friend from New Mexico.

## BALANCED BUDGET ACT

Mr. DOMENICI. Mr. President, I came down to make a few remarks about a bill that is in conference, a subject matter we have been talking about for some time, and that is the Balanced Budget Act and what kind of impact it had on skilled nursing homes, on rural hospitals, and other parts of the entire health delivery network in the United States. While I won't take very long today, I do come because I think it is very urgent to the conferees on what we have been calling a ''Medicare replenishment'' bill—a bill that goes back and says let's make a few adjustments to the Balanced Budget Act as that Budget Act sought to restrain the cost of health care in three, four, or five areas.

Particularly, I want to talk about the House and Senate and the ultimate compromise on the legislation to increase payments for the nursing home patients and proprietors and owners of skilled nursing homes and that industry. In fact, the problems in the nursing home industry are as severe, if not more severe, than in any other part of the health care system in the United States. To talk about hospitals as if they are more important than skilled nursing homes, and that we should worry more about hospitals and less about skilled nursing homes, is not to address the issue properly, for there are literally hundreds of thousands of Americans, men and women, predominantly women, in the skilled nursing homes across this land. Some are Ma and Pa owners of one or two units; some are corporately owned, where hundreds of these particular skilled nursing home facilities are owned by a company.

A couple of weeks ago, a very large nursing home company with headquarters in my home State filed for chapter 11 bankruptcy protection. That was a second nursing home chain to file for bankruptcy protection in the last 2 months. These two nursing home chains own hundreds of facilities all over the country. So every Senator

should be concerned about what is happening to this industry and to these facilities and their ability to care for our senior citizens.

The Senate Finance Committee, which got input from many Senators and many parts of America's health delivery system, reported out a very good bill in the area of skilled nursing homes and, likewise, in the other delivery components of American health care. In it, there are two provisions which are particularly important. First, it provides, over the next 3 years, for $1.4 billion in higher payment rates for skilled nursing facilities. These increases are targeted at what everyone agrees is the problem—that current rates do not cover the high costs of medically complex cases. In other words, skilled nursing homes and the population of these homes have changed rather dramatically in the last 15 years, and there are more and more very sick people in the skilled nursing home facilities, and we call these medically complex cases. The reimbursements we are now giving skilled nursing homes do not cover the care for the medically complex cases. Secondly, it put a moratorium—that is, the Senate bill—on the $1,500 therapy caps that have been so disruptive to care to many seniors.

Quite frankly, one of the messages I would like the Senate to hear today is that the House bill is completely inadequate in this area. In fact, the House bill puts only $100 million—one-tenth of $1 billion—directly into the payment rates to correct the problem of high cost cases. That is $1.3 billion less than the Senate bill. Obviously, there is a problem, or there isn't a problem. If there is no problem, then the House is right. Fund it with $100 million, which is almost nothing. But if there is a problem, obviously $100 million over 3 years will not solve that problem. The Senate is more apt to be right at $1.3 billion for skilled nursing homes.

The House bill tries to salvage the concept of putting caps on therapy services, which is the wrong way to be approaching and controlling the costs in this area.

The Medicare relief package reported by our Finance Committee—I give the Finance Committee great credit and Chairman BILL ROTH extraordinary credit—includes other provisions: $1.8 billion for teaching hospitals, all hospitals $2.5 billion more than today's plans, and for home health, $1.3 billion to delay a 15-percent cut.

Many of us have looked at all of these and think they are needed and should be supported. But certainly to go to conference and tragically leave out of the package anything significant for skilled nursing homes, I tell you that we will rue the day. It will not be 6 months to a year when there will be closings across this land, and we will have sick senior citizens unattended in nursing home after nursing home across this country.

Even if the other provisions survive the conference and the nursing provisions do not, let me repeat that I think we will have failed the No. 1 problem in the delivery system right now, especially for those who can do nothing for themselves. They are the very sick seniors in nursing homes.

I don't know any other way than to say that the Senate voted overwhelmingly for these provisions. I hope that means they will carry this message into this conference and will insist that the House concede when it comes to skilled nursing home parts of this bill and put substantially more into reimbursing provisions; that is, the two that I have mentioned here today.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

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

## MESSAGES FROM THE HOUSE

At 11:54 a.m., a message from the House of Representatives, delivered by Mr. Hanrahan, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House of Representatives to the bill (S. 900) to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, insurance companies, and other financial service providers, and for other purposes.

### ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 609. An act to amend the Export Apple and Pear Act to limit the applicability of the Act to apples.

The enrolled bill was signed subsequently by the President pro tempore (Mr. BYRD).

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At 2:50 p.m., a message from the House of Representatives, delivered by one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3196. An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2000, and for other purposes.

## MEASURE PLACED ON THE CALENDAR

The following joint resolution was read the second time and placed on the calendar:

S.J. Res. 37. Joint resolution urging the President to negotiate a new base rights agreement with the Government of Panama in order for United States Armed Forces to be stationed in Panama after December 31, 1999.

The following bill was read twice and placed on the calendar:

H.R. 3196. An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2000, and for other purposes.

## ENROLLED JOINT RESOLUTION SIGNED

The following joint resolution, previously signed by the Speaker of the House, was signed on today, November 5, 1999, by the President pro tempore (Mr. THURMOND):

H.J. Res. 75. Joint resolution making further continuing appropriations for the fiscal year 2000, and for other purposes.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–6037. A communication from the President, Overseas Private Investment Corporation, transmitting, pursuant to law, a report relative to its formal management control review program for fiscal year 1999; to the Committee on Governmental Affairs.

EC–6038. A communication from the Director, U.S. Trade and Development Agency, transmitting, pursuant to law, a report relative to its audit and internal management activities for fiscal year 1999; to the Committee on Governmental Affairs.

EC–6039. A communication from the Office of Independent Counsel, transmitting, pursuant to law, a report relative to its audit and investigative activities for fiscal year 1999; to the Committee on Governmental Affairs.

EC–6040. A communication from the Office of Independent Counsel, transmitting, pursuant to law, a report relative to its audit and investigative activities for fiscal year 1999; to the Committee on Governmental Affairs.

EC–6041. A communication from the Director, the Woodrow Wilson Center, transmitting, pursuant to law, a report relative to its audit and investigative activities for fiscal year 1998; to the Committee on Governmental Affairs.

EC–6042. A communication from the Chairman, Farm Credit System Insurance Corporation, transmitting, pursuant to law, a report relative the Federal Manager's Financial Integrity Act and the Inspector General Act Amendments of 1978 for fiscal year 1999; to the Committee on Governmental Affairs.

EC–6043. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 13-146, ''Josephine Butler Parks Center Property Tax Relief Act of 1999''; to the Committee on Governmental Affairs.

EC–6044. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 13-156, ''Child Support and Welfare Reform Compliance Temporary Amendment Act of 1999''; to the Committee on Governmental Affairs.

EC–6045. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 13-159, ''Motor Vehicle Excessive Idling Exemption Temporary Amendment Act of 1999''; to the Committee on Governmental Affairs.

EC–6046. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report

on D.C. Act 13-154, ''District of Columbia Board of Real Property Assessments and Appeals Membership Simplification Act of 1999''; to the Committee on Governmental Affairs.

EC–6047. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 13-155, ''Adoption and Safe Families Temporary Amendment Act of 1999''; to the Committee on Governmental Affairs.

EC–6048. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 13-147, ''Separation Pay Adjustment Amendment Act of 1999''; to the Committee on Governmental Affairs.

EC–6049. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 13-149, ''Annuitants' Health and Life Insurance Employer Contribution Amendment Act of 1999''; to the Committee on Governmental Affairs.

EC–6050. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 13-157, ''University of the District of Columbia Board of Trustees Residency Requirement Temporary Amendment Act of 1999''; to the Committee on Governmental Affairs.

EC–6051. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 13-158, ''Noise Control Temporary Amendment Act of 1999''; to the Committee on Governmental Affairs.

EC–6052. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 13-148, ''Mt. Gilead Baptist Church Equitable Real Property Tax Relief Act of 1999''; to the Committee on Governmental Affairs.

EC–6053. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 13-163, ''Temporary Real Property Tax Exemption for the Phillips Collection Temporary Act of 1999''; to the Committee on Governmental Affairs.

EC–6054. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 13-161, ''Lateral Appointment of Law Enforcement Officers Temporary Amendment Act of 1999''; to the Committee on Governmental Affairs.

EC–6055. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 13-162, ''Sex Offender Registration Temporary Act of 1999''; to the Committee on Governmental Affairs.

EC–6056. A communication from the Chair, District of Columbia Financial Responsibility and Management Assistance Authority, transmitting, pursuant to law, a report relative to the District of Columbia Financial Responsibility and Management Assistance Act for fiscal year 1999; to the Committee on Governmental Affairs.

EC–6057. A communication from the Executive Director, Committee for Purchase from People who are Blind or Severely Disabled, transmitting, pursuant to law, the report of a rule relative to additions to and deletions from the Procurement List, received November 2, 1999; to the Committee on Governmental Affairs.

EC–6058. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Food Additives Permitted for Direct Addition to Food for Human Consumption; Polysorbate 60'' (84F–0050), received November 2, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC–6059. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Indirect Food Additives: Polymers'' (99F–0345), received November 2, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC–6060. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Listing of Color Additives for Coloring Meniscal Tacks; D&C Violet No. 2; Confirmation of Effective Date'' (98C–0158), received November 2, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC–6061. A communication from the Assistant General Counsel for Regulations, Office of Student Financial Assistance, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Student Assistance General Provisions-Student Eligibility'', received November 2, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC–6062. A communication from the Acting General Counsel, Executive Office for Immigration Review, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Board of Immigration Appeals: Streamlining'' (RIN1125–AA22), received November 2, 1999; to the Committee on the Judiciary.

EC–6063. A communication from the Attorney General, transmitting, a report relative to the position of the Department of Justice in the Supreme Court in ''Dickerson v. United States''; to the Committee on the Judiciary.

EC–6064. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Adequate Disclosure'' (Rev. Proc. 99–41), received November 2, 1999; to the Committee on Finance.

EC–6065. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Cost-of-Living Adjustments'' (Rev. Proc. 99–42), received November 3, 1999; to the Committee on Finance.

EC–6066. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Reopenings of Treasury Securities'' (RIN1545–AX61) (TD8840), received November 3, 1999; to the Committee on Finance.

EC–6067. A communication from the Acting Regulations Officer, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled ''Reduction of Title II Benefits Under the Family Maximum Provisions in Cases of Dual Entitlement'' (RIN0960–AE85), received November 3, 1999; to the Committee on Finance.

EC–6068. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''North Dakota Regulatory Program'', received November 3, 1999; to the Committee on Energy and Natural Resources.

EC–6069. A communication from the National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a report entitled ''Status of Fisheries of the United States''; to the Committee on Commerce, Science, and Transportation.

EC–6070. A communication from the Deputy Assistant Administrator, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''National Fisheries Habitat Program: Request for Proposals for FY 2000'' (RIN0648–ZA71), received November 3, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6071. A communication from the Deputy Assistant Administrator, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Application of Marine Biotechnology to Assess the Health of Coastal Ecosystems: Request for Proposals for FY 2000'' (RIN0648–ZA74), received November 3, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6072. A communication from the Deputy Assistant Administrator, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''National Sea Grant College Program—National Marine Fisheries Service Joint Graduate Fellowship Programs in Population Dynamics and Marine Resource Economics'' (RIN0648–ZA69), received November 3, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6073. A communication from the Deputy Assistant Administrator for Fisheries, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Final Rule to Implement Portions of the Comprehensive Amendment Addressing Sustainable Fisheries Act Definitions and Other Required Provisions in the Fishery Management Plans of the South Atlantic Region'' (RIN0648–AL42), received November 3, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6074. A communication from the Associate Chief, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Interconnection and Resale Obligations Pertaining to CMRS, et al.'' (CC Docket No. 94–54, WT Docket No. 98–100, and GN Docket No. 94–33; FCC 99–250), received November 2, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6075. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision to Class E Airspace; Hebbonville, TX; Direct Final Rule; Request for Comments; Docket No. 99–ASW–24 (10–29/11–1)'' (RIN2120–AA66) (1999–0359), received November 3, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6076. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision to Class E Airspace; El Paso, TX; Direct Final Rule; Request for Comments; Docket No. 99–ASW–26 (10–29/11–1)'' (RIN2120–AA66) (1999–0360), received November 2, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6077. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Year 2000 Airport Safety Inspection'' (RIN2120–AG83), received November 2, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6078. A communication from the Program Analyst, Office of the Chief Counsel,

Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision to Class E Airspace; Beaumont, TX; Direct Final Rule; Request for Comments; Docket No. 99–ASW–25 (10–29/11–1)'' (RIN2120–AA66) (1999–0361), received November 2, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6079. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bell Helicopter Textron Canada Model 407 Helicopters; Docket No. 99–SW–07 (10–28/11–1)'' (RIN2120–AA64) (1999–0426), received November 2, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6080. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Pratt and Whitney JT8D Series Turbofan Engines; Docket No. 92–ANE–15 (10–29/11–1)'' (RIN2120–AA64) (1999–0425), received November 2, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6081. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; British Aerospace Model B Ae 146 and Avro 146–RJ Series Airplanes; Docket No. 99–NM–27 (10–28/11–1)'' (RIN2120–AA64) (1999–0427), received November 2, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6082. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Eurocopter France Model A32, L, and L1 Helicopters; Docket No. 98–SW–59'' (RIN2120–AA64) (1999–0428), received November 2, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6083. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Pollutant Discharge Elimination System—Regulations for Revision of the Water Pollution Control Program Addressing Storm Water Discharges'' (FRL #6470–8), received November 3, 1999; to the Committee on Environment and Public Works.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1374. A bill to authorize the development and maintenance of a multiagency campus project in the town of Jackson, Wyoming (Rept. No. 106–215).

By Mr. THOMPSON, from the Committee on Governmental Affairs, without amendment:

S. 1503. A bill to amend the Ethics in Government Act of 1978 (5 U.S.C. App.) to extend the authorization of appropriations for the Office of Government Ethics through fiscal year 2003 (Rept. No. 106–216).

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

H.R. 1907. A bill to amend title 35, United States Code, to provide enhanced protection for inventors and innovators, protect patent terms, reduce patent litigation, and for other purposes.

By Mr. HELMS, from the Committee on Foreign Relations, without amendment and an amended preamble:

S. Res. 217. A resolution relating to the freedom of belief, expression, and association in the People's Republic of China.

## EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committees were submitted on November 3, 1999:

By Mr. THOMPSON for the Committee on Governmental Affairs:

John F. Walsh, of Connecticut, to be a Governor of the United States Postal Service for a term expiring December 8, 2006.

LaGree Sylvia Daniels, of Pennsylvania, to be a Governor of the United States Postal Service for a term expiring December 8, 2007.

Joshua Gotbaum, of New York, to be Controller, Office of Federal Financial Management, Office of Management and Budget.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ROBB (for himself and Mr. BAUCUS):

S. 1867. A bill to amend the Internal Revenue Code of 1986 to provide a tax reduction for small businesses, and for other purposes; to the Committee on Finance.

By Mr. DURBIN (for himself and Mr. HARKIN):

S. 1868. A bill to improve the safety of shell eggs; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BAUCUS:

S. 1869. A bill to authorize the negotiation of a Free Trade Agreement with the Republic of Korea, and to provide for expedited congressional consideration of such an agreement; to the Committee on Finance.

S. 1870. A bill to authorize the negotiation of a Free Trade Agreement with the Republic of Singapore, and to provide for expedited congressional consideration of such an agreement; to the Committee on Finance.

S. 1871. A bill to authorize the negotiation of a Free Trade Agreement with Chile, and to provide for expedited congressional consideration of such an agreement; to the Committee on Finance.

By Mr. SESSIONS (for himself and Mr. DODD):

S. 1872. A bill to amend the Federal Credit Union Act with respect to the definition of a member business loan; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SESSIONS (for himself, Mr. HUTCHINSON, Mr. WARNER, Mr. TORRICELLI, Mr. MACK, Mr. SHELBY, Mr. NICKLES, Mr. INHOFE, Mr. THURMOND, Mr. ASHCROFT, Mr. MCCONNELL, Mr. ROBERTS, Mr. KOHL, Mr. FEINGOLD, Mr. CLELAND, Mr. HOLLINGS, Mr. BREAUX, Mr. GRAHAM, Ms. COLLINS, Mr. GRAMS, Mr. LAUTENBERG, Mr. ENZI, Mr. MURKOWSKI, Mr. GORTON, Ms. LANDRIEU, Mr. ROBB, and Mrs. LINCOLN):

S. 1873. A bill to delay the effective date of the final rule regarding the Organ Procurement and Transplantation Network; to the Committee on Health, Education, Labor, and Pensions.

By Mr. GRAHAM (for himself, Mr. BINGAMAN, and Mrs. FEINSTEIN):

S. 1874. A bill to improve academic and social outcomes for youth and reduce both juvenile crime and the risk that youth will become victims of crime by providing productive personnel during non-school hours; to the Committee on the Judiciary.

By Mr. COCHRAN:

S. 1875. A bill to amend the Agricultural Marketing Act of 1946 to remove the prohibition on the use of funds to pay for newspaper or periodical advertising space or radio time; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DODD (for himself and Mr. ROCKEFELLER):

S. 1876. A bill to amend the High-Performance Computing Act of 1991 to require a report to Congress; to the Committee on Health, Education, Labor, and Pensions.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 221. A resolution to authorize testimony and document production in the Matter of Pamela A. Carter v. HealthSource Saginaw; considered and agreed to.

By Mr. SMITH of New Hampshire (for himself and Mr. REID):

S. Res. 222. A resolution to revise the procedures of the Select Committee on Ethics; considered and agreed to.

By Ms. SNOWE:

S. Con. Res. 69. A concurrent resolution requesting that the United States Postal Service issue a commemorative postal stamp honoring the 200th anniversary of the naval shipyard system; to the Committee on Governmental Affairs.

S. Con. Res. 70. A concurrent resolution requesting that the United States Postal Service issue a commemorative postage stamp honoring the national veterans service organizations of the United States; to the Committee on Governmental Affairs.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURBIN (for himself and Mr. HARKIN):

S. 1868. A bill to improve the safety of shell eggs; to the Committee on Agriculture, Nutrition, and Forestry.

EGG SAFETY ACT OF 1999

Mr. DURBIN. Mr. President, today I am introducing the Egg Safety Act of 1999. This legislation would improve the safety of our nation's egg supply by granting USDA's Food Safety and Inspection Service (FSIS) the authority to regulate and inspect shell eggs from farm to retail level, requiring labeling on egg cartons, requiring uniform expiration dating for all shell eggs, and prohibiting repackaging of eggs.

Last year, I requested a report from the General Accounting Office (GAO) regarding the safety of our egg supply. On July 1 of this year, that report was released at a hearing before the Government Affairs Subcommittee on Oversight of Government Management, on which I serve. According to the report, the GAO found cracks, confusion and contradictions in our nation's efforts to protect consumers against contaminated eggs and egg products.

Approximately 67 billion eggs are sold each year in the United States, with each American eating an average of 245 during that time. Eggs are a nutrient-dense food that plays an important part in most Americans' diets, either alone or as an ingredient in other foods. However, eggs, like any other perishable product, need to be handled with care. Perishable products will always have a degree of risk, but this risk is manageable.

According to the Centers for Disease Prevention and Control (CDC), Salmonella enteriditis (SE), a bacteria commonly associated with raw or undercooked eggs, caused about 300,000 illnesses in 1997, resulting in between 115 and 230 deaths. According to the U.S. Department of Agriculture (USDA), the economic costs of foodborne illnesses related to eggs were estimated to be between $225 million and $3 billion in 1996. Between 1985 and 1998, 81.7 percent of SE outbreaks were associated with eggs.

In 1998, the Illinois Department of Public Health recorded 405 reported cases and five deaths resulting from SE. Food-borne illness has struck in Illinois several times over the past decade, including a 1990 outbreak of SE from bread pudding with 1,100 reported cases; a 1993 outbreak of SE from pancakes with 22 reported cases; and a 1993 outbreak of SE from bearnaise sauce with 13 reported cases.

Make no mistake about it: our country has one of the safest egg supplies in the world. But we have the science and know-how to make it even safer. Eating French toast, Caesar salad, or any other foods that may include raw or undercooked eggs is a manageable risk that can be reduced even further. Make some common sense changes in our federal food safety efforts can protect consumers, families and the credibility of U.S. food products at home and abroad.

How would putting all egg safety responsibilities within one agency make eggs safer? According to the GAO report, lack of coordination between the four federal agencies responsible for egg safety has resulted in gaps, inconsistencies and inefficiencies. For example, while one of those agencies, USDA, conducts daily inspections of plants where eggs are broken and made safe by pasteurization, another agency, Food and Drug Administration, rarely inspects egg farms or facilities where unbroken shell eggs are packed unless the agency is trying to trace an outbreak of illness.

The absence of or inconsistent egg carton expiration dating laws can mislead consumers. Consumers may believe the expiration date accurately reflects the age of the egg. For example, when comparing carton dates, a consumer may be more likely to select eggs not graded by USDA because a later date on the carton seems to imply that those eggs are fresher. But the eggs with the later date may actually be the older ones. Under the USDA Agricultural marketing Service voluntary egg grading program, expiration dates are set at 30 days from the date the eggs were packed. However, some egg processors that do not participate in the voluntary program set their own expiration date or have no expiration date at all.

The Egg Safety Act of 1999 would require uniform expiration dating for all shell eggs. No eggs packed for consumers could be older than 21 days from the date of lay when packed, and they must carry an ''expiration date'' or ''sell by date'' of no more than 30 days from the packing date.

Repackaging or re-dating of eggs provides the wrong information to consumers. Both time and temperature safeguards are likely to be compromised in eggs that are repackaged. For example, repackaged eggs are rewashed in hot water which can lead to increased SE risk. Under the USDA Agricultural Marketing Service voluntary egg grading program, which includes 30 percent of shell eggs, repackaging is prohibited for eggs coming back from the retail level but allowed for eggs stored at the packaging plan. Industry has called for a prohibition on egg repackaging.

While repackaging may not be a widespread practice, it should be completely prohibited. The Egg Safety Act of 1999 would prohibit eggs returned to the packer from grocery stores or other retail establishments from being repackaged as shell eggs intended for human consumption. These eggs could only be diverted for further processing as pasteurized egg products.

The Egg Safety Act of 1999 would also grant FSIS the authority to regulate and inspect shell eggs from farm to retail level for the purpose of ensuring the protection of public health. The standard for inspection frequency would be ''continuous monitoring and verification of performance standards.'' The bill would also require FSIS to implement a ''Hazard Analysis and Critical Control Point'' (HACCP) program for egg safety.

The Egg Safety Act of 1999 would require labeling on egg cartons to warn consumers of the risk of illness associated with consuming raw or undercooked eggs. This labeling requirement would be in addition to the current ''keep refrigerated'' label which remains a requirement for all eggs.

The Egg Safety Act of 1999 is supported by the Center for Science in the Public Interest, Consumers Union and Consumer Federation of America.

Consumers should have the information they need and the assurance they deserve when buying eggs. They should be able to count on the fact that what they're putting on the table is as safe as possible. The Egg Safety Act of 1999 is one step toward ensuring that goal.

Mr. President, I urge my colleagues to join me in cosponsoring this important legislation, to give people the assurance that the eggs they buy are safe.

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By Mr. BAUCUS:

S. 1869. A bill to authorize the negotiation of a Free Trade Agreement with the Republic of Korea, and to provide for expedited congressional consideration of such an agreement; the Committee on Finance.

UNITED STATES-REPUBLIC OF KOREA FREE TRADE AGREEMENT ACT OF 1999

S. 1870. A bill to authorize the negotiation of a Free Trade Agreement with the Republic of Singapore, and to provide for expedited congressional consideration of such an agreement; to the Committee on Finance.

UNITED STATES-SINGAPORE FREE TRADE AGREEMENT ACT OF 1999

S. 1871. A bill to authorize the negotiation of a Free Trade Agreement with Chile, and to provide for expedited congressional consideration of such an agreement; to the Committee on Finance.

UNITED STATES-CHILE FREE TRADE AGREEMENT ACT OF 1999

● Mr. BAUCUS. Mr. President I rise to send three separate bills to the desk. I am introducing these three pieces of legislation because I am very concerned about the direction of U.S. trade policy. Since the end of World War II, America has maintained a strong domestic consensus on the importance of open markets, allowing us to lead the world into an era of unprecedented growth. That consensus is fraying at the edges. Divisions over the role of labor and the environment have helped to undermine it.

These divisions have prevented us from re-instituting fast track negotiating authority, which lapsed nearly five years ago. While we hesitate, the rest of the world continues to move forward on economic integration. Regional trade arrangements in Europe, Latin America, and Asia put U.S. exporters at a competitive disadvantage. We lose overseas markets to foreign competitors who enjoy trade preferences for which our farmers, manufacturers and service providers are ineligible. In my home state of Montana, wheat exporters have lost their share of the Chilean market to Canadian farmers, who are not subject to the 11% Chilean import duty that Montana farmers face.

If we cannot agree on a global fast-track bill, then we should institute fast-track authority for specific countries where we have strategic commercial and political interests. In doing so, we should choose countries which not only share our commitment to open markets, but also share our values for environmental quality and labor rights.

I recently outlined some broad principles on trade and the environment in a statement here on the Senate floor. FTA's should be consistent with those principles. In addition to addressing the environment, they should also firmly support core labor standards.

As to the countries, the bills I am introducing provide authority to negotiate bilateral free trade agreements with three important trading partners: Singapore, the Republic of Korea and Chile. Taken together, these three countries buy about $40 billion worth of U.S. goods annually.

For a number of years, the United States has considered, informally or formally, negotiating FTA's with all three of them. Soon after signing NAFTA, we talked to Chile about acceding to it as the fourth NAFTA partner. Chile waited patiently for Congress to give the President negotiating authority. That authority never arrived. Since then, Chile has gone ahead and signed bilateral trade agreements with both Mexico and Canada.

Similarly, we broached the notion of either an FTA or accession to NAFTA with Singapore several years ago. Of all the countries of East Asia, none is more committed to open markets than Singapore. Negotiating an FTA not only makes commercial sense, it also reinforces our engagement in the Pacific Basin.

Finally, the Republic of Korea is a country which has made enormous economic and political progress in the past two decades. It is now in the midst of a very painful restructuring forced upon it by the Asian financial crisis. An FTA with Korea would lock in the gains—both economic and political—of the past, much as NAFTA did for Mexico. Recently, the Deputy U.S. Trade Representative said that an FTA with Korea was an interesting idea, but that the only way to get there was to resolve our bilateral trade disputes. I think that's backwards. FTA negotiations are a way to resolve these issues.

The bills also establish a general policy framework for negotiating free trade agreements. They require that FTA's address the full range of issues, from guaranteeing national treatment and market access, to protecting intellectual property. They require that FTA's address electronic commerce, an area where the United States has a strong commercial interest. And hey require that FTA's address the labor and environmental issues.

I entered the Senate not too many years after Congress passed the original fast-track legislation. At that time, the notion of ''intellectual property'' was something novel. The idea that ''intellectual property'' should be considered in trade negotiations was ridiculed. Many said that patents, copyrights and trademarks were domestic issues, and thus not appropriate subject for trade agreements. But the United States insisted that the world trading system address these issues. We put a lot of political capital behind it. Today, nobody questions the appropriateness of WTO rules for trade-related intellectual property rules.

I firmly believe that in the near future, we will see the same result with trade-related labor and environmental issues. We cannot—and should not—avoid these issues. So the bills I am introducing require that FTA's address trade aspects of labor and the environment.

We must identify potential environmental consequences—both positive and negative—of trade agreements, and put in place mechanisms to deal with any adverse impacts. Similarly, we must reaffirm our commitment to core labor standards through a mechanism dealing with any adverse impacts that trade agreements have on labor markets.

Mr. President, we need to send a strong signal to the rest of the world that the United States intends to continue its leadership of the global trading system. The Africa Trade Bill that we passed here this week was an excellent step in the right direction. We must continue to make progress on opening markets for American farmers, manufacturers and service providers. Negotiating bilateral free trade agreements with like-minded countries will support our multilateral negotiations in the WTO.

Just as we negotiated NAFTA and the Uruguay round at the same time, we should pursue bilateral free trade agreements with Chile, Korea, and Singapore while we are negotiating the next round in the WTO.●

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By Mr. SESSIONS (for himself and Mr. DODD):

S. 1872. A bill to amend the Federal Credit Union Act with respect to the definition of a member business loan; to the Committee on Banking, Housing, and Urban Affairs.

FAITH BASED LENDING LEGISLATION

Mr. SESSIONS. Mr. President, I rise today to introduce legislation with my colleagues, Senator CHRIS DODD, which will support the work of over 600 religious organization based credit unions in the U.S. Many of these credit unions provide an essential source of financing for churches, religious schools, mission agencies, and related community projects such as homeless shelters, drug intervention facilities, and homes for abused women and children.

Some of these credit unions rely on other credit unions to fund their loans to religious organizations through loan participation agreements. these loan participation agreements are classified as business loans and are counted against the member business loan caps that credit unions must abide by as a result of the Credit Union Membership Access Act signed into law last year. Consequently, the exemption for credit unions having a history of business lending contained in that act though well intended, doesn't solve the problem because religious organizations based CUs will not be able to sell loans to other credit unions who will have to count these faith based loans toward their business lending cap.

The sale of loan participations is a necessary first step before any of these loans can be originated. the legislation I am introducing along with Senator DODD will allow the approximately 600 religious organization based credit unions in America to exempt from loan participations those loans they originate to religious non-profit organizations. In doing so, our bill will assure a steady source of capital for these organizations and community based missions.

Finally, Mr. President, I would like remind my colleagues that religious organization based credit unions enjoy a long history of safe lending and encourage them join Senator DODD and me in passing this legislation. No other credit union program will do more to help the poor, the homeless, the disabled and those otherwise in need.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no object, the bill was ordered to be printed in the RECORD, as follows:

S. 1872

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

**SECTION 1. MEMBER BUSINESS LOAN EXCEPTION.**

Section 107a(c)(1)(B) of the Federal Credit Union Act (12 U.S.C. 1757a(c)(1)(B)) is amended—

(1) in clause (iv), by striking ''or'' at the end;

(2) in clause (v), by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(vi) that is made to a nonprofit religious organization.''.

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By Mr. SESSIONS (for himself, Mr. HUTCHINSON, Mr. WARNER, Mr. TORRICELLI, Mr. MACK, Mr. SHELBY, Mr. NICKLES, Mr. INHOFE, Mr. THURMOND, Mr. ASHCROFT, Mr. MCCONNELL, Mr. ROBERTS, Mr. KOHL, Mr. FEINGOLD, Mr. CLELAND, Mr. HOLLINGS, Mr. BRUAUX, Mr. GRAHAM, Ms. Collins, Mr. GRAMS, Mr. LAUTENBERG, Mr. ENZI, and Mr. MURKOWSKI):

S. 1873. A bill to delay the effective date of the final rule regarding the Organ Procurement and Transplantation Network; to the Committee on Health, Education, Labor, and Pensions.

ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK LEGISLATION

Mr. SESSIONS. Mr. President, I am proud today to join with Senators TIM HUTCHINSON, WARNER, TORRICELLI, MACK, SHELBY, NICKLES, INHOFE, THURMOND, ASHCROFT, MCCONNELL, ROBERTS, KOHL, FEINGOLD, CLELAND, HOLLINGS, BREAUX, GRAHAM, COLLINS, GRAMS, LAUTENBERG, ENZI, MURKOWSKI, GORTON, LANDRIEU, ROBB and LINCOLN in introducing the Organ Donation Regulatory Relief Act of 1999.

This legislation is designed to prevent an unprecedented Federal takeover of our Nation's organ transplant system by the Department of Health and Human Services. This act would nullify a highly controversial rule issued by the Secretary of Health and Human Services, Donna Shalala, that would give her sole authority to approve or disapprove organ allocation policies that are currently established by the private-sector transplant community throughout this country.

This move by the administration would preempt Congress' role in encouraging a fair and equitable transplant system through the authorization of the National Organ Transplant Act. My bill would simply nullify the proposed HHS rule until such time as Congress passes amendments to the National Organ Transplant Act.

This bill would preserve Congress' prerogative to consider changes or improvements to the current system while maintaining the private-sector role of thousands of patients, families, volunteers, and medical professionals that are now responsible for our organ transplant policy. It will allow Congress the time needed to consider new initiatives to encourage more organ donation which is the heart of our organ shortage problem.

In my home State of Alabama, the University of Alabama-Birmingham, has one of the most effective and finest organ transplant centers in the world. It is the largest liver transplant facility in the world. I am extremely proud of their efforts. Let me just say this, this system has been built up carefully, utilizing State law and other laws. It works very effectively.

I am very concerned that Federal Government policies have now been proposed that would upset this. It has not only upset the University of Alabama-Birmingham but transplant centers, and mainly university hospitals all over the country. And that is why we believe action needs to be taken at this time.

I believe the current plan is fair and does a good job of acquiring and allocating organs for transplantation. For example, since the passage of the National Organ Transplant Act in 1984, the number of people receiving organs has increased annually, and the survival rate has improved steadily.

A recent study by the Institute of Medicine came to the same conclusion:

> The committee found that the current system is reasonably equitable for the most severely ill (Status 1) liver patients, since the likelihood of receiving a transplant is similar across organ procurement organizations for these patients.

The Institute of Medicine study contradicted the underlying rationale in some numbers that I believe were unwisely interpreted. They underlie this rationale for the controversial ''rule'' on organ allocation that has been proposed by the Department of Health and Human Services.

In a careful analysis of 68,000 liver patient records, the Institute of Medicine panel said:

> . . . the ''overall median waiting time'' that patients wait for organs—the issue that seems to have brought the committee to the table in the first place—is not a useful statistic for comparing access to or equity of the current system of liver transplantation, especially when aggregated across all categories of liver transplant patients.

HHS has maintained that reducing regional differences in waiting times was the primary goal of their new rule on organ allocation. The HHS rule is a solution in search of a problem and would only inhibit the continual improvements made by the transplant community since the passage of NOTA 15 years ago.

The HHS policy is also shortsighted in its wholesale preemption of State laws regarding organ transplantation. Many of the beneficial policies that have served to improve organ procurement and donation are based on State laws, such as the organ donor checkoff on driver's licenses, and the HHS preemption fails to recognize that fact.

This year's Labor-HHS appropriations bill provided for a 3-month moratorium on the implementation of the rule from the time of its enactment. But, unfortunately, this may not and probably will not provide adequate time for Congress to consider this very complicated issue in the context of amendments to the National Organ Transplant Act.

That is why it is necessary, indeed, imperative. And that is why 26 Senators have signed on to this legislation in such a short period of time. It is imperative that we nullify the rule so that these life-and-death issues can be considered without fear of a clock running out on ways to improve the current system and provide the gift of life to so many Americans.

Hospitals and the physicians who operate in those hospitals are the key to the success of the organ transplant program. They receive phone calls at all hours of the night, and they go out and retrieve those organs from people who have been killed. And they have to do it under short periods of time. If they are going to do that simply to send off the organs to some hospital of which they are not committed personally or to patients of which they are not serving, they will not be as effective in retrieving the organs. Not as many people will benefit and not as many people will have their lives saved as a result.

I believe that HHS' actions are unwise. It reminds me of that old adage: If it ain't broke, don't fix it.

We do not have and have not seen a real complaint from the citizens of America over the operation of our organ transplant system. This has been created by unelected bureaucrats here in Washington, and it is not healthy, in my view.

But there will be a full opportunity, if this bill is passed, to allow the Health, Education, Labor, and Pensions Committee, of which I am a member, to hold hearings and review the facts in order to develop the best transplant program we possibly can. If we can improve the system, I say let's do it. But let's be sure we do not break something that is not broken already.

So I thank the outstanding work of several of my colleagues on this important issue, including Senators TIM HUTCHINSON, JOHN WARNER, ROBERT TORRICELLI, and Senator DON NICKLES, the assistant majority leader. Without their leadership, this legislation could not have come to fruition.

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. 1873

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

**SECTION 1. NULLIFICATION AND REQUIREMENT FOR FURTHER RULEMAKING.**

(a) LIMITATION.—Notwithstanding any other provision of law, the final rule relating to the Organ Procurement and Transplantation Network, promulgated by the Secretary of Health and Human Services and published in the Federal Register on April 2, 1998 (63 Fed. Reg. 16296 et. seq. adding part 121 to title 42, Code of Federal Regulations) and amended on October 20, 1999 (64 Fed. Reg. 56649 et seq.)), shall have no force or legal effect.

(b) NO IMPLEMENTATION OR AUTHORITY.—The Secretary of Health and Human Services shall not implement or exercise further regulatory authority with respect to the Organ Procurement and Transplantation Network, as well as regulatory authority under sections 1102, 1106, 1138, and 1871 of the Social Security Act (42 U.S.C. 1302, 1306, 1320b–8, and 1395hh), prior to the date of enactment of amendments to reauthorize and revise part H of title III of the Public Health Service Act (42 U.S.C. 273 et seq.).

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By Mr. GRAHAM (for himself, Mr. BINGAMAN, and Mrs. FEINSTEIN):

S. 1874. A bill to improve academic and social outcomes for youth and reduce both juvenile crime and the risk that youth will become victims of crime by providing productive activities conducted by law enforcement personnel during non-school hours; to the Committee on the Judiciary.

INTRODUCTION OF THE POLICE ATHLETIC LEAGUE (PAL) YOUTH ENRICHMENT ACT OF 1999

● Mr. GRAHAM. Mr. President, I am extremely pleased to join with my distinguished colleagues, Senator BINGAMAN and Senator FEINSTEIN, in introducing the Police Athletic League (PAL) Youth Enrichment Act of 1999. This legislation is designed to reduce both juvenile crime and the risk that youth will become victims of crime. By providing productive activities during non-school hours in communities across this country, we can provide the healthy environment that our young people deserve. Outside the home, there is no safer place in any community than a school, a playground, a community center, or a park where law enforcement personnel are coordinating the activities.

The Police Athletic League actually started back in the 1910's. A group of

New York youth tossed a rock through a shopkeeper's window. That rock pioneered a new approach to juvenile delinquency prevention. Lieutenant Ed Flynn used that incident to create the Police Athletic League—an organization that makes police officers into role models and friends rather than enemies. PAL brings cops and kids together in activities where mutual trust and respect can be built. It is a statement to young people, particularly in less advantaged neighborhoods, that the community cares about them. It extends a hand of friendship to children—boys, girls, young men and women—who do not have many opportunities.

Mr. President, there is clearly a direct link between crime prevention and PAL participation. Young people who are idle have the potential to be drawn into crime. In Baltimore, the PAL centers have cut juvenile crime by 30 percent and decreased juvenile victimization by 40 percent. In El Centro, California, PAL has reduced juvenile crime and gang activity in the HUD Housing Development by 64 percent.

PAL, staffed by police officers, has numerous success stories of helping to shape the lives of individuals. In my own state of Florida, former PAL kid Ed Tobin is now a successful attorney. Steve Colin is a well known radio station personality in Miami Beach. In Jacksonville, 23 Sheriff's Officers were PAL kids. Derrick Alexander of the Cleveland Browns and Shawn Jefferson of the New England Patriots were both PAL kids.

Our legislation seeks to expand services of current chapters and provide seed money for 50 new chapters per year for the next 5 years (2000–2004). New chapters will offer programs providing a combination of mentoring assistance; academic assistance; recreational and athletic activities; technology training; and drug, alcohol, and gang prevention activities. This list is by no means exhaustive. PAL centers also offer health and nutrition counseling; cultural and social programs; conflict resolution training, anger management, and peer pressure training; job skill preparation activities; and Youth PAL conferences or Youth Forums.

PAL currently has 320 chapters serving over 3,000 communities with a network of 1,700 facilities. Today, they mentor and serve more than one and half million young people, ages 6 to 18, throughout the United States, the U.S. Virgin Islands, and Puerto Rico. In my home state, the Miami-Dade PAL serves over 13,000 youth annually, and Jacksonville serves over 12,000. We know, however, that many areas are still undeserved by PAL chapters.

Law enforcement, community organizations, and local governments strongly support this bill. Mr. President, this investment in our youth will pay for itself many times over in reduced crime and law enforcement costs. I urge all my colleagues to support the passage of this much needed legislation. Together with the Police Athletic League, we can fill playgrounds instead of prisons.●

● Mr. BINGAMAN. Mr. President, I rise today to join with Senator GRAHAM in introducing the ''Police Athletic League Youth Enrichment Act of 1999.''

The Police Athletic League (PAL) is a national organization that has been teaming up law enforcement with our nation's youth for the past 55 years. New Mexico is fortunate to have a statewide PAL program. The New Mexico PAL provides New Mexico's youth with a variety of after-school and summer activities. Last year, the New Mexico PAL provided hundreds of New Mexico kids with alternatives to getting into trouble. For these reasons, I am very proud to introduce the PAL Youth Enrichment Act with Senator Graham.

In New Mexico, the PAL chapter has ten sites around the state: Santa Fe, Albuquerque, Gallup, Tohatchi, Bloomfield, Roswell, Dona Ana County, Clovis, Lordsburg and the Pueblo of Cochiti. The goal of the New Mexico PAL is to provide recreational, educational and cultural activities for at-risk youth ages five to eighteen with the intent of reducing negative behaviors and promoting healthy behavioral patterns. PAL aims to build self-esteem and resiliency in youth and provide positive alternatives to alcohol, drug use, delinquent behavior and violence. The New Mexico PAL sponsors sporting leagues throughout the year, participates in Sports Days during the summer, sponsors a one-week summer camp and offers ongoing mentoring opportunities for youth.

The PAL volunteers not only play sports with the youth, but they fight for the youth. In Albuquerque, the PAL chapter aided in preserving the use of a baseball field for the youth sporting leagues.

Last summer the New Mexico PAL held several Youth Sports Days that attracted between 40 and 150 kids in each community. In August, I attended the Youth Sports Day in Santa Fe. The daylong event provided the younger kinds in the community with a variety of sporting events, prizes and lunch. The kids and parents interacted with the law enforcement officers in a setting that allowed them to see the officers as community members, mentors and leaders.

The New Mexico PAL also sponsors a week long summer camp, Camp Courage, each year at the Cochiti Lake. It is a reward camp for kids that have said ''no'' to antisocial behavior. More than one hundred kids participate in this program annually. Because a camp requires a lower adult child ratio, the local FBI agents, DEA agents and the National Guard joined with the local police and sheriffs in organizing a week of intense sporting activities. They also offered themselves as mentors and reachers for the youth. The commitment of these law enforcement officers to the youth of New Mexico is truly admirable.

After seeing what the New Mexico PAL has accomplished, I have come to be a great supporter of PAL. I now want other communities around the nation to be able to benefit from the same programs and services and for more New Mexico communities to be able to start PAL programs. As I see it, a police officer's duty is primarily to protect a community. I look at PAL as law enforcement's way of helping protect the health of our kids—both the physical well being and the mental well being.

The PAL Youth Enrichment Act will enable existing PAL to expand their services and provide seed money for new PAL in distressed communities, including many Native American communities. The goal is to provide seed money for fifty new chapters each year for the next five years. By providing $16 million annually for new and existing PAL, youth around the country will benefit from a combination of academic assistance; mentoring assistance; recreational and athletic activities; technology training; drug, alcohol, and gang prevention activities; health and nutrition counseling; cultural and social programs, conflict resolution training; anger management; peer pressure training; and job skill preparation classes.

Although PAL chapters consist of local law enforcement, they do not receive direct funding from the law enforcement agencies, and instead rely on the efforts of volunteers and fund-raising proceeds. Because of this funding situation, in 1977 I urged Congress to appropriate funds for the New Mexico PAL. In 1998 I succeeded in getting $1 million appropriated through the Commerce-Justice-State Appropriations bill for the New Mexico PAL program to expand the PAL services to communities around the State and to greatly enhance the current programs it offered. This money has enabled the New Mexico PAL to carry out its summer programs, its Camp Courage, and many other new activities. It also has allowed them to expand the program to tribal communities in northwest New Mexico, with the cooperation of the tribal police in those areas. The PAL Youth Enrichment Act will provide the funding needed to continue programs like the New Mexico PAL and will give other states the incentive to start up PAL programs in distressed communities.

Kids need healthy alternatives to crime and assistance in dealing with their anger. Athletics and recreational activities like dancing and drama greatly improves one's well being—both physically and mentally—and give teens an outlet for their energy and anger. PAL's sports and recreational activities also help kids learn the importance of teamwork and help boost their self-esteem when they accomplish more than they thought possible.

Many folks do not realize it but the PALs have produced some great athletes over the years. New Mexico is proud of its native son, Danny Romero Jr., a former two-time world boxing champion and an alumnus of the New Mexico PAL program. According to Danny's father, the PAL philosophy taught his son life skills that he could no have learned any where else and kept him out of trouble.

Mr. President, I encourage the Senate to take up and pass this worthwhile legislation that expands a program with proven positive results. Just ask the 1.5 million children in more than 3,000 communities that the PAL program over the past 55 years has served. The PAL programs will change our youth's attitude toward police, will provide a variety of alternatives to criminal behavior and will positively influence a child's mental and physical well-being. I hope that my Senate colleagues will join me in supporting this important legislation●

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By Mr. DODD (for himself and Mr. ROCKEFELLER):

S. 1876. A bill to amend the High-Performance Computing Act of 1991 to require a report to Congress; to the Committee on Health, Education, Labor, and Pensions.

SCIENCE AND EDUCATIONAL NETWORKING ACT

● Mr. DODD. Mr. President, I am pleased to rise today to introduce the Science and Educational Networking Act with my colleague from West Virginia, Senator ROCKEFELLER. This legislation is a companion bill to legislation introduced in the other body by one of my Connecticut colleagues, JOHN LARSON and cosponsored by 49 other members.

Very simply, the Science and Educational Networking Act charts a course for the future for our schools and for education technology. Just as we cannot imagine schools and learning without books and pencils, computers and technology have become today a critical element in education. But like other tools, technology has its limits. Teachers must be trained to use technology in their teaching. Curriculum must incorporate and utilize technology. Students must have access to computers. Classroom technology must be connected, integrated and of high quality.

This legislation focuses specifically on this last element in the equation—the quality of the technology in our classrooms. Computers in and of themselves are amazing machines. But what is more powerful than their simple computing capacity is the connections students can make with them. From accessing the collection of museums and libraries to ''chatting'' with students from across the globe, computers have incredible potential to enrich our children's education. But in too many schools this potential goes unrealized because of outdated, inadequate or non-existent equipment and slow connections to the Internet.

Since the enactment and implementation of the e-rate, we have made substantial progress toward meeting our goal of connecting all schools and classrooms to the Internet. Since 1994, the percentage of schools with access to the Internet has more than doubled from 35 percent to 89 percent and the percentage of classrooms with access has risen from 3 percent to 51 percent. Gaps however remain. High income communities are more likely to have Internet access than low income schools with over 60 percent of classrooms in wealthier communities having Internet access compared to under 40 percent of low income classrooms.

Further limiting the benefit of the Internet and the World Wide Web is the actual capacity of a school's connection. Most schools are connected over regular telephone loans—although in many states even this is a problem. In my home state of Connecticut, four in five school districts report inadequate classroom access to telephone lines. And frankly, a regular telephone line just is not enough—trying to use the Internet with a regular telephone line can be frustratingly slow as data quickly overloads the capacity of these lines designed for telephones not computers. Students need access to high speed, large bandwidth capacity. Without these connections, it is like requiring our students to make their way only on the back roads rather than on the freeway.

High speed, large bandwidth connections, which are rare except in some of our nation's technological hubs, substantially increase the quality and capacity of Internet connections. The effect of these better connections is immediate—entering, searching and accessing the Web and the information it contains is faster and much more efficient. Much more important, in my view, is what this increased capacity will do for distance learning opportunities in our elementary and secondary schools. High speed, large bandwidth connections offer the potential of real-time, two-way video and audio interactions over the Net. This is where the promise of distance learning comes to fruition when students in a remote location or several remote locations participate in real time classroom activities.

This legislation will move us toward this promising goal. It will bring together leading experts in government to assess the capacity of our schools in this area, to explore the digital divide, to examine ways to better utilize this technology in schools and to report to Congress on how we can help schools meet these challenges.

Mr. President, this is an important first step if we are to make the promise of the Internet a reality for our children and schools. I ask that the bill be printed in the RECORD.

The bill follows:

S. 1876

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Science and Educational Networking Act''.

**SEC. 2. REPORT TO CONGRESS.**

Section 103 of the High-Performance Computing Act of 1991 (15 U.S.C. 5513) is amended by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively, and by inserting after subsection (a) the following new subsection:

''(b) REPORT TO CONGRESS.—

''(1) REQUIREMENT.—The Director of the National Science Foundation shall submit to Congress, not later than December 31, 2001, a report that addresses the issues described in paragraph (3) and includes recommendations to address the issues identified in the report.

''(2) CONSULTATION.—In preparing the report under paragraph (1), the Director of the National Science Foundation shall consult with the National Aeronautics and Space Administration, the National Institute of Standards and Technology, and such other Federal agencies and other education entities as the Director of the National Science Foundation considers appropriate.

''(3) ISSUES.—The report shall—

''(A) identify the current status of high-speed, large bandwidth capacity access to all public elementary and secondary schools and libraries in the United States;

''(B) identify how high-speed large bandwidth capacity access to the Internet to such schools and libraries can be effectively utilized within each school and library;

''(C) consider the effect that specific or regional circumstances may have on the ability of such institutions to acquire high-speed, large bandwidth capacity to achieve universal connectivity as an effective tool in the education process; and

''(D) include options and recommendations for the various entities responsible for elementary and secondary education to address the challenges and issues identified in the report.''.●

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## ADDITIONAL COSPONSORS

S. 71

At the request of Ms. SNOWE, the name of the Senator from Delaware (Mr. ROTH) was added as a cosponsor of S. 71, a bill to amend title 38, United States Code, to establish a presumption of service-connection for certain veterans with Hepatitis C, and for other purposes.

S. 93

At the request of Mr. DOMENICI, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 93, a bill to improve and strengthen the budget process.

S. 345

At the request of Mr. ALLARD, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 345, a bill to amend the Animal Welfare Act to remove the limitation that permits interstate movement of live birds, for the purpose of fighting, to States in which animal fighting is lawful.

S. 631

At the request of Mr. DEWINE, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 631, a bill to amend the Social Security Act to eliminate the time limitation on benefits for immunosuppressive drugs under the medicare program, to provide continued entitlement for such drugs for certain individuals after medicare benefits end, and to extend

certain medicare secondary payer requirements.

S. 897

At the request of Mr. BAUCUS, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 897, a bill to provide matching grants for the construction, renovation and repair of school facilities in areas affected by Federal activities, and for other purposes.

S. 1158

At the request of Mr. HUTCHINSON, the names of the Senator from Oklahoma (Mr. INHOFE) and the Senator from Washington (Mr. GORTON) were added as cosponsors of S. 1158, a bill to allow the recovery of attorney's fees and costs by certain employers and labor organizations who are prevailing parties in proceedings brought against them by the National Labor Relations Board or by the Occupational Safety and Health Administration.

S. 1225

At the request of Ms. COLLINS, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1225, a bill to provide for a rural education initiative, and for other purposes.

S. 1327

At the request of Mr. WELLSTONE, his name was added as a cosponsor of S. 1327, a bill to amend part E of title IV of the Social Security Act to provide States with more funding and greater flexibility in carrying out programs designed to help children make the transition from foster care to self-sufficiency, and for other purposes.

S. 1332

At the request of Mr. BAYH, the names of the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Hawaii (Mr. INOUYE), and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of S. 1332, a bill to authorize the President to award a gold medal on behalf of Congress to Father Theodore M. Hesburg, in recognition of his outstanding and enduring contributions to civil rights, higher education, the Catholic Church, the Nation, and the global community.

S. 1341

At the request of Mr. DORGAN, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1341, a bill to amend the Internal Revenue Code of 1986 to expand the applicability of section 179 which permits the expensing of certain depreciable assets.

S. 1526

At the request of Mr. ROCKEFELLER, the names of the Senator from New Mexico (Mr. BINGAMAN), and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 1526, a bill to amend the Internal Revenue Code of 1986 to provide a tax credit to taxpayers investing in entities seeking to provide capital to create new markets in low-income communities.

S. 1565

At the request of Mr. SARBANES, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1565, a bill to license America's Private Investment Companies and provide enhanced credit to stimulate private investment in low-income communities, and for other purposes.

S. 1661

At the request of Mrs. HUTCHISON, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of S. 1661, a bill to amend title 28, United States Code, to provide that certain voluntary disclosures of violations of Federal law made as a result of a voluntary environmental audit shall not be subject to discovery or admitted into evidence during a judicial or administrative proceeding, and for other purposes.

S. 1693

At the request of Mr. GRAMS, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1693, a bill to protect the Social Security surplus by requiring a sequester to eliminate any deficit.

S. 1714

At the request of Mr. WARNER, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 1714, a bill to amend the Internal Revenue Code of 1986 to allow penalty-free distributions from qualified retirement plans of individuals residing in presidentially declared disaster areas.

S. 1800

At the request of Mr. GRAHAM, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 1800, a bill to amend the Food Stamp Act of 1977 to improve onsite inspections of State food stamp programs, to provide grants to develop community partnerships and innovative outreach strategies for food stamp and related programs, and for other purposes.

S. 1813

At the request of Mr. KENNEDY, the name of the Senator from Florida (Mr. MACK) was added as a cosponsor of S. 1813, a bill to amend the Public Health Service Act to provide additional support for and to expand clinical research programs, and for other purposes.

S. 1816

At the request of Mr. HAGEL, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 1816, 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.

SENATE CONCURRENT RESOLUTION 32

At the request of Mr. CONRAD, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of Senate Concurrent Resolution 32, a concurrent resolution expressing the sense of Congress regarding the guaranteed coverage of chiropractic services under the Medicare+Choice program.

SENATE RESOLUTION 128

At the request of Mr. COCHRAN, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of Senate Resolution 128, a resolution designating March 2000, as ''Arts Education Month.''

SENATE RESOLUTION 196

At the request of Mr. WARNER, the names of the Senator from Alabama (Mr. SHELBY), the Senator from Michigan (Mr. ABRAHAM), the Senator from Oklahoma (Mr. INHOFE), the Senator from New York (Mr. MOYNIHAN), and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of Senate Resolution 196, a resolution commending the submarine force of the United States Navy on the 100th anniversary of the force.

## SENATE CONCURRENT RESOLUTION 69—REQUESTING THAT THE UNITED STATES POSTAL SERVICE ISSUE A COMMEMORATIVE POSTAL STAMP HONORING THE 200TH ANNIVERSARY OF THE NAVAL SHIPYARD SYSTEM

Ms. SNOWE submitted the following concurrent resolution; which was referred to the Committee on Governmental Affairs:

S. CON. RES. 69

Whereas in the year 2000, the United States naval shipyards will celebrate 200 years of service to the Nation;

Whereas naval technology has proven invaluable to the Nation by strengthening national defense, preserving world maritime freedom, and producing scientific breakthroughs;

Whereas in peacetime, ships built in United States naval shipyards patrol around the clock to preserve peace and keep the United States free;

Whereas Kittery, Portsmouth Naval Shipyard was the first major United States naval shipyard of the modern era;

Whereas on June 12, 2000, the Kittery, Portsmouth Naval Shipyard will celebrate the 200th anniversary of its founding;

Whereas since its inception at Kittery, Portsmouth, the United States naval shipyard system has grown to include 11 facilities located on both the Atlantic and Pacific coasts, and at Pearl Harbor, Hawaii;

Whereas since 1800, United States naval shipyards have built hundreds of naval ships, and completed thousands of overhauls on ships of both the United States Navy and those of many United States allies;

Whereas today, the United States Navy is the preeminent naval force in the world, and ships constructed in United States naval shipyards have helped lead the way to victory in numerous global conflicts; and

Whereas United States naval shipyard workers, both past and present, have a well-deserved sense of pride in their accomplishments, which have kept our Navy strong and our country free: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That the Congress requests that—

(1) the United States Postal Service issue a commemorative postage stamp in honor of the 200th anniversary of the founding of the United States naval shipyards; and

(2) the Citizens' Stamp Advisory Committee recommend to the Postmaster General that such a stamp be issued.

Ms. SNOWE. Mr. President, I rise today to submit a resolution expressing the sense of Congress that a commemorative postage stamp should be issued honoring the United States Naval Shipyards.

This legislation calls upon the United States Postal Service to issue a commemorative postage stamp honoring the legacy of our naval shipyard system on the occasion of its 200th anniversary, which will take place in the year 2000.

Mr. President, naval technology has proven invaluable to our nation by strengthening our national defense, preserving world maritime freedom, and producing significant scientific breakthroughs. In peacetime, ships built in naval shipyards patrol around the clock to preserve peace and keep the United States free. As Chair of the Senate Armed Services Subcommittee on Seapower, I am proud that, today, the U.S. Navy is the preeminent naval force in the world. Ships constructed in U.S. yards have helped lead the way to victory in numerous global conflicts.

Naval shipyards workers, both past and present, have a well-deserved sense of pride in their accomplishments which have kept our Navy strong and our country free. Likewise, veterans of the United States Naval Force have served with courage, honor and distinction, risking their lives in combat and against an unforgiving sea.

On June 12, 2000, the Kittery/Portsmouth Naval Shipyard in Maine will celebrate the 200th anniversary of its founding. Kittery/Portsmouth was the first major naval shipyard of the modern era. From the beginnings at Kittery/Portsmouth, the naval shipyard system grew to eventually include eleven yards located on both the Atlantic and Pacific coasts, and at Pearl Harbor, Hawaii. In the two hundred years since 1800, naval yards have built hundreds of naval ships, and completed thousands of overhauls on ships of both the U.S. Navy and those of U.S. allies.

I believe this resolution would be a fitting way to recognize the forthcoming bicentennial of our public shipyards. I strongly believe that the contributions of the hundreds of thousands of men and women who work in our shipyards are worthy of recognition.

Mr. President, I urge my colleagues to join me in this show of support for our shipyards.

## SENATE CONCURRENT RESOLUTION 70—REQUESTING THAT THE UNITED STATES POSTAL SERVICE ISSUE A COMMEMORATIVE POSTAGE STAMP HONORING THE NATIONAL VETERANS SERVICE ORGANIZATIONS OF THE UNITED STATES

Ms. SNOWE submitted the following concurrent resolution; which was referred to the Committee on Governmental Affairs:

S. CON. RES. 70

Whereas United States service personnel have fought, bled, and died in every war, conflict, police action, and military intervention in which the United States has engaged during this century and throughout the Nation's history;

Whereas throughout history, veterans service organizations have ably represented the interests of veterans in Congress and State legislatures across the Nation, and established networks of trained service officers who, at no charge, have helped millions of veterans and their families secure the education, disability compensation, and health care benefits they are rightfully entitled to receive as a result of the military service performed by those veterans; and

Whereas veterans service organizations have been deeply involved in countless local community service projects and have been constant reminders of the American ideals of duty, honor, and national service: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That the Congress requests that—

(1) the United States Postal Service issue a series of commemorative postage stamps honoring the legacy and the continuing contributions of veterans service organizations to the United States; and

(2) the Citizens' Stamp Advisory Committee recommend to the Postmaster General that such a series of commemorative postage stamps be issued.

● Ms. SNOWE. Mr. President, I rise today to submit a resolution expressing the sense of Congress that a series of commemorative postage stamps should be issued honoring veterans service organizations across the United States.

As we near Veterans Day—81 years after the Armistice was signed in France that silenced the guns and ended the carnage of World War I—this legislation calls upon the United States Postal Service to issue a series of commemorative postage stamps honoring the legacy and the continuing contributions of veterans to our country. World War I was supposed to be ''the war to end all wars'' * * * the war that made the world safe for democracy. Sadly, that was not to be, and America has been repeatedly reminded that the defense of democracy is an ongoing duty. That is why this is such an opportune moment to recognize those brave Americans who fought to defend the freedoms we cherish.

Mr. President, when many of us think about war veterans, we think about the tremendous sacrifices these defenders of freedom made. From the War for Independence, through the Persian Gulf War, Bosnia, and Kosovo—more than two hundred years later—Americans have answered their country's call to duty to safeguard our freedoms. Of those who have worn our nation's uniform, more than a million never returned. They made the ultimate sacrifice so that those who followed could enjoy the blessings of liberty. The debt of gratitude we owe to our veterans can never be fully repaid. What we can and must do for our veterans is to keep alive the values of freedom and democracy they have defended, and honor them as the guardians of those ideals.

Elmer Runyon once wrote that: ''We will remain the home of the free only as long as we are also the home of the brave''. Today, America and the world is basking in the shine of freedom because of yesterday's and today's service men and women—who offer nobly to sacrifice in war so that others may live in peace. These are America's true heroes.

After all, winning freedom is not the same as keeping it. The cost of safeguarding freedom is high. It requires vigilance and sacrifice. Time and again when freedom has been threatened, American men and women have emerged as heroes.

America's veterans have served our country and the world ably in times of need, and know well the personal sacrifices which the defense of freedom demands. It is a true honor to represent these brave Americans, as so many of them continue to make contributions day-in and day-out in our communities—through youth activities and scholarships programs, homeless assistance initiatives, efforts to reach out to fellow veterans in need, and national leadership on issues of importance to veterans and all Americans.

I have nothing but the utmost respect for those who have served their country. This legislation is a tribute to the men and women and their families who have served this country with courage, honor and distinction. They answered the call to duty when their country needed them, and this is but a small token of our appreciation.

I urge my colleagues to join me in this show of support and an expression of appreciation to all veterans.●

## SENATE RESOLUTION 221—TO AUTHORIZE TESTIMONY AND DOCUMENT PRODUCTION IN THE MATTER OF PAMELA A. CARTER VERSUS HEALTHSOURCE SAGINAW

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 221

Whereas, in the case of In the Matter of Pamela A. Carter v. HealthSource Saginaw, No. 1199–3828, pending in the Michigan Department of Consumer and Industry Services, testimony has been requested from Mary Washington, an employee in Senator Carl Levin's Saginaw, Michigan office;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

*Resolved*, That Mary Washington, and any other employee of the Senate from whom testimony or document production may be required, is authorized to testify and produce documents in the case of In the Matter of

Pamela A. Carter v. HealthSource Saginaw, except concerning matters for which a privilege should be asserted.

## SENATE RESOLUTION 222—TO REVISE THE PROCEDURES OF THE SELECT COMMITTEE ON ETHICS

Mr. SMITH of New Hampshire (for himself and Mr. REID) submitted the following resolution; which was considered and agreed to:

S. RES. 222

*Resolved,*

**SECTION 1. SHORT TITLE.**

This resolution may be cited as the ''Senate Ethics Procedure Reform Resolution of 1999''.

**SEC. 2. ESTABLISHMENT AND MEMBERSHIP OF THE SELECT COMMITTEE.**

The first section of Senate Resolution 338, agreed to July 24, 1964 (88th Congress, 2d Session)(referred to as the ''resolution'') is amended—

(1) in subsection (c), by amending paragraph (1) to read as follows:

''(1) A majority of the members of the Select Committee shall constitute a quorum for the transaction of business involving complaints or allegations of, or information about, misconduct, including resulting preliminary inquiries, adjudicatory reviews, recommendations or reports, and matters relating to Senate Resolution 400, agreed to May 19, 1976.'';

(2) in subsection (d), by amending paragraph (1) to read as follows:

''(1) A member of the Select Committee shall be ineligible to participate in—

''(A) any preliminary inquiry or adjudicatory review relating to—

''(i) the conduct of—

''(I) such member;

''(II) any officer or employee the member supervises; or

''(III) any employee of any officer the member supervises; or

''(ii) any complaint filed by the member; and

''(B) the determinations and recommendations of the Select Committee with respect to any preliminary inquiry or adjudicatory review described in subparagraph (A).

For purposes of this paragraph, a member of the Select Committee and an officer of the Senate shall be deemed to supervise any officer or employee consistent with the provision of paragraph 12 of rule XXXVII of the Standing Rules of the Senate.'';

(3) in subsection (d)(2), by amending the first sentence to read as follows: ''A member of the Select Committee may, at the discretion of the member, disqualify himself or herself from participating in any preliminary inquiry or adjudicatory review pending before the Select Committee and the determinations and recommendations of the Select Committee with respect to any such preliminary inquiry or adjudicatory review.''; and

(4) in subsection (d), by amending paragraph (3) to read as follows:

''(3) Whenever any member of the Select Committee is ineligible under paragraph (1) to participate in any preliminary inquiry or adjudicatory review or disqualifies himself or herself under paragraph (2) from participating in any preliminary inquiry or adjudicatory review, another Senator shall, subject to the provisions of subsection (d), be appointed to serve as a member of the Select Committee solely for purposes of such preliminary inquiry or adjudicatory review and the determinations and recommendations of the Select Committee with respect to such preliminary inquiry or adjudicatory review. Any Member of the Senate appointed for such purposes shall be of the same party as the Member who is ineligible or disqualifies himself or herself.''.

**SEC. 3. DUTIES OF THE SELECT COMMITTEE.**

Section 2 of the resolution is amended—

(1) in subsection (a), by striking paragraphs (2), (3), and (4) and inserting the following:

''(2)(A) recommend to the Senate by report or resolution by a majority vote of the full committee disciplinary action to be taken with respect to such violations which the Select Committee shall determine, after according to the individual concerned due notice and opportunity for a hearing, to have occurred;

''(B) pursuant to subparagraph (A) recommend discipline, including—

''(i) in the case of a Member, a recommendation to the Senate for expulsion, censure, payment of restitution, recommendation to a Member's party conference regarding the Member's seniority or positions of responsibility, or a combination of these; and

''(ii) in the case of an officer or employee, dismissal, suspension, payment of restitution, or a combination of these;

''(3) subject to the provisions of subsection (e), by a unanimous vote of 6 members, order that a Member, officer, or employee be reprimanded or pay restitution, or both, if the Select Committee determines, after according to the Member, officer, or employee due notice and opportunity for a hearing, that misconduct occurred warranting discipline less serious than discipline by the full Senate;

''(4) in the circumstances described in subsection (d)(3), issue a public or private letter of admonition to a Member, officer, or employee, which shall not be subject to appeal to the Senate;

''(5) recommend to the Senate, by report or resolution, such additional rules or regulations as the Select Committee shall determine to be necessary or desirable to insure proper standards of conduct by Members of the Senate, and by officers or employees of the Senate, in the performance of their duties and the discharge of their responsibilities;

''(6) by a majority vote of the full committee, report violations of any law, including the provision of false information to the Select Committee, to the proper Federal and State authorities; and

''(7) develop and implement programs and materials designed to educate Members, officers, and employees about the laws, rules, regulations, and standards of conduct applicable to such individuals in the performance of their duties.'';

(2) by amending subsection (b) to read as follows:

''(b) For the purposes of this resolution—

''(1) the term 'sworn complaint' means a written statement of facts, submitted under penalty of perjury, within the personal knowledge of the complainant alleging a violation of law, the Senate Code of Official Conduct, or any other rule or regulation of the Senate relating to the conduct of individuals in the performance of their duties as Members, officers, or employees of the Senate;

''(2) the term 'preliminary inquiry' means a proceeding undertaken by the Select Committee following the receipt of a complaint or allegation of, or information about, misconduct by a Member, officer, or employee of the Senate to determine whether there is substantial credible evidence which provides substantial cause for the Select Committee to conclude that a violation within the jurisdiction of the Select Committee has occurred; and

''(3) the term 'adjudicatory review' means a proceeding undertaken by the Select Committee after a finding, on the basis of a preliminary inquiry, that there is substantial credible evidence which provides substantial cause for the Select Committee to conclude that a violation within the jurisdiction of the Select Committee has occurred.'';

(3) in subsection (c), by amending paragraph (1) to read as follows:

''(1) No—

''(A) adjudicatory review of conduct of a Member or officer of the Senate may be conducted;

''(B) report, resolution, or recommendation relating to such an adjudicatory review of conduct may be made; and

''(C) letter of admonition pursuant to subsection (d)(3) may be issued,

unless approved by the affirmative recorded vote of no fewer than 4 members of the Select Committee.'';

(4) by amending subsection (d) to read as follows:

''(d)(1) When the Select Committee receives a sworn complaint or other allegation or information about a Member, officer, or employee of the Senate, it shall promptly conduct a preliminary inquiry into matters raised by that complaint, allegation, or information. The preliminary inquiry shall be of duration and scope necessary to determine whether there is substantial credible evidence which provides substantial cause for the Select Committee to conclude that a violation within the jurisdiction of the Select Committee has occurred. The Select Committee may delegate to the chairman and vice chairman the discretion to determine the appropriate duration, scope, and conduct of a preliminary inquiry.

''(2) If, as a result of a preliminary inquiry under paragraph (1), the Select Committee determines by a recorded vote that there is not such substantial credible evidence, the Select Committee shall dismiss the matter. The Select Committee may delegate to the chairman and vice chairman the authority, on behalf of the Select Committee, to dismiss any matter that they determine, after a preliminary inquiry, lacks substantial merit. The Select Committee shall inform the individual who provided to the Select Committee the complaint, allegation, or information, and the individual who is the subject of the complaint, allegation, or information, of the dismissal, together with an explanation of the basis for the dismissal.

''(3) If, as a result of a preliminary inquiry under paragraph (1), the Select Committee determines that a violation is inadvertent, technical, or otherwise of a de minimis nature, the Select Committee may dispose of the matter by issuing a public or private letter of admonition, which shall not be considered discipline. The Select Committee may issue a public letter of admonition upon a similar determination at the conclusion of an adjudicatory review.

''(4) If, as the result of a preliminary inquiry under paragraph (1), the Select Committee determines that there is such substantial credible evidence and the matter cannot be appropriately disposed of under paragraph (3), the Select Committee shall promptly initiate an adjudicatory review. Upon the conclusion of such adjudicatory review, the Select Committee shall report to the Senate, as soon as practicable, the results of such adjudicatory review, together with its recommendations (if any) pursuant to subsection (a)(2).'';

(5) by amending subsection (e) to read as follows:

''(e)(1) Any individual who is the subject of a reprimand or order of restitution, or both,

pursuant to subsection (a)(3) may, within 30 days of the Select Committee's report to the Senate of its action imposing a reprimand or order of restitution, or both, appeal to the Senate by providing written notice of the basis for the appeal to the Select Committee and the presiding officer of the Senate. The presiding officer of the Senate shall cause the notice of the appeal to be printed in the Congressional Record and the Senate Journal.

''(2) A motion to proceed to consideration of an appeal pursuant to paragraph (1) shall be highly privileged and not debatable. If the motion to proceed to consideration of the appeal is agreed to, the appeal shall be decided on the basis of the Select Committee's report to the Senate. Debate on the appeal shall be limited to 10 hours, which shall be divided equally between, and controlled by, those favoring and those opposing the appeal.'';

(6) by amending subsection (g) to read as follows:

''(g) Notwithstanding any other provision of this section, no adjudicatory review shall be initiated of any alleged violation of any law, the Senate Code of Official Conduct, rule, or regulation which was not in effect at the time the alleged violation occurred. No provisions of the Senate Code of Official Conduct shall apply to or require disclosure of any act, relationship, or transaction which occurred prior to the effective date of the applicable provision of the Code. The Select Committee may initiate an adjudicatory review of any alleged violation of a rule or law which was in effect prior to the enactment of the Senate Code of Official Conduct if the alleged violation occurred while such rule or law was in effect and the violation was not a matter resolved on the merits by the predecessor Select Committee.''; and

(7) by amending subsection (h) to read as follows:

''(h) The Select Committee shall adopt written rules setting forth procedures to be used in conducting preliminary inquiries and adjudicatory reviews.''.

**SEC. 4. AUTHORITY OF THE SELECT COMMITTEE.**

Section 3 of the resolution is amended—

(1) in subsection (b), by amending paragraph (2) to read as follows:

''(2) Any adjudicatory review as defined in section 2(b)(3) shall be conducted by outside counsel as authorized in paragraph (1), unless the Select Committee determines not to use outside counsel.''; and

(2) by amending subsection (d) to read as follows:

''(d)(1) Subpoenas may be authorized by—

''(A) the Select Committee; or

''(B) the chairman and vice chairman, acting jointly.

''(2) Any such subpoena shall be issued and signed by the chairman and the vice chairman and may be served by any person designated by the chairman and vice chairman.

''(3) The chairman or any member of the Select Committee may administer oaths to witnesses.''.

**SEC. 5. EFFECTIVE DATE OF AMENDMENTS.**

The amendments made by this resolution shall take effect on the date this resolution is agreed to, except that the amendments shall not apply with respect to further proceedings in any preliminary inquiry, initial review, or investigation commenced before that date under Senate Resolution 338, agreed to July 24, 1964 (88th Congress, 2d Session).

## AMENDMENTS SUBMITTED

## THE BANKRUPTCY REFORM ACT OF 1999

### GRASSLEY (AND FEINSTEIN) AMENDMENT NO. 2514

(Ordered to lie on the table.)

Mr. GRASSLEY (for himself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by them to the bill (S. 625) to amend title 11, United States Code, and for other purposes; as follows:

Insert at the appropriate place:

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.

### GRASSLEY (AND TORRICELLI) AMENDMENT NO. 2515

(Ordered to lie on the table.)

Mr. GRASSLEY (for himself and Mr. TORRICELLI) submitted an amendment intended to be proposed by them to the bill, S. 625, supra; as follows:

On page 6, line 12, insert ''11 or'' after ''chapter''.

On page 6, line 24, insert ''11 or'' after ''chapter''.

On page 12, lines 21 and 22, strike ''was not substantially justified'' and insert ''was frivolous''.

On page 14, strike lines 8 through 14 and insert the following:

''(C)(i) No judge, United States trustee, panel trustee, bankruptcy administrator, or other party in interest shall bring a motion under section 707(b)(2) if the debtor and the debtor's spouse combined, as of the date of the order for relief, have current monthly total income equal to or less than the national or applicable State median household monthly income calculated (subject to clause (ii)) on a semiannual basis of a household of equal size.

''(ii) For a household of more than 4 individuals, the median income shall be that of a household of 4 individuals, plus $583 for each additional member of that household.''.

On page 14, in the matter between lines 18 and 19, insert ''11 or'' after ''chapter''.

On page 14, after the matter between lines 18 and 19, insert the following:

**SEC. 103. FINDINGS AND STUDY.**

(a) FINDINGS.—Congress finds that the Secretary of the Treasury has the inherent 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 3 years after the date of enactment of this Act, the Secretary of the Treasury, in consultation with the Director of the Executive Office of 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 Secretary concerning 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 those 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 Secretary of the Treasury under paragraph (1).

On page 14, line 19, strike ''103'' and insert ''104''.

On page 15, line 12, strike ''104'' and insert ''105''.

On page 15, lines 9 and 10, strike ''credit counseling service'' and insert ''nonprofit budget and credit counseling agency''.

On page 17, line 19, strike ''105'' and insert ''106''.

On page 18, lines 3 and 4, strike ''credit counseling service'' and insert ''budget and credit counseling agency''.

On page 18, line 5, insert ''(including a briefing conducted by telephone)'' after ''briefing''.

On page 18, line 12, strike ''credit counseling services'' and insert ''budget and credit counseling agency''.

On page 18, line 12, strike ''are'' and insert ''is''.

On page 18, line 15, strike ''those programs'' and insert ''that agency''.

On page 18, line 21, insert after the period the following: ''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.''.

On page 19, lines 4 and 5, strike ''credit counseling service'' and insert ''budget and credit counseling agency''.

On page 21, lines 6 and 7, strike ''credit counseling service'' and insert ''approved nonprofit budget and credit counseling agency''.

On page 21, lines 10 and 11, strike ''credit counseling service'' and insert ''approved nonprofit budget and credit counseling agency''.

On page 21, line 16, strike ''**Credit counseling services**'' and insert ''**Nonprofit budget and credit counseling agencies**''.

On page 21, line 19, strike ''credit counseling services'' and insert ''nonprofit budget and credit counseling agencies''.

On page 21, line 25, strike the quotation marks and the final period.

On page 21, after line 25, insert the following:

''(b) For inclusion on the approved list under subsection (a), the United States trustee or bankruptcy administrator shall require the credit counseling service, at a minimum—

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

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

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

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

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

''(4) to provide full disclosures to clients, including funding sources, counselor qualifications, and possible impact on credit reports;

''(5) to 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; and

''(6) to provide trained counselors who receive no commissions or bonuses based on the counseling session outcome.

''(c)(1) In this subsection, the term 'credit counseling service'—

''(A) means—

''(i) a nonprofit credit counseling service approved under subsection (a); and

''(ii) any other consumer education program carried out by—

''(I) a trustee appointed under chapter 13; or

''(II) any other public or private entity or individual; and

''(B) does not include any counseling service provided by the attorney of the debtor or an agent of the debtor.

''(2)(A) 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.

''(B) 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—

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

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

On page 22, strike the matter between lines 3 and 4, and insert the following:

''111. Nonprofit budget and credit counseling agencies; financial management instructional courses.''.

On page 30, line 11, insert '', including interest that accrues on that debt as provided under applicable nonbankruptcy law notwithstanding any other provision of this title,'' after ''under this title''.

On page 30, lines 14 and 15, strike ''or legal guardian; or'' and insert '', legal guardian, or responsible relative; or''.

On page 30, line 21, strike ''or legal guardian''.

On page 31, line 10, strike ''or legal guardian'' and insert '', legal guardian, or responsible relative''.

On page 32, line 9, strike all through line 3 on page 33 and insert 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.''.

On page 33, line 4, strike all through page 37, line 6 and insert the following:

**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 (10) as paragraph (11); and

(B) by 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;'';

(5) in section 1225(a)—

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

(B) in paragraph (6), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(7) if the debtor is required by a judicial or administrative order or statute to pay a domestic support obligation, the debtor has paid all amounts payable under such order for such obligation that first become payable after the date on which the petition is filed.'';

(6) in section 1228(a), in the matter preceding paragraph (1), by inserting '', and in the case of a debtor who is required by a judicial or administrative order to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or statute that are due on or before the date of the certification (including amounts due before the petition was filed, but only to the extent provided for in the plan) have been paid'' after ''completion by the debtor of all payments under the plan'';

(7) in section 1307(c)—

(A) in paragraph (9), by striking ''or'' at the end;

(B) in paragraph (10), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(11) failure of the debtor to pay any domestic support obligation that first becomes payable after the date on which the petition is filed.'';

(8) in section 1322(a)—

(A) in paragraph (2), by striking ''and'' at the end;

(B) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(C) by adding in the end the following:

''(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor's projected disposable income for a 5-year period beginning on the date that the first payment is due under the plan will be applied to make payments under the plan.'';

(9) in section 1322(b)—

(A) in paragraph (9), by striking ''; and'' and inserting a semicolon;

(B) by redesignating paragraph (10) as paragraph (11); and

(C) inserting after paragraph (9) the following:

''(10) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are nondischargeable under section 1328(a), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims; and'';

(10) in section 1325(a)—

(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 amounts 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''.

On page 37, strike lines 10 and 11 and insert ''amended by striking paragraph (2) and inserting the''.

On page 37, lines 14 and 15, strike ''of an action or proceeding for—'' and insert ''or continuation of a civil action or proceeding—''.

On page 37, line 16, insert ''for'' after ''(i)''.

On page 37, line 19, insert ''for'' after ''(ii)''.

On page 37, line 21, strike ''or''.

On page 37, between lines 21 and 22, insert the following:

''(iii) concerning child custody or visitation;

''(iv) for the dissolution of a marriage except to the extent that such a proceeding seeks to determine the division of property which is property of the estate; or

''(v) regarding domestic violence;

On page 37, line 24, strike the quotation marks and second semicolon.

On page 37, after line 24, add the following:

''(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 pursuant to 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.).'';

On page 38, line 12, strike all through page 39, line 25.

On page 40, between lines 13 and 14, insert the following:

(i) by inserting ''to a spouse, former spouse, or child of the debtor and'' before ''not of the kind'';

On page 40, line 14, strike ''(i)'' and insert ''(ii)''.

On page 40, line 16, strike ''(ii)'' and insert ''(iii)''.

On page 40, insert between lines 18 and 19 the following:

(C) by striking paragraph (18); and

On page 41, line 4, strike ''(5)'' and insert ''(4)''.

On page 41, line 7, strike ''(5)'' and insert ''(4)''.

On page 41, line 12, strike ''(5)'' and insert ''(4)''.

On page 43, strike lines 16 through 20 and insert the following: 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''.

On page 43, strike line 22 through page 44, line 2, and insert the following:
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''.

On page 44, line 14, strike ''for support'' through line 16, and insert ''for a domestic support obligation,''.

On page 45, line 23, strike ''and''.

On page 45, between lines 23 and 24, insert the following:

''(III) the last recent known name and address of the debtor's employer; and

On page 45, line 24, strike ''(III)'' and insert ''(IV)''.

On page 46, strike lines 6 through 11 and insert the following:

''(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.

On page 46, line 19, strike ''(b)'' and insert ''(a)''.

On page 46, line 20, strike ''(5)'' and insert ''(6)''.

On page 46, line 22, strike ''(6)'' and insert ''(7)''.

On page 47, strike lines 1 through 6 and insert 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

On page 47, line 8, strike ''(b)(7)'' and insert ''(a)(7)''.

On page 48, line 7, strike ''and''.

On page 48, insert between lines 7 and 8 the following:

''(III) the last recent known name and address of the debtor's employer; and''

On page 48, line 8, strike ''(III)'' and insert ''(IV)''.

On page 48, line 11, strike ''(4), or (14A)'' and insert ''(3), or (14)''.

On page 48, strike lines 15 through 20 and insert the following:

''(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.

On page 49, strike lines 9 through 14 and insert 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

On page 50, line 16, strike ''and''.

On page 50, insert between lines 16 and 17 the following:

''(III) the last recent known name and address of the debtor's employer; and''.

On page 50, line 17, strike ''(III)'' and insert ''(IV)''.

On page 50, line 20, strike ''(4), or (14A)'' and insert ''(3), or (14)''.

On page 50, strike line 24 and all that follows through page 51, line 4 and insert the following:

''(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.

On page 51, strike lines 19 through 24 and insert 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

On page 52, line 24, strike ''and''.

On page 52, after line 24, add the following:

''(III) the last recent known name and address of the debtor's employer; and''.

On page 53, line 1, strike ''(III)'' and insert ''(IV)''.

On page 53, line 4, strike ''(4), or (14A)'' and insert ''(3), or (14)''.

On page 53, strike lines 8 through 12 and insert the following:

''(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.

On page 76, line 15, strike ''523(a)(9)'' and insert ''523(a)(8)''.

On page 82, strike lines 4 through 9 and insert ''title 11, United States Code, is amended by adding at the end the following:''.

On page 82, line 10, strike ''(19)'' and insert ''(18)''.

On page 83, between lines 4 and 5, insert the following:

**SEC. 225. PROTECTION OF EDUCATION SAVINGS.**

(a) EXCLUSIONS.—Section 541 of title 11, United States Code, as amended by section 903, is amended—

(1) in subsection (b)—

(A) by redesignating paragraph (6) as paragraph (8); and

(B) by inserting after paragraph (5) the following:

''(6) 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;

''(7) 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; or''; and

(2) by adding at the end the following:

''(g) In determining whether any of the relationships specified in paragraph (6)(A) or (7)(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 sections 105(d), 304(c)(1), 305(2), 315(b), and 316 of this Act, is amended by adding at the end the following:

''(k) 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).''.

On page 91, between lines 18 and 19, insert the following:

(c) MODIFICATION OF A RESTRICTION RELATING TO WAIVERS.—Section 522(e) of title 11, United States Code, is amended—

(1) in the first sentence, by striking ''subsection (b) of this section'' and inserting ''subsection (b), other than under paragraph (3)(C) of that subsection''; and

(2) in the second sentence—

(A) by inserting ''(other than property described in subsection (b)(3)(C))'' after ''property'' each place it appears; and

(B) by inserting ''(other than a transfer of property described in subsection (b)(3)(C))'' after ''transfer'' each place it appears.

On page 91, line 23, strike ''105(d)'' and insert ''106(d)''.

On page 92, line 17, strike ''(C)'' and insert ''(D)''.

On page 92, line 18, strike ''(b)'' and insert ''(c)''.

On page 94, line 25, strike ''105(d)'' and insert ''106(d)''.

On page 95, line 16, strike ''(c)'' and insert ''(d)''.

On page 109, line 13, strike ''by adding at the end'' and insert ''by inserting after subsection (e)''.

On page 111, line 18, insert ''(a) IN GENERAL.—'' before ''Section''.

On page 112, line 14, insert a dash after the period.

On page 112, line 19, strike ''(4)'' and insert ''(3)''.

On page 112, line 20, strike ''(3)(B), (5), (8), or (9) of section 523(a)'' and insert ''(4), (7), or (8) of section 523(a)''.

On page 116, line 16, strike ''(d)(1)'' and insert ''(e)(1)''.

On page 117, line 5, strike ''(e)'' and insert ''(f)''.

On page 118, line 1, strike ''(A) beginning'' and insert the following:

''(A) beginning''.

On page 118, line 5, strike ''(B) thereafter,'' and insert the following:

''(B) thereafter,''.

On page 118, line 8, strike ''(f)(1)'' and insert ''(g)(1)''.

On page 118, strike line 23 and insert the following: ''subsection (h)''.

On page 118, line 24, strike ''(g)(1)'' and insert ''(h)(1)''.

On page 119, line 21, strike ''(h)'' and insert ''(*i*)''.

On page 120, line 11, strike ''(*i*)'' and insert ''(j)''.

On page 124, strike lines 7 through 14 and insert the following:

**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**

''In a case concerning an individual, property of the estate includes, in addition to the property specified in section 541—

''(1) all property of the kind specified in section 541 that the debtor acquires after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 12, or 13, whichever occurs first; and

''(2) earnings from services performed by the debtor after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 12, or 13, whichever occurs first.''.

(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:

''(14) 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 3-year period beginning on the date that the first payment is due under the plan, or during the term of the plan, whichever is longer.''.

(2) REQUIREMENT RELATING TO INTERESTS IN PROPERTY.—Section 1129(b)(2)(B)(ii) of title 11, United States Code, is amended by inserting before the period at the end the following: '', except that in a case concerning an individual, the debtor may retain property included in the estate under section 1115, subject to the requirements of subsection (a)(14)''.

(d) EFFECT OF CONFIRMATION—Section 1141(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking ''The confirmation of a plan does not discharge an individual debtor'' and inserting ''A discharge under this chapter does not discharge a debtor''; and

(2) by adding at the end the following:

''(5) In a case concerning an individual—

''(A) except as otherwise ordered for cause shown, the discharge is not effective until completion of all payment 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.''.

Beginning on page 135, strike line 19 and all that follows through page 136, line 2, and insert the following:

**SEC. 406. CREDITORS AND EQUITY SECURITY HOLDERS COMMITTEES.**

(a) APPOINTMENT.—Section 1102(a)(2) of title 11, United States Code, is amended by inserting before the first sentence the following: ''On its own motion or on request of a party in interest, and after notice and hearing, the court may order a change in 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 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).''.

On page 145, between lines 15 and 16, insert the following:

**SEC. 420. 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 the 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.

On page 147, line 15, strike ''title)'' and insert ''title and excluding a person whose primary activity is the business of owning and operating real property and activities incidental thereto)''.

On page 150, line 14, insert ''and other required government filings'' after ''returns''.

On page 150, line 19, insert ''and other required government filings'' after ''returns''.

On page 152, strike lines 19 through 21 and insert the following:

(a) DUTIES IN CHAPTER 11 CASES.—Subchapter I of title 11, United States Code, as amended by section 321 of this Act, is amended by adding at the end the following:

On page 153, line 1, strike ''1115'' and insert ''1116''.

On page 153, line 7, strike ''3'' and insert ''7''.

On page 154, line 9, strike the semicolon and insert ''and other required government filings; and''.

On page 154, strike lines 14 through 25.

On page 155, strike line 7 and all that follows through the matter between lines 9 and 10 and insert the following:

(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.

On page 156, line 19, strike ''150'' and insert ''175''.

On page 156, line 20, strike ''150-day'' and insert ''175-day''.

On page 162, strike lines 14 through 20 and insert the following:

''(A) a plan with a reasonable possibility of being confirmed will be filed within a reasonable period of time; and

On page 162, line 21, strike ''reason is'' and insert ''grounds include''.

On page 162, line 22, strike ''that''.

On page 162, line 23, insert ''for which'' before ''there exists''.

On page 163, line 1, strike ''(ii)(I)'' and insert ''(ii)''.

On page 163, line 1, strike ''that act or omission'' and insert ''which''.

On page 163, line 3, strike '', but not'' and all that follows through line 8 and insert a period.

On page 163, line 22, insert after ''failure to maintain appropriate insurance'' the following: ''that poses a risk to the estate or to the public''.

On page 164, line 3, insert ''repeated'' before ''failure''.

On page 165, line 2, strike ''and''.

On page 165, line 3, insert ''confirmed'' before ''plan''.

On page 165, line 4, strike the period and insert ''; and''.

On page 165, between lines 4 and 5, insert the following:

''(P) failure of the debtor to pay any domestic support obligation that first becomes payable after the date on which the petition is filed.

On page 165, line 23, insert ''or an examiner'' after ''trustee''.

On page 167, after line 21, insert the following:

**SEC. 435. TECHNICAL CORRECTION.**

Section 365(b)(2)(D) of title 11, United States Code, is amended by striking ''penalty rate or provision'' and inserting ''penalty rate or penalty provision''.

On page 183, line 20, strike all through line 13 on page 187.

On page 187, line 14, strike ''703'' and insert ''702''.

On page 187, line 20, strike ''704'' and insert ''703''.

On page 189, line 9, strike ''705'' and insert ''704''.

On page 190, line 13, strike ''706'' and insert ''705''.

On page 190, line 17, strike ''707'' and insert ''706''.

On page 190, line 22, strike ''708'' and insert ''707''.

On page 191, line 8, strike ''709'' and insert ''708''.

On page 192, line 3, strike ''710'' and insert ''709''.

On page 193, line 13, strike ''711'' and insert ''710''.

On page 193, line 21, strike ''712'' and insert ''711''.

On page 196, line 1, strike ''713'' and insert ''712''.

On page 196, line 11, strike ''714'' and insert ''713''.

On page 197, line 12, strike ''715'' and insert ''714''.

On page 197, line 15, strike ''703'' and insert ''702''.

On page 197, line 18, strike ''716'' and insert ''715''.

On page 201, line 3, insert a semicolon after ''following''.

On page 202, line 4, strike ''717'' and insert ''716''.

On page 202, line 18, strike ''718'' and insert ''717''.

On page 248, line 15, strike ''718'' and insert ''717''.

On page 266, line 13, insert ''**AND FAMILY FISHERMEN**'' after ''**FARMERS**''.

On page 268, insert between lines 16 and 17 the following:

**SEC. 1005. 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; and

''(B) for purposes of section 109 and chapter 12, aquaculture activities consisting of raising for market any species or product described in subparagraph (A);'';

''(7B) 'commercial fishing vessel' means a vessel used by a 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 aquiculture 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, United States Code, without regard to whether that lien is recorded under section 31343 of title 46, United States Code; 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, United States Code.

''(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.''.

On page 277, line 22, insert ''(a) IN GENERAL.—'' before ''Section''.

On page 279, between lines 12 and 13, insert the following:

(b) DEBT.—Section 803(5) of the Fair Debt Collection Practices Act (15 U.S.C. 1692a(5)) is amended to read as follows:

''(5) The term 'debt' means any obligation or alleged obligation of a consumer to pay money arising out of a transaction involving an offer of credit, as defined in section 103(e) of the Truth in Lending Act (15 U.S.C. 1602(e)), in which the money, property, insurance, or services which are the subject of the transaction are primarily for personal, family, or household, purposes, whether or not such obligation has been reduced to judgment.''.

On page 281, line 21, strike ''714'' and insert ''713''.

Beginning on page 292, strike line 10 and all that follows through page 294, line 11.

On page 294, insert between lines 11 and 12 the following:

**SEC. 322. 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) 46.88 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) 73.33 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 25 percent of the fees collected under section 1930(a)(1)(A) of that title, 26.67 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''.

(d) 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 except as provided in subsection (c) of section 507, 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 the business of the seller, to reclaim such goods if the debtor has received such goods within 45 days prior to the commencement of a case under this title, but such seller may not reclaim any such goods unless the seller demands in writing the reclamation of such goods—

''(A) before 45 days after the date of receipt of such goods by the debtor; or

''(B) if such 45-day period expires after the commencement of the case, before 20 days after the date of commencement of the case.

''(2) Notwithstanding the failure of the seller to provide notice in a manner consistent with this subsection, the seller shall be entitled to assert the rights established in section 503(b)(7) of this title.''.

(e) 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 ''; and''; and

(3) by adding at the end the following:

''(7) the invoice price of any goods received by the debtor within 20 days of the date of filing of a case under this title where the goods have been sold to the debtor in the ordinary course of such seller's business.''.

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## KOHL (AND OTHERS) AMENDMENT NO. 2516

Mr. KOHL (for himself, Mr. SESSIONS, and Mr. GRASSLEY) proposed an amendment to the bill, S. 625, supra; as follows:

At the appropriate place in title III, insert the following:

**SEC. 3___. LIMITATION.**

Section 522 of title 11, United States Code, as amended by sections 224 and 307 of this Act, is amended—

(1) in subsection (b)(3)(A), by inserting ''subject to subsection (n),'' before ''any property''; and

(2) by adding at the end the following:

''(n)(1) Except as provided in paragraph (2), 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 $100,000 in value in—

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

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

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

''(2) 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.''.

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## SARBANES AMENDMENT NO. 2517

(Ordered to lie on the table.)

Mr. SARBANES submitted an amendment to the bill, S. 625, supra; as follows:

At the appropriate place, insert the following:

**TITLE ____—CONSUMER CREDIT DISCLOSURES**

**SEC. ____01. SHORT TITLE.**

This title may be cited as the ''Consumer Credit Act of 1999''.

**SEC. ____02. ENHANCED DISCLOSURES UNDER AN OPEN END CONSUMER CREDIT PLAN.**

(a) REPAYMENT TERMS.—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) Repayment information that would apply to the outstanding balance of the consumer under the credit plan, including—

''(i) the required minimum monthly payment on that balance, represented as both a dollar figure and as a percentage of that balance;

''(ii) the number of months (rounded to the nearest month) that it would take to pay the entire amount of that balance, if the consumer pays only the required minimum monthly payments and if no further advances are made;

''(iii) the total cost to the consumer, including interest and principal payments, of paying that balance in full, if the consumer pays only the required minimum monthly payments and if no further advances are made; and

''(iv) the monthly payment amount that would be required for the consumer to eliminate the outstanding balance in 36 months if no further advances are made.

''(B)(i) Subject to clause (ii), in making the disclosures under subparagraph (A) the creditor shall apply the interest rate in effect on the date on which the disclosure is made until the date on which the balance would be paid in full.

''(ii) If the interest rate in effect on the date on which the disclosure is made is a temporary rate that will change under a contractual provision applying an index or formula for subsequent interest rate adjustment, the creditor shall apply the interest rate in effect on the date on which the disclosure is made for as long as that interest rate will apply under that contractual provision, and then apply an interest rate based on the index or formula in effect on the applicable billing date.''.

(b) PUBLICATION OF MODEL FORMS.—Not later than 180 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall publish model disclosure forms in accordance with section 105 of the Truth in Lending Act for the purpose of compliance with section 127(b)(11) of the Truth in Lending Act, as added by this section.

**SEC. ____03. CREDIT CARD SECURITY INTERESTS UNDER AN OPEN END CONSUMER CREDIT PLAN.**

(a) IN GENERAL.—Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

''(h) SECURITY INTERESTS CREATED UNDER AN OPEN END CONSUMER CREDIT PLAN.—During the period of an open end consumer credit plan, if the creditor of that plan obtains a security interest in personal property purchased using that credit plan, the creditor shall provide to the consumer, at the time of purchase, a written statement setting forth in a clear, conspicuous, and easy to read format the following information:

''(1) The property in which the creditor will receive a security interest.

''(2) The nature of the security interest taken.

''(3) The method or methods of enforcement of that security interest available to the creditor in the event of nonpayment of the plan balance.

''(4) The method in which payments made on the credit plan balance will be credited against the security interest taken on the property.

''(5) The following statement: 'This property is subject to a security agreement. You must not dispose of the property purchased in any way, including by gift, until the balance on this account is fully paid.' ''.

(b) PUBLICATION OF MODEL FORMS.—Not later than 180 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall publish model disclosure forms in accordance with section 105 of the Truth in Lending Act for the purpose of compliance with section 127(h) of the Truth in Lending Act, as added by this section.

**SEC. ____04. STATISTICS TO BE REPORTED TO BOARD OF GOVERNORS OF FEDERAL RESERVE SYSTEM AND TO CONGRESS.**

Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

''(i) REPORTS TO THE BOARD AND TO CONGRESS.—

''(1) REPORTS TO THE BOARD.—Any creditor making advances under an open end credit plan shall, using model forms developed and published by the Board, annually submit to the Board a report, which shall include—

''(A) the total number of open end credit plan solicitations made to consumers;

''(B) the total amount of credit (in dollars) offered to consumers;

''(C) a statement of the average interest rates offered to all borrowers in each of the previous 2 years;

''(D) the total amount of credit granted and the average interest rate granted to persons under the age of 25; and

''(E) the total amount of debt written off voluntarily and due to a bankruptcy discharge in each of the 2 years preceding the date on which the report is submitted.

''(2) REPORTS TO CONGRESS.—The Board shall annually compile the information collected under paragraph (1) and submit to the Committees on the Judiciary of the House of Representatives and the Senate, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Banking and Financial Services of the House of Representatives, a report, which shall include—

''(A) aggregate data described subparagraphs (A) through (E) of paragraph (1) for all creditors; and

''(B) individual data described in paragraph (1)(A) for each of the top 50 creditors.''.

**SEC. ___05. CIVIL LIABILITY.**

Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended, in the undesignated paragraph following paragraph (4), by striking the second sentence and inserting the following: ''In connection with the disclosures referred to in subsections (a), (b), and (h) of section 127, a creditor shall have a liability determined under paragraph (2) only for failing to comply with the requirements of section 125, 127(a), paragraph (4), (5), (6), (7), (8), (9), (10), or (11) of section 127(b), or section 127(h), or for failing to comply with disclosure requirements under State law for any term or item that the Board has determined to be substantially the same in meaning under section 111(a)(2) as any of the terms or items referred to in section 127(a), paragraph (4), (5), (6), (7), (8), (9), (10), or (11) of section 127(b), or section 127(h).''.

**SEC. ___06. TREATMENT UNDER BANKRUPTCY LAW.**

(a) EXCEPTIONS TO DISCHARGE.—Section 523(a) of title 11, United States Code, is amended by adding at the end the following: ''The exception under subparagraphs (A) and (C) of paragraph (2) shall not apply to any claim made by a creditor who has failed to make the disclosures required under section 127(h) of the Truth in Lending Act in connection with such claim, unless a creditor required to make such disclosures files with the court, within 90 days of the date of order for relief, a proof of claim accompanied by a copy of such disclosures that is signed and dated by the debtor.''.

(b) REAFFIRMATION.—Section 524(c) 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 ''; and''; and

(3) by adding at the end the following:

''(7) in a case concerning a creditor obligated to make the disclosures required under section 127(h) of the Truth in Lending Act, the agreement contains a copy of such disclosures that is signed and dated by the debtor.''.

## SESSIONS (AND OTHERS) AMENDMENT NO. 2518

Mr. SESSIONS (for himself, Mr. KOHL, and Mr. GRASSLEY) proposed an amendment No. 2516 proposed by Mr. GRASSLEY to the bill, S. 625, supra; as follows:

In the amendment strike all after the first word and insert the following:

**3___. LIMITATION.**

(a) EXEMPTIONS.—Section 522 of title 11, United States Code, as amended by sections 224 and 307 of this Act, is amended—

(1) in subsection (b)(3)(A), by inserting ''subject to subsection (n),'' before ''any property''; and

(2) by adding at the end the following:

''(n)(1) Except as provided in paragraph (2), 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 $100,000 in value in—

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

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

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

''(2) The limitation under paragraph (1) shall not apply to an exemption claimed under subsection (b)(3)(A) by a family farmer for the principal residence of that farmer.''.

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

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

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

## COLLINS (AND OTHERS) AMENDMENT NO. 2519

(Ordered to lie on the table.)

Ms. COLLINS (for herself, Mr. KERRY, Mrs. MURRAY, Mr. STEVENS, and Mr. KENNEDY) submitted an amendment intended to be proposed by them to the bill, S. 625, supra; as follows:

At the appropriate place insert the following:

**SEC. ___. 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.).

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## McCONNELL AMENDMENT NO. 2520

(Ordered to lie on the table.)

Mr. McCONNELL submitted an amendment intended to be proposed by him to the bill, S. 625, supra; as follows:

At the appropriate place in title III, insert the following:

**SEC. 3___. COMPENSATION OF TRUSTEES IN CERTAIN CASES UNDER CHAPTER 7 OF TITLE 11, UNITED STATES CODE.**

Section 326 of title 11, United States Code, is amended by adding at the end the following:

''(e) In a case that has been converted under section 706, or after a case has been converted or dismissed under section 707 or the debtor has been denied a discharge under section 727—

''(1) the court may allow reasonable compensation under section 330 for the trustee's services rendered, payable after the trustee renders services; and

''(2) any allowance made by a court under paragraph (1) shall not be subject to the limitations under subsection (a).''.

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## DURBIN AMENDMENT NO. 2521

Mr. FEINGOLD (for Mr. DURBIN) proposed an amendment to the bill, S. 625, supra; as follows:

On page 29, after line 22, add the following:

**SEC. 205. DISCOURAGING PREDATORY LENDING PRACTICES.**

Section 502(b) of title 11, United States Code is amended—

(1) in paragraph (8), by striking ''or'' at the end:

(2) in paragraph (9), by striking the period at the end and inserting '';or'' and

(3) by adding at the end the following:

''(10) the claim is based on a secured debt, if the creditor has materially failed to comply with any applicable requirement under section (c), (d), (e), (f), (g), (h), or (i) of section 129 of the Truth in Lending Act (15 U.S.C. 1639).''

On page 201, line 3 strike ''period at the end'' and insert ''semicolon''.

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## FEINGOLD AMENDMENT NO. 2522

Mr. FEINGOLD proposed an amendment to the bill, S. 625, supra; as follows:

On page 7, line 15, strike ''(ii)'' and inset ''(ii)(I)''.

On page 7, between lines 21 and 22, insert the following:

''(II) In addition, the debtor's monthly expenses may include, if applicable, the continuation of actual expenses paid by the debtor for care and support of a household member or member of the debtor's immediate family (including parents, grandparents, and siblings of the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case) who is not a dependent.

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## JOHNSON AMENDMENT NO. 2523

(Ordered to lie on the table.)

Mr. JOHNSON submitted an amendment intended to be proposed by him to the bill, S. 625, supra; as follows:

At the appropriate place, insert the following new section:

**SEC. . TREATMENT OF FEDERAL COMMUNICATIONS COMMISSION LICENSES OR PERMITS IN BANKRUPTCY PROCEEDINGS.**

Section 309(j)(8) of the Communications Act of 1934 is amended by adding new paragraph (D) as follows:

''(D) PROTECTION OF INTERESTS.—

''(i) Title 11, United States Code, or any otherwise applicable Federal or state law regarding insolvencies or receiverships, or any succeeding Federal law not expressly in derogation of this subsection, shall not apply to or be construed to apply to the Commission or limit the rights, powers, or duties of the Commission with respect to (a) a license or permit issued by the Commission under this subsection or a payment made to or a debt or other obligation owed to the Commission relating to or rising from such a license or permit, (b) an interest of the Commission in property securing such a debt or other obligation, or (c) an act by the Commission to issue, deny, cancel, or transfer control of such a license or permit.

''(ii) Notwithstanding otherwise applicable law, the Commission shall be deemed to have a perfected, first priority security interest in a license or construction permit issued by the Commission under this subsection and the proceeds of such a license or permit for which a debt or other obligation is owed to the Commission under this subsection.

''(iii) This paragraph shall apply retroactively, including to pending cases and proceedings whether on appeal or otherwise.''.

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## GRAMM AMENDMENT NOS. 2524–2526

Mr. GRAMM submitted three amendments intended to be proposed by him to the bill, S. 625, supra; as follows:

AMENDMENT NO. 2524

Strike the matter proposed and insert the following:

**SEC. ___. MAXIMUM HOMESTEAD EXEMPTION.**

Section 522 of title 11, United States Code, as amended by section 308 of this Act, is amended—

(1) in subsection (b)(3)(A), by striking ''subsection (n)'' and inserting ''subsections (n) and (o)''; and

(2) by adding at the end the following:

''(o) Notwithstanding any other provision of law, for purposes of subsection (b)(3)(A), the maximum exemption under applicable State law from the property of the estate of a debtor of the value of an interest of the debtor in any real or personal property or cooperative described in paragraph (1) or (2) of subsection (n) shall not exceed $100,000, if the debtor acquired the interest—

''(1) during the 2-year period preceding the date of the filing of the petition; and

''(2) no such exemption shall be available during the 5-year period preceding the date of the filing of the petition with the intent to hinder, delay, or defraud a creditor.''.

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AMENDMENT NO. 2525

At the appropriate place, insert the following:

**SEC. ___. MAXIMUM HOMESTEAD EXEMPTION.**

Section 522 of title 11, United States Code, as amended by section 308 of this Act, is amended—

(1) in subsection (b)(3)(A), by striking ''subsection (n)'' and inserting ''subsections (n) and (o)''; and

(2) by adding at the end the following:

''(o) Notwithstanding any other provision of law, for purposes of subsection (b)(3)(A), the maximum exemption under applicable State law from the property of the estate of a debtor of the value of an interest of the debtor in any real or personal property or cooperative described in paragraph (1) or (2) of subsection (n) shall not exceed $100,000, if the debtor acquired the interest—

''(1) during the 2-year period preceding the date of the filing of the petition; or

''(2) during the 5-year period preceding the date of the filing of the petition with the intent to hinder, delay, or defraud a creditor.''.

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AMENDMENT NO. 2526

At the appropriate place, insert the following:

**SEC. ___. MAXIMUM HOMESTEAD EXEMPTION.**

Section 522 of title 11, United States Code, as amended by section 308 of this Act, is amended—

(1) in subsection (b)(3)(A), by striking ''subsection (n)'' and inserting ''subsections (n) and (o)''; and

(2) by adding at the end the following:

''(o) Notwithstanding any other provision of law, for purposes of subsection (b)(3)(A), the maximum exemption under applicable State law from the property of the estate of a debtor of the value of an interest of the debtor in any real or personal property or cooperative described in paragraph (1) or (2) of subsection (n) shall not exceed $100,000, if the debtor acquired the interest—

''(1) during the 2-year period preceding the date of the filing of the petition; and

''(2) no such exemption shall be available during the 5-year period preceding the date of the filing of the petition with the intent to hinder, delay, or defraud a creditor.''.

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## HATCH (AND OTHERS) AMENDMENT NO. 2527

(Ordered to lie on the table.)

Mr. HATCH (for himself, Mr. ASHCROFT, and Mr. ABRAHAM) submitted an amendment intended to be

proposed by them to the bill, S. 625, supra; as follows:

At the appropriate place, insert the following new title:

**TITLE ____—METHAMPHETAMINE AND OTHER CONTROLLED SUBSTANCES**

**SEC. ___01. SHORT TITLE.**

This title may be cited as the ''Methamphetamine Anti-Proliferation Act of 1999''.

**Subtitle A—Methamphetamine Production, Trafficking, and Abuse**

**CHAPTER 1—CRIMINAL PENALTIES**

**SEC. ___11. ENHANCED PUNISHMENT OF AMPHETAMINE LABORATORY OPERATORS.**

(a) AMENDMENT TO FEDERAL SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines in accordance with this section with respect to any offense relating to the manufacture, importation, exportation, or trafficking in amphetamine (including an attempt or conspiracy to do any of the foregoing) in violation of—

(1) the Controlled Substances Act (21 U.S.C. 801 et seq.);

(2) the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.); or

(3) the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.).

(b) GENERAL REQUIREMENT.—In carrying out this section, the United States Sentencing Commission shall, with respect to each offense described in subsection (a) relating to amphetamine—

(1) review and amend its guidelines to provide for increased penalties such that those penalties are comparable to the base offense level for methamphetamine; and

(2) take any other action the Commission considers necessary to carry out this subsection.

(c) ADDITIONAL REQUIREMENTS.—In carrying out this section, the United States Sentencing Commission shall ensure that the sentencing guidelines for offenders convicted of offenses described in subsection (a) reflect the heinous nature of such offenses, the need for aggressive law enforcement action to fight such offenses, and the extreme dangers associated with unlawful activity involving amphetamines, including—

(1) the rapidly growing incidence of amphetamine abuse and the threat to public safety that such abuse poses;

(2) the high risk of amphetamine addiction;

(3) the increased risk of violence associated with amphetamine trafficking and abuse; and

(4) the recent increase in the illegal importation of amphetamine and precursor chemicals.

(d) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The United States Sentencing Commission shall promulgate amendments pursuant to this section as soon as practicable after the date of the enactment of this Act in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987 (Public Law 100–182), as though the authority under that Act had not expired.

**SEC. ___12. ENHANCED PUNISHMENT OF AMPHETAMINE OR METHAMPHETAMINE LABORATORY OPERATORS.**

(a) FEDERAL SENTENCING GUIDELINES.—

(1) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines in accordance with paragraph (2) with respect to any offense relating to the manufacture, attempt to manufacture, or conspiracy to manufacture amphetamine or methamphetamine in violation of—

(A) the Controlled Substances Act (21 U.S.C. 801 et seq.);

(B) the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.); or

(C) the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.).

(2) REQUIREMENTS.—In carrying out this paragraph, the United States Sentencing Commission shall—

(A) if the offense created a substantial risk of harm to human life (other than a life described in subparagraph (B)) or the environment, increase the base offense level for the offense—

(i) by not less than 3 offense levels above the applicable level in effect on the date of the enactment of this Act; or

(ii) if the resulting base offense level after an increase under clause (i) would be less than level 27, to not less than level 27; or

(B) if the offense created a substantial risk of harm to the life of a minor or incompetent, increase the base offense level for the offense—

(i) by not less than 6 offense levels above the applicable level in effect on the date of the enactment of this Act; or

(ii) if the resulting base offense level after an increase under clause (i) would be less than level 30, to not less than level 30.

(3) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The United States Sentencing Commission shall promulgate amendments pursuant to this subsection as soon as practicable after the date of enactment of this Act in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987 (Public Law 100–182), as though the authority under that Act had not expired.

(b) EFFECTIVE DATE.—The amendments made pursuant to this section shall apply with respect to any offense occurring on or after the date that is 60 days after the date of enactment of this Act.

**SEC. ___13. MANDATORY RESTITUTION FOR VIOLATIONS OF CONTROLLED SUBSTANCES ACT AND CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT RELATING TO AMPHETAMINE AND METHAMPHETAMINE.**

(a) MANDATORY RESTITUTION.—Section 413(q) of the Controlled Substances Act (21 U.S.C. 853(q)) is amended—

(1) in the matter preceding paragraph (1), by striking ''may'' and inserting ''shall'';

(2) by inserting ''amphetamine or'' before ''methamphetamine'' each place it appears;

(3) in paragraph (2)—

(A) by inserting '', the State or local government concerned, or both the United States and the State or local government concerned'' after ''United States'' the first place it appears; and

(B) by inserting ''or the State or local government concerned, as the case may be,'' after ''United States'' the second place it appears; and

(4) in paragraph (3), by striking ''section 3663 of title 18, United States Code'' and inserting ''section 3663A of title 18, United States Code''.

(b) DEPOSIT OF AMOUNTS IN DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND.—Section 524(c)(4) of title 28, United States Code, is amended—

(1) by striking ''and'' at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting ''; and''; and

(3) by adding at the end the following:

''(D) all amounts collected—

''(i) by the United States pursuant to a reimbursement order under paragraph (2) of section 413(q) of the Controlled Substances Act (21 U.S.C. 853(q)); and

''(ii) pursuant to a restitution order under paragraph (1) or (3) of section 413(q) of the Controlled Substances Act for injuries to the United States.''.

(c) CLARIFICATION OF CERTAIN ORDERS OF RESTITUTION.—Section 3663(c)(2)(B) of title 18, United States Code, is amended by inserting ''which may be'' after ''the fine''.

(d) EXPANSION OF APPLICABILITY OF MANDATORY RESTITUTION.—Section 3663A(c)(1)(A)(ii) of title 18, United States Code, is amended by inserting ''or under section 416(a) of the Controlled Substances Act (21 U.S.C. 856(a)),'' after ''under this title,''.

(e) TREATMENT OF ILLICIT SUBSTANCE MANUFACTURING OPERATIONS AS CRIMES AGAINST PROPERTY.—Section 416 of the Controlled Substances Act (21 U.S.C. 856) is amended by adding at the end the following new subsection:

''(c) A violation of subsection (a) shall be considered an offense against property for purposes of section 3663A(c)(1)(A)(ii) of title 18, United States Code.''.

**SEC. ___14. METHAMPHETAMINE PARAPHERNALIA.**

Section 422(d) of the Controlled Substances Act (21 U.S.C. 863(d)) is amended in the matter preceding paragraph (1) by inserting ''methamphetamine,'' after ''PCP,''.

**CHAPTER 2—ENHANCED LAW ENFORCEMENT**

**SEC. ___21. ENVIRONMENTAL HAZARDS ASSOCIATED WITH ILLEGAL MANUFACTURE OF AMPHETAMINE AND METHAMPHETAMINE.**

(a) USE OF AMOUNTS OR DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND.—Section 524(c)(1)(E) of title 28, United States Code, is amended—

(1) by inserting ''(i) for'' before ''disbursements'';

(2) by inserting ''and'' after the semicolon; and

(3) by adding at the end the following:

''(ii) for payment for—

''(I) costs incurred by or on behalf of the Department of Justice in connection with the removal, for purposes of Federal forfeiture and disposition, of any hazardous substance or pollutant or contaminant associated with the illegal manufacture of amphetamine or methamphetamine; and

''(II) costs incurred by or on behalf of a State or local government in connection with such removal in any case in which such State or local government has assisted in a Federal prosecution relating to amphetamine or methamphetamine, to the extent such costs exceed equitable sharing payments made to such State or local government in such case;''.

(b) GRANTS UNDER DRUG CONTROL AND SYSTEM IMPROVEMENT GRANT PROGRAM.—Section 501(b)(3) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting before the semicolon the following: ''and to remove any hazardous substance or pollutant or contaminant associated with the illegal manufacture of amphetamine or methamphetamine''.

(c) AMOUNTS SUPPLEMENT AND NOT SUPPLANT.—

(1) ASSETS FORFEITURE FUND.—Any amounts made available from the Department of Justice Assets Forfeiture Fund in a fiscal year by reason of the amendment made by subsection (a) shall supplement, and not supplant, any other amounts made available to the Department of Justice in such fiscal year from other sources for payment of costs described in section 524(c)(1)(E)(ii) of title 28, United States Code, as so amended.

(2) GRANT PROGRAM.—Any amounts made available in a fiscal year under the grant program under section 501(b)(3) of the Omnibus Crime Control and Safe Streets Act of 1968 for the removal of hazardous substances or pollutants or contaminants associated

with the illegal manufacture of amphetamine or methamphetamine by reason of the amendment made by subsection (b) shall supplement, and not supplant, any other amounts made available in such fiscal year from other sources for such removal.

**SEC. ___22. REDUCTION IN RETAIL SALES TRANSACTION THRESHOLD FOR NON-SAFE HARBOR PRODUCTS CONTAINING PSEUDOEPHEDRINE OR PHENLYPROPANOLAMINE.**

(a) REDUCTION IN TRANSACTION THRESHOLD.—Section 102(39)(A)(iv)(II) of the Controlled Substances Act (21 U.S.C. 802(39)(A)(iv)(II) is amended—

(1) by striking ''24 grams'' both places it appears and inserting ''9 grams''; and

(2) by inserting before the semicolon at the end the following: ''and sold in package sizes of not more than 3 grams of pseudoephedrine base or 3 grams of phenylpropanolamine base''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect one year after the date of the enactment of this Act.

**SEC. ___23. TRAINING FOR DRUG ENFORCEMENT ADMINISTRATION AND STATE AND LOCAL LAW ENFORCEMENT PERSONNEL RELATING TO CLANDESTINE LABORATORIES.**

(a) IN GENERAL.—

(1) REQUIREMENT.—The Administrator of the Drug Enforcement Administration shall carry out the programs described in subsection (b) with respect to the law enforcement personnel of States and localities determined by the Administrator to have significant levels of methamphetamine-related or amphetamine-related crime or projected by the Administrator to have the potential for such levels of crime in the future.

(2) DURATION.—The duration of any program under that subsection may not exceed 3 years.

(b) COVERED PROGRAMS.—The programs described in this subsection are as follows:

(1) ADVANCED MOBILE CLANDESTINE LABORATORY TRAINING TEAMS.—A program of advanced mobile clandestine laboratory training teams, which shall provide information and training to State and local law enforcement personnel in techniques utilized in conducting undercover investigations and conspiracy cases, and other information designed to assist in the investigation of the illegal manufacturing and trafficking of amphetamine and methamphetamine.

(2) BASIC CLANDESTINE LABORATORY CERTIFICATION TRAINING.—A program of basic clandestine laboratory certification training, which shall provide information and training—

(A) to Drug Enforcement Administration personnel and State and local law enforcement personnel for purposes of enabling such personnel to meet any certification requirements under law with respect to the handling of wastes created by illegal amphetamine and methamphetamine laboratories; and

(B) to State and local law enforcement personnel for purposes of enabling such personnel to provide the information and training covered by subparagraph (A) to other State and local law enforcement personnel.

(3) CLANDESTINE LABORATORY RECERTIFICATION AND AWARENESS TRAINING.—A program of clandestine laboratory recertification and awareness training, which shall provide information and training to State and local law enforcement personnel for purposes of enabling such personnel to provide recertification and awareness training relating to clandestine laboratories to additional State and local law enforcement personnel.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2000, 2001, and 2002 amounts as follows:

(1) $1,500,000 to carry out the program described in subsection (b)(1).

(2) $3,000,000 to carry out the program described in subsection (b)(2).

(3) $1,000,000 to carry out the program described in subsection (b)(3).

**SEC. ___24. COMBATTING METHAMPHETAMINE AND AMPHETAMINE IN HIGH INTENSITY DRUG TRAFFICKING AREAS.**

(a) IN GENERAL.—

(1) IN GENERAL.—The Director of National Drug Control Policy shall use amounts available under this section to combat the trafficking of methamphetamine and amphetamine in areas designated by the Director as high intensity drug trafficking areas.

(2) ACTIVITIES.—In meeting the requirement in paragraph (1), the Director shall provide funds for—

(A) employing additional Federal law enforcement personnel, or facilitating the employment of additional State and local law enforcement personnel, including agents, investigators, prosecutors, laboratory technicians, chemists, investigative assistants, and drug-prevention specialists; and

(B) such other activities as the Director considers appropriate.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section—

(1) $15,000,000 for fiscal year 2000; and

(2) such sums as may be necessary for each of fiscal years 2001 through 2004.

(c) APPORTIONMENT OF FUNDS.—

(1) FACTORS IN APPORTIONMENT.—The Director shall apportion amounts appropriated for a fiscal year pursuant to the authorization of appropriations in subsection (b) for activities under subsection (a) among and within areas designated by the Director as high intensity drug trafficking areas based on the following factors:

(A) The number of methamphetamine manufacturing facilities and amphetamine manufacturing facilities discovered by Federal, State, or local law enforcement officials in the previous fiscal year.

(B) The number of methamphetamine prosecutions and amphetamine prosecutions in Federal, State, or local courts in the previous fiscal year.

(C) The number of methamphetamine arrests and amphetamine arrests by Federal, State, or local law enforcement officials in the previous fiscal year.

(D) The amounts of methamphetamine, amphetamine, or listed chemicals (as that term is defined in section 102(33) of the Controlled Substances Act (21 U.S.C. 802(33)) seized by Federal, State, or local law enforcement officials in the previous fiscal year.

(E) Intelligence and predictive data from the Drug Enforcement Administration and the Department of Health and Human Services showing patterns and trends in abuse, trafficking, and transportation in methamphetamine, amphetamine, and listed chemicals (as that term is so defined).

(2) CERTIFICATION.—Before the Director apportions any funds under this subsection to a high intensity drug trafficking area, the Director shall certify that the law enforcement entities responsible for clandestine methamphetamine and amphetamine laboratory seizures in that area are providing laboratory seizure data to the national clandestine laboratory database at the El Paso Intelligence Center.

(d) LIMITATION ON ADMINISTRATIVE COSTS.—Not more than 5 percent of the amount appropriated in a fiscal year pursuant to the authorization of appropriations for that fiscal year in subsection (b) may be available in that fiscal year for administrative costs associated with activities under subsection (a).

**SEC. ___25. COMBATING AMPHETAMINE AND METHAMPHETAMINE MANUFACTURING AND TRAFFICKING.**

(a) ACTIVITIES.—In order to combat the illegal manufacturing and trafficking in amphetamine and methamphetamine, the Administrator of the Drug Enforcement Administration may—

(1) assist State and local law enforcement in small and mid-sized communities in all phases of investigations related to such manufacturing and trafficking, including assistance with foreign-language interpretation;

(2) staff additional regional enforcement and mobile enforcement teams related to such manufacturing and trafficking;

(3) establish additional resident offices and posts of duty to assist State and local law enforcement in rural areas in combating such manufacturing and trafficking;

(4) provide the Special Operations Division of the Administration with additional agents and staff to collect, evaluate, interpret, and disseminate critical intelligence targeting the command and control operations of major amphetamine and methamphetamine manufacturing and trafficking organizations;

(5) enhance the investigative and related functions of the Chemical Control Program of the Administration to implement more fully the provisions of the Comprehensive Methamphetamine Control Act of 1996 (Public Law 104–237);

(6) design an effective means of requiring an accurate accounting of the import and export of list I chemicals, and coordinate investigations relating to the diversion of such chemicals;

(7) develop a computer infrastructure sufficient to receive, process, analyze, and redistribute time-sensitive enforcement information from suspicious order reporting to field offices of the Administration and other law enforcement and regulatory agencies, including the continuing development of the Suspicious Order Reporting and Tracking System (SORTS) and the Chemical Transaction Database (CTRANS) of the Administration;

(8) establish an education, training, and communication process in order to alert the industry to current trends and emerging patterns in the illegal manufacturing of amphetamine and methamphetamine; and

(9) carry out such other activities as the Administrator considers appropriate.

(b) ADDITIONAL POSITIONS AND PERSONNEL.—

(1) IN GENERAL.—In carrying out activities under subsection (a), the Administrator may establish in the Administration not more than 50 full-time positions, including not more than 31 special-agent positions, and may appoint personnel to such positions.

(2) PARTICULAR POSITIONS.—In carrying out activities under paragraphs (5) through (8) of subsection (a), the Administrator may establish in the Administration not more than 15 full-time positions, including not more than 10 diversion investigator positions, and may appoint personnel to such positions. Any positions established under this paragraph are in addition to any positions established under paragraph (1).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the Drug Enforcement Administration for each fiscal year after fiscal year 1999, $9,500,000 for purposes of carrying out the activities authorized by subsection (a) and employing personnel in positions established under subsection (b), of which $3,000,000 shall be available for activities under paragraphs (5) through (8) of subsection (a) and employing personnel in positions established under subsection (b)(2).

**CHAPTER 3—ABUSE PREVENTION AND TREATMENT**

**SEC. ___31. EXPANSION OF METHAMPHETAMINE RESEARCH.**

Section 464N of the Public Health Service Act (42 U.S.C. 285o–2) is amended by adding at the end the following:

''(c) METHAMPHETAMINE RESEARCH.—

''(1) GRANTS OR COOPERATIVE AGREEMENTS.—The Director of the Institute may make grants or enter into cooperative agreements to expand the current and on-going interdisciplinary research and clinical trials with treatment centers of the National Drug Abuse Treatment Clinical Trials Network relating to methamphetamine abuse and addiction and other biomedical, behavioral, and social issues related to methamphetamine abuse and addiction.

''(2) USE OF FUNDS.—Amounts made available under a grant or cooperative agreement under paragraph (1) for methamphetamine abuse and addiction may be used for research and clinical trials relating to—

''(A) the effects of methamphetamine abuse on the human body, including the brain;

''(B) the addictive nature of methamphetamine and how such effects differ with respect to different individuals;

''(C) the connection between methamphetamine abuse and mental health;

''(D) the identification and evaluation of the most effective methods of prevention of methamphetamine abuse and addiction;

''(E) the identification and development of the most effective methods of treatment of methamphetamine addiction, including pharmacological treatments;

''(F) risk factors for methamphetamine abuse;

''(G) effects of methamphetamine abuse and addiction on pregnant women and their fetuses; and

''(H) cultural, social, behavioral, neurological and psychological reasons that individuals abuse methamphetamine, or refrain from abusing methamphetamine.

''(3) RESEARCH RESULTS.—The Director shall promptly disseminate research results under this subsection to Federal, State and local entities involved in combating methamphetamine abuse and addiction.

''(4) AUTHORIZATION OF APPROPRIATIONS.—

''(A) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out paragraph (1), such sums as may be necessary for each fiscal year.

''(B) SUPPLEMENT NOT SUPPLANT.—Amounts appropriated pursuant to the authorization of appropriations in subparagraph (A) for a fiscal year shall supplement and not supplant any other amounts appropriated in such fiscal year for research on methamphetamine abuse and addiction.''.

**SEC. ___32. METHAMPHETAMINE AND AMPHETAMINE TREATMENT INITIATIVE BY CENTER FOR SUBSTANCE ABUSE TREATMENT.**

Subpart 1 of part B of title V of the Public Health Service Act (42 U.S.C. 290bb et seq.) is amended by adding at the end the following new section:

''METHAMPHETAMINE AND AMPHETAMINE TREATMENT INITIATIVE

''SEC. 514. (a) GRANTS.—

''(1) AUTHORITY TO MAKE GRANTS.—The Director of the Center for Substance Abuse Treatment may make grants to States and Indian tribes recognized by the United States that have a high rate, or have had a rapid increase, in methamphetamine or amphetamine abuse or addiction in order to permit such States and Indian tribes to expand activities in connection with the treatment of methamphetamine or amphetamine abuser or addiction in the specific geographical areas of such States or Indian tribes, as the case may be, where there is such a rate or has been such an increase.

''(2) RECIPIENTS.—Any grants under paragraph (1) shall be directed to the substance abuse directors of the States, and of the appropriate tribal government authorities of the Indian tribes, selected by the Director to receive such grants.

''(3) NATURE OF ACTIVITIES.—Any activities under a grant under paragraph (1) shall be based on reliable scientific evidence of their efficacy in the treatment of methamphetamine or amphetamine abuse or addiction.

''(b) GEOGRAPHIC DISTRIBUTION.—The Director shall ensure that grants under subsection (a) are distributed equitably among the various regions of the country and among rural, urban, and suburban areas that are affected by methamphetamine or amphetamine abuse or addiction.

''(c) ADDITIONAL ACTIVITIES.—The Director shall—

''(1) evaluate the activities supported by grants under subsection (a);

''(2) disseminate widely such significant information derived from the evaluation as the Director considers appropriate to assist States, Indian tribes, and private providers of treatment services for methamphetamine or amphetamine abuser or addiction in the treatment of methamphetamine or amphetamine abuse or addiction; and

''(3) provide States, Indian tribes, and such providers with technical assistance in connection with the provision of such treatment.

''(d) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 2000 and such sums as may be necessary for each of fiscal years 2001 and 2002.

''(2) USE OF CERTAIN FUNDS.—Of the funds appropriated to carry out this section in any fiscal year, the lesser of 5 percent of such funds or $1,000,000 shall be available to the Director for purposes of carrying out subsection (c).''.

**SEC. ___33. EXPANSION OF METHAMPHETAMINE ABUSE PREVENTION EFFORTS.**

(a) EXPANSION OF EFFORTS.—Section 515 of the Public Health Service Act (42 U.S.C. 290bb–21) is amended by adding at the end the following:

''(e)(1) The Administrator may make grants to and enter into contracts and cooperative agreements with public and nonprofit private entities to enable such entities—

''(A) to carry out school-based programs concerning the dangers of abuse of and addiction to methamphetamine and other illicit drugs, using methods that are effective and science-based, including initiatives that give students the responsibility to create their own anti-drug abuse education programs for their schools; and

''(B) to carry out community-based abuse and addiction prevention programs relating to methamphetamine and other illicit drugs that are effective and science-based.

''(2) Amounts made available under a grant, contract or cooperative agreement under paragraph (1) shall be used for planning, establishing, or administering prevention programs relating to methamphetamine and other illicit drugs in accordance with paragraph (3).

''(3)(A) Amounts provided under this subsection may be used—

''(i) to carry out school-based programs that are focused on those districts with high or increasing rates of methamphetamine abuse and addiction and targeted at populations which are most at risk to start abuse of methamphetamine and other illicit drugs;

''(ii) to carry out community-based prevention programs that are focused on those populations within the community that are most at-risk for abuse of and addiction to methamphetamine and other illicit drugs;

''(iii) to assist local government entities to conduct appropriate prevention activities relating to methamphetamine and other illicit drugs;

''(iv) to train and educate State and local law enforcement officials, prevention and education officials, members of community anti-drug coalitions and parents on the signs of abuse of and addiction to methamphetamine and other illicit drugs, and the options for treatment and prevention;

''(v) for planning, administration, and educational activities related to the prevention of abuse of and addiction to methamphetamine and other illicit drugs;

''(vi) for the monitoring and evaluation of prevention activities relating to methamphetamine and other illicit drugs, and reporting and disseminating resulting information to the public; and

''(vii) for targeted pilot programs with evaluation components to encourage innovation and experimentation with new methodologies.

''(B) The Administrator shall give priority in making grants under this subsection to rural and urban areas that are experiencing a high rate or rapid increases in methamphetamine abuse and addiction.

''(4)(A) Not less than $500,000 of the amount available in each fiscal year to carry out this subsection shall be made available to the Administrator, acting in consultation with other Federal agencies, to support and conduct periodic analyses and evaluations of effective prevention programs for abuse of and addiction to methamphetamine and other illicit drugs and the development of appropriate strategies for disseminating information about and implementing these programs.

''(B) The Administrator shall submit to the committees of Congress referred to in subparagraph (C) an annual report with the results of the analyses and evaluation under subparagraph (A).

''(C) The committees of Congress referred to in this subparagraph are the following:

''(i) The Committees on Health, Education, Labor, and Pensions, the Judiciary, and Appropriations of the Senate.

''(ii) The Committees on Commerce, the Judiciary, and Appropriations of the House of Representatives.''.

(b) AUTHORIZATION OF APPROPRIATIONS FOR EXPANSION OF ABUSE PREVENTION EFFORTS AND PRACTITIONER REGISTRATION REQUIREMENTS.—There is authorized to be appropriated to carry out section 515(e) of the Public Health Service Act (as added by subsection (a)) and section 303(g)(2) of the Controlled Substances Act (as added by section 18(a) of this Act), $15,000,000 for fiscal year 2000, and such sums as may be necessary for each succeeding fiscal year.

**SEC. ___34. STUDY OF METHAMPHETAMINE TREATMENT.**

(a) STUDY.—

(1) REQUIREMENT.—The Secretary of Health and Human Services shall, in consultation with the Institute of Medicine of the National Academy of Sciences, conduct a study on the development of medications for the treatment of addiction to amphetamine and methamphetamine.

(2) REPORT.—Not later than nine months after the date of the enactment of this Act, the Secretary shall submit to the Committees on the Judiciary of the Senate and House of Representatives a report on the results of the study conducted under paragraph (1).

(b) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated for the Department of Health and

Human Services for fiscal year 2000 such sums as may be necessary to meet the requirements of subsection (a).

**CHAPTER 4—REPORTS**

**SEC. ___41. REPORTS ON CONSUMPTION OF METHAMPHETAMINE AND OTHER ILLICIT DRUGS IN RURAL AREAS, METROPOLITAN AREAS, AND CONSOLIDATED METROPOLITAN AREAS.**

The Secretary of Health and Human Services shall include in each National Household Survey on Drug Abuse appropriate prevalence data and information on the consumption of methamphetamine and other illicit drugs in rural areas, metropolitan areas, and consolidated metropolitan areas.

**SEC. ___42. REPORT ON DIVERSION OF ORDINARY OVER-THE-COUNTER PSEUDOEPHEDRINE AND PHENYLPROPANOLAMINE PRODUCTS.**

(a) STUDY.—The Attorney General shall conduct a study of the use of ordinary over-the-counter pseudoephedrine and phenylpropanolamine products in the clandestine production of illicit drugs. Sources of data for the study shall include the following:

(1) Information from Federal, State, and local clandestine laboratory seizures and related investigations identifying the source, type, or brand of drug products being utilized and how they were obtained for the illicit production of methamphetamine and amphetamine.

(2) Information submitted voluntarily from the pharmaceutical and retail industries involved in the manufacture, distribution, and sale of drug products containing ephedrine, pseudoephedrine, and phenylpropanolamine, including information on changes in the pattern, volume, or both, of sales of ordinary over-the-counter pseudoephedrine and phenylpropanolamine products.

(b) REPORT.—

(1) REQUIREMENT.—Not later than April 1, 2001, the Attorney General shall submit to Congress a report on the study conducted under subsection (a).

(2) ELEMENTS.—The report shall include—

(A) the findings of the Attorney General as a result of the study; and

(B) such recommendations on the need to establish additional measures to prevent diversion of ordinary over-the-counter pseudoephedrine and phenylpropanolamine (such as a threshold on ordinary over-the-counter pseudoephedrine and phenylpropanolamine products) as the Attorney General considers appropriate.

(3) MATTERS CONSIDERED.—In preparing the report, the Attorney General shall consider the comments and recommendations of State and local law enforcement and regulatory officials and of representatives of the industry described in subsection (a)(2).

**Subtitle B—Controlled Substances Generally**

**CHAPTER 1—CRIMINAL MATTERS**

**SEC. ___51. ENHANCED PUNISHMENT FOR TRAFFICKING IN LIST I CHEMICALS.**

(a) AMENDMENTS TO FEDERAL SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States, the United States Sentencing Commission shall amend the Federal sentencing guidelines in accordance with this section with respect to any violation of paragraph (1) or (2) of section 401(d) of the Controlled Substances Act (21 U.S.C. 841(d)) involving a list I chemical and any violation of paragraph (1) or (3) of section 1010(d) of the Controlled Substance Import and Export Act (21 U.S.C. 960(d)) involving a list I chemical.

(b) EPHEDRINE, PHENYLPROPANOLAMINE, AND PSEUDOEPHEDRINE.—

(1) IN GENERAL.—In carrying this section, the United States Sentencing Commission shall, with respect to each offense described in subsection (a) involving ephedrine, phenylpropanolamine, or pseudoephedrine (including their salts, optical isomers, and salts of optical isomers), review and amend its guidelines to provide for increased penalties such that those penalties corresponded to the quantity of controlled substance that could reasonably have been manufactured using the quantity of ephedrine, phenylpropanolamine, or pseudoephedrine possessed or distributed.

(2) CONVERSION RATIOS.—For the purposes of the amendments made by this subsection, the quantity of controlled substance that could reasonably have been manufactured shall be determined by using a table of manufacturing conversion ratios for ephedrine, phenylpropanolamine, and pseudoephedrine, which table shall be established by the Sentencing Commission based on scientific, law enforcement, and other data the Sentencing Commission considers appropriate.

(c) OTHER LIST I CHEMICALS.—In carrying this section, the United States Sentencing Commission shall, with respect to each offense described in subsection (a) involving any list I chemical other than ephedrine, phenylpropanolamine, or pseudoephedrine, review and amend its guidelines to provide for increased penalties such that those penalties reflect the dangerous nature of such offenses, the need for aggressive law enforcement action to fight such offenses, and the extreme dangers associated with unlawful activity involving methamphetamine and amphetamine, including—

(1) the rapidly growing incidence of controlled substance manufacturing;

(2) the extreme danger inherent in manufacturing controlled substances;

(3) the threat to public safety posed by manufacturing controlled substances; and

(4) the recent increase in the importation, possession, and distribution of list I chemicals for the purpose of manufacturing controlled substances.

(d) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The United States Sentencing Commission shall promulgate amendments pursuant to this section as soon as practicable after the date of the enactment of this Act in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987 (Public Law 100–182), as though the authority under that Act had not expired.

**SEC. ___52. MAIL ORDER REQUIREMENTS.**

Section 310(b)(3) of the Controlled Substances Act (21 U.S.C. 830(b)(3)) is amended—

(1) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively;

(2) by inserting before subparagraph (B), as so redesignated, the following new subparagraph (A):

''(A) As used in this paragraph:

''(i) The term 'drug product' means an active ingredient in dosage form that has been approved or otherwise may be lawfully marketed under the Food, Drug, and Cosmetic Act for distribution in the United States.

''(ii) The term 'valid prescription' means a prescription which is issued for a legitimate medical purpose by an individual practitioner licensed by law to administer and prescribe the drugs concerned and acting in the usual course of the practitioner's professional practice.'';

(3) in subparagraph (B), as so redesignated, by inserting ''or who engages in an export transaction'' after ''nonregulated person''; and

(4) adding at the end the following:

''(D) Except as provided in subparagraph (E), the following distributions to a nonregulated person, and the following export transactions, shall not be subject to the reporting requirement in subparagraph (B):

''(i) Distributions of sample packages of drug products when such packages contain not more than 2 solid dosage units or the equivalent of 2 dosage units in liquid form, not to exceed 10 milliliters of liquid per package, and not more than one package is distributed to an individual or residential address in any 30-day period.

''(ii) Distributions of drug products by retail distributors that may not include face-to-face transactions to the extent that such distributions are consistent with the activities authorized for a retail distributor as specified in section 102(46).

''(iii) Distributions of drug products to a resident of a long term care facility (as that term is defined in regulations prescribed by the Attorney General) or distributions of drug products to a long term care facility for dispensing to or for use by a resident of that facility.

''(iv) Distributions of drug products pursuant to a valid prescription.

''(v) Exports which have been reported to the Attorney General pursuant to section 1004 or 1018 or which are subject to a waiver granted under section 1018(e)(2).

''(vi) Any quantity, method, or type of distribution or any quantity, method, or type of distribution of a specific listed chemical (including specific formulations or drug products) or of a group of listed chemicals (including specific formulations or drug products) which the Attorney General has excluded by regulation from such reporting requirement on the basis that such reporting is not necessary for the enforcement of this title or title III.

''(E) The Attorney General may revoke any or all of the exemptions listed in subparagraph (D) for an individual regulated person if he finds that drug products distributed by the regulated person are being used in violation of this title or title III. The regulated person shall be notified of the revocation, which will be effective upon receipt by the person of such notice, as provided in section 1018(c)(1), and shall have the right to an expedited hearing as provided in section 1018(c)(2).''.

**SEC. ___53. ADVERTISEMENTS FOR DRUG PARAPHERNALIA AND SCHEDULE I CONTROLLED SUBSTANCES.**

(a) DRUG PARAPHERNALIA.—Subsection (a)(1) of section 422 of the Controlled Substances Act (21 U.S.C. 863) is amended by inserting '', directly or indirectly advertise for sale,'' after ''sell''.

(b) DIRECTLY OR INDIRECTLY ADVERTISE FOR SALE DEFINED.—Such section 422 is further amended by adding at the end the following new subsection:

''(g) In this section, the term 'directly or indirectly advertise for sale' means the use of any communication facility (as that term is defined in section 403(b)) to post, publicize, transmit, publish, link to, broadcast, or otherwise advertise any matter (including a telephone number or electronic or mail address) with the intent to facilitate or promote a transaction in.''.

(c) SCHEDULE I CONTROLLED SUBSTANCES.—Section 403(c) of such Act (21 U.S.C. 843(c)) is amended—

(1) by inserting ''(1)'' after ''(c)''; and

(2) in paragraph (1), as so designated—

(A) in the first sentence, by inserting before the period the following: '', or to directly or indirectly advertise for sale (as that term is defined in section 422(g)) any Schedule I controlled substance''; and

(B) in the second sentence, by striking ''term 'advertisement' '' and inserting ''term 'written advertisement' ''.

**SEC. ___54. THEFT AND TRANSPORTATION OF ANHYDROUS AMMONIA FOR PURPOSES OF ILLICIT PRODUCTION OF CONTROLLED SUBSTANCES.**

(a) IN GENERAL.—Part D of the Controlled Substances Act (21 U.S.C. 841 et seq.) is amended by adding at the end the following:

''ANHYDROUS AMMONIA

''SEC. 423 (a) It is unlawful for any person—

''(1) to steal anhydrous ammonia, or

''(2) to transport stolen anhydrous ammonia across State lines,

knowing, intending, or having reasonable cause to believe that such anhydrous ammonia will be used to manufacture a controlled substance in violation of this part.

''(b) Any person who violates subsection (a) shall be imprisoned or fined, or both, in accordance with section 403(d) as if such violation were a violation of a provision of section 403.''.

(b) CLERICAL AMENDMENT.—The table of contents for that Act is amended by inserting after the item relating to section 421 the following new items:

''Sec. 422. Drug paraphernalia.
''Sec. 423. Anhydrous ammonia.''.

(c) ASSISTANCE FOR CERTAIN RESEARCH.—

(1) AGREEMENT.—The Administrator of the Drug Enforcement Administration shall seek to enter into an agreement with Iowa State University in order to permit the University to continue and expand its current research into the development of inert agents that, when added to anhydrous ammonia, eliminate the usefulness of anhydrous ammonia as an ingredient in the production of methamphetamine.

(2) REIMBURSABLE PROVISION OF FUNDS.—The agreement under paragraph (1) may provide for the provision to Iowa State University, on a reimbursable basis, of $500,000 for purposes the activities specified in that paragraph.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for the Drug Enforcement Administration for fiscal year 2000, $500,000 for purposes of carrying out the agreement under this subsection.

**SEC. ___55. CRIMINAL PROHIBITION ON DISTRIBUTION OF CERTAIN INFORMATION RELATING TO THE MANUFACTURE OF CONTROLLED SUBSTANCES.**

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 21 the following new chapter:

**''CHAPTER 22—CONTROLLED SUBSTANCES**

''Sec.
''421. Distribution of information relating to manufacture of controlled substances.

**''§ 421. Distribution of information relating to manufacture of controlled substances**

''(a) PROHIBITION ON DISTRIBUTION OF INFORMATION RELATING TO MANUFACTURE OF CONTROLLED SUBSTANCES.—

''(1) CONTROLLED SUBSTANCE DEFINED.—In this subsection, the term 'controlled substance' has the meaning given that term in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

''(2) PROHIBITION.—It shall be unlawful for any person—

''(A) to teach or demonstrate the manufacture of a controlled substance, or to distribute by any means information pertaining to, in whole or in part, the manufacture of a controlled substance, with the intent that the teaching, demonstration, or information be used for, or in furtherance of, an activity that constitutes a Federal crime; or

''(B) to teach or demonstrate to any person the manufacture of a controlled substance, or to distribute to any person, by any means, information pertaining to, in whole or in part, the manufacture of a controlled substance, knowing that such person intends to use the teaching, demonstration, or information for, or in furtherance of, an activity that constitutes a Federal crime.

''(b) PENALTY.—Any person who violates subsection (a) shall be fined under this title, imprisoned not more than 10 years, or both.''.

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 21 the following new item:

**''22. Controlled Substances ..... 421''.**

**CHAPTER 2—OTHER MATTERS**

**SEC. ___61. WAIVER AUTHORITY FOR PHYSICIANS WHO DISPENSE OR PRESCRIBE CERTAIN NARCOTIC DRUGS FOR MAINTENANCE TREATMENT OR DETOXIFICATION TREATMENT.**

(a) REQUIREMENTS.—Section 303(g) of the Controlled Substances Act (21 U.S.C. 823(g)) is amended—

(1) in paragraph (2), by striking ''(A) security'' and inserting ''(i) security'', and by striking ''(B) the maintenance'' and inserting ''(ii) the maintenance'';

(2) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(3) by inserting ''(1)'' after ''(g)'';

(4) by striking ''Practitioners who dispense'' and inserting ''Except as provided in paragraph (2), practitioners who dispense and prescribe''; and

(5) by adding at the end the following:

''(2)(A) Subject to subparagraphs (D), the requirements of paragraph (1) are waived in the case of the dispensing or prescribing, by a physician, of narcotic drugs in schedule III, IV, or V, or combinations of such drugs, if the physician meets the conditions specified in subparagraph (B) and the narcotic drugs or combinations of such drugs meet the conditions specified in subparagraph (C).

''(B)(i) For purposes of subparagraph (A), the conditions specified in this subparagraph with respect to a physician are that, before dispensing or prescribing narcotic drugs in schedule III, IV, or V, or combinations of such drugs, to patients for maintenance or detoxification treatment, the physician submit to the Secretary and the Attorney General a notification of the intent of the physician to begin dispensing or prescribing the drugs or combinations for such purpose, and that the notification to the Secretary also contain the following certifications by the physician:

''(I) The physician—

''(aa) is a physician licensed under State law; and

''(bb) has training or experience and the ability to treat and manage opiate-dependent patients.

''(II) With respect to patients to whom the physician will provide such drugs or combinations of drugs, the physician has the capacity to refer the patients for appropriate counseling and other appropriate ancillary services.

''(III) In any case in which the physician is not in a group practice, the total number of such patients of the physician at any one time will not exceed the applicable number. For purposes of this subclause, the applicable number is 20, except that the Secretary may by regulation change such total number.

''(IV) In any case in which the physician is in a group practice, the total number of such patients of the group practice at any one time will not exceed the applicable number. For purposes of this subclause, the applicable number is 20, except that the Secretary may by regulation change such total number, and the Secretary for such purposes may by regulation establish different categories on the basis of the number of physicians in a group practice and establish for the various categories different numerical limitations on the number of such patients that the group practice may have.

''(ii)(I) The Secretary may, in consultation with the Administrator of the Drug Enforcement Administration, the Administrator of the Substance Abuse and Mental Health Services Administration, the Director of the Center for Substance Abuse Treatment, the Director of the National Institute on Drug Abuse, and the Commissioner of Food and Drugs, issue regulations through notice and comment rulemaking or practice guidelines to implement this paragraph. The regulations or practice guidelines shall address the following:

''(aa) Approval of additional credentialing bodies and the responsibilities of credentialing bodies.

''(bb) Additional exemptions from the requirements of this paragraph and any regulations under this paragraph.

''(II) Nothing in the regulations or practice guidelines under this clause may authorize any Federal official or employee to exercise supervision or control over the practice of medicine or the manner in which medical services are provided.

''(III)(aa) The Secretary shall issue a Treatment Improvement Protocol containing best practice guidelines for the treatment and maintenance of opiate-dependent patients. The Secretary shall develop the protocol in consultation with the Director of the National Institute on Drug Abuse, the Director of the Center for Substance Abuse Treatment, the Administrator of the Drug Enforcement Administration, the Commissioner of Food and Drugs, the Administrator of the Substance Abuse and Mental Health Services Administration, and other substance abuse disorder professionals. The protocol shall be guided by science.

''(bb) The protocol shall be issued not later than 120 days after the date of the enactment of the Methamphetamine Anti-Proliferation Act of 1999.

''(IV) For purposes of the regulations or practice guidelines under subclause (I), a physician shall have training or experience under clause (i)(I)(bb) if the physician meets one or more of the following conditions:

''(aa) The physician is certified in addiction treatment by the American Society of Addiction Medicine, the American Board of Medical Specialties, the American Osteopathic Academy of Addiction Medicine, or any other certified body accredited by the Secretary.

''(bb) The physician has been a clinical investigator in a clinical trial conducted for purposes of securing approval under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) or section 351 of the Public Health Service Act (42 U.S.C. 262) of a narcotic drug in schedule III, IV, or V for the treatment of addiction, if such approval was granted.

''(cc) The physician has completed training (through classroom situations, seminars, professional society meetings, electronic communications, or otherwise) provided by the American Society of Addiction Medicine, the American Academy of Addiction Psychiatry, the American Osteopathic Academy of Addiction Medicine, the American Medical Association, the American Osteopathic Association, the American Psychiatric Association, or any other organization that the Secretary determines appropriate for purposes of this item. The curricula may include

training in patient need for counseling regarding HIV, Hepatitis C, and other infectious diseases, substance abuse counseling, random drug testing, medical evaluation, annual assessment, prenatal care, diagnosis of addiction, rehabilitation services, confidentiality, and other appropriate topics.

''(dd) The physician has training or experience in the treatment and management of opiate-dependent, which training or experience shall meet such criteria as the Secretary may prescribe. Any such criteria shall be effective for a period of three years after the effective date of such criteria, but the Secretary may extend the effective period of such criteria by additional periods of three years for each extension if the Secretary determines that such extension is appropriate for purposes of this item. Any such extension shall go into effect only if the Secretary publishes a notice of such extension in the Federal Register during the 30-day period ending on the date of the end of the three-year effective period of such criteria to which such extension will apply.

''(ee) The physician is certified in addiction treatment by a State medical licensing board, or an entity accredited by such board, unless the Secretary determines (after an opportunity for a hearing) that the training provided by such board or entity was inadequate for the treatment and management of opiate-dependent patients.

''(C) For purposes of subparagraph (A), the conditions specified in this subparagraph with respect to narcotic drugs in schedule III, IV, or V, or combinations of such drugs, are as follows:

''(i) The drugs or combinations of drugs have, under the Federal Food, Drug and Cosmetic Act or section 351 of the Public Health Service Act, been approved for use in maintenance or detoxification treatment.

''(ii) The drugs or combinations of drugs have not been the subject of an adverse determination. For purposes of this clause, an adverse determination is a determination published in the Federal Register and made by the Secretary, after consultation with the Attorney General, that experience since the approval of the drug or combinations of drugs has shown that the use of the drugs or combinations of drugs for maintenance or detoxification treatment requires additional standards respecting the qualifications of physicians to provide such treatment, or requires standards respecting the quantities of the drugs that may be provided for unsupervised use.

''(D)(i) A waiver under subparagraph (A) with respect to a physician is not in effect unless (in addition to conditions under subparagraphs (B) and (C)) the following conditions are met:

''(I) The notification under subparagraph (B) is in writing and states the name of the physician.

''(II) The notification identifies the registration issued for the physician pursuant to subsection (f).

''(III) If the physician is a member of a group practice, the notification states the names of the other physicians in the practice and identifies the registrations issued for the other physicians pursuant to subsection (f).

''(IV) A period of 45 days has elapsed after the date on which the notification was submitted, and during such period the physician does not receive from the Secretary a written notice that one or more of the conditions specified in subparagraph (B), subparagraph (C), or this subparagraph, have not been met.

''(ii) The Secretary shall provide to the Attorney General such information contained in notifications under subparagraph (B) as the Attorney General may request.

''(E) If in violation of subparagraph (A) a physician dispenses or prescribes narcotic drugs in schedule III, IV, or V, or combinations of such drugs, for maintenance treatment or detoxification treatment, the Attorney General may, for purposes of section 304(a)(4), consider the physician to have committed an act that renders the registration of the physician pursuant to subsection (f) to be inconsistent with the public interest.

''(F)(i) Upon determining that a physician meets the conditions specified in subparagraph (B), the Secretary shall notify the physician and the Attorney General.

''(ii) Upon receiving notice with respect to a physician under clause (i), the Attorney General shall assign the physician an identification number under this paragraph for inclusion with the physician's current registration to prescribe narcotics. An identification number assigned a physician under this clause shall be appropriate to preserve the confidentiality of a patient prescribed narcotic drugs covered by this paragraph by the physician.

''(iii) If the Secretary fails to make a determination described in clause (i) by the end of the 45-day period beginning on the date of the receipt by the Secretary of a notification from a physician under subparagraph (B), the Attorney General shall assign the physician an identification number described in clause (ii) at the end of such period.

''(G) In this paragraph:

''(i) The term 'group practice' has the meaning given such term in section 1877(h)(4) of the Social Security Act.

''(ii) The term 'physician' has the meaning given such term in section 1861(r) of the Social Security Act.

''(H)(i) This paragraph takes effect on the date of the enactment of the Methamphetamine Anti-Proliferation Act of 1999, and remains in effect thereafter except as provided in clause (iii) (relating to a decision by the Secretary or the Attorney General that this paragraph should not remain in effect).

''(ii) For the purposes relating to clause (iii), the Secretary and the Attorney General shall, during the 3-year period beginning on the date of the enactment of the Methamphetamine Anti-Proliferation Act of 1999, make determinations in accordance with the following:

''(I)(aa) The Secretary shall—

''(aaa) make a determination of whether treatments provided under waivers under subparagraph (A) have been effective forms of maintenance treatment and detoxification treatment in clinical settings;

''(bbb) make a determination regarding whether such waivers have significantly increased (relative to the beginning of such period) the availability of maintenance treatment and detoxification treatment; and

''(ccc) make a determination regarding whether such waivers have adverse consequences for the public health.

''(bb) In making determinations under this subclause, the Secretary—

''(aaa) may collect data from the practitioners for whom waivers under subparagraph (A) are in effect;

''(bbb) shall issue appropriate guidelines or regulations (in accordance with procedures for substantive rules under section 553 of title 5, United States Code) specifying the scope of the data that will be required to be provided under this subclause and the means through which the data will be collected; and

''(ccc) shall, with respect to collecting such data, comply with applicable provisions of chapter 6 of title 5, United States Code (relating to a regulatory flexibility analysis), and of chapter 8 of such title (relating to congressional review of agency rulemaking).

''(II) The Attorney General shall—

''(aa) make a determination of the extent to which there have been violations of the numerical limitations established under subparagraph (B) for the number of individuals to whom a practitioner may provide treatment; and

''(bb) make a determination regarding whether waivers under subparagraph (A) have increased (relative to the beginning of such period) the extent to which narcotic drugs in schedule III, IV, or V, or combinations of such drugs, are being dispensed or prescribed, or possessed, in violation of this Act.

''(iii) If, before the expiration of the period specified in clause (ii), the Secretary or the Attorney General publishes in the Federal Register a decision, made on the basis of determinations under such clause, that this paragraph should not remain in effect, this paragraph ceases to be in effect 60 days after the date on which the decision is so published. The Secretary shall, in making any such decision, consult with the Attorney General, and shall, in publishing the decision in the Federal Register, include any comments received from the Attorney General for inclusion in the publication. The Attorney General shall, in making any such decision, consult with the Secretary, and shall, in publishing the decision in the Federal Register, include any comments received from the Secretary for inclusion in the publication.

''(I) During the 3-year period beginning on the date of the enactment of the Methamphetamine Anti-Proliferation Act of 1999, a State may not preclude a practitioner from dispensing or prescribing narcotic drugs in schedule III, IV, or V, or combinations of such drugs, to patients for maintenance or detoxification treatment in accordance with this paragraph, or the other amendments made by section 22 of that Act, unless, before the expiration of that 3-year period, the State enacts a law prohibiting a practitioner from dispensing or prescribing such drugs or combination of drugs.''.

(b) CONFORMING AMENDMENTS.—Section 304 of the Controlled Substances Act (21 U.S.C. 824) is amended—

(1) in subsection (a), in the matter following paragraph (5), by striking ''section 303(g)'' each place the term appears and inserting ''section 303(g)(1)''; and

(2) in subsection (d), by striking ''section 303(g)'' and inserting ''section 303(g)(1)''.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for purposes of activities under section 303(g)(2) of the Controlled Substances Act, as added by subsection (a), amounts as follows:

(1) For fiscal year 2000, $3,000,000.

(2) For each fiscal year after fiscal year 2000, such sums as may be necessary for such fiscal year.

### Subtitle C—Cocaine Powder

**SEC. ___71. SHORT TITLE.**

This subtitle may be cited as the ''Powder Cocaine Sentencing Act of 1999''.

**SEC. ___72. SENTENCING FOR VIOLATIONS INVOLVING COCAINE POWDER.**

(a) AMENDMENT OF CONTROLLED SUBSTANCES ACT.—

(1) LARGE QUANTITIES.—Section 401(b)(1)(A)(ii) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)(ii)) is amended by striking ''5 kilograms'' and inserting ''500 grams''.

(2) SMALL QUANTITIES.—Section 401(b)(1)(B)(ii) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B)(ii)) is amended by striking ''500 grams'' and inserting ''50 grams''.

(b) AMENDMENT OF CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—

(1) LARGE QUANTITIES.—Section 1010(b)(1)(B) of the Controlled Substances

Import and Export Act (21 U.S.C. 960(b)(1)(B)) is amended by striking ''5 kilograms'' and inserting ''500 grams''.

(2) SMALL QUANTITIES.—Section 1010(b)(2)(B) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)(B)) is amended by striking ''500 grams'' and inserting ''50 grams''.

(c) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to reflect the amendments made by this section.

**Subtitle D—Miscellaneous**

**SEC. ___81. NOTICE; CLARIFICATION.**

(a) NOTICE OF ISSUANCE.—Section 3103a of title 18, United States Code, is amended by adding at the end the following new sentence: ''With respect to any issuance under this section or any other provision of law (including section 3117 and any rule), any notice required, or that may be required, to be given may be delayed pursuant to the standards, terms, and conditions set forth in section 2705, unless otherwise expressly provided by statute.''.

(b) CLARIFICATION.—(1) Section 2(e) of Public Law 95–78 (91 Stat. 320) is amended by adding at the end the following:

''Subdivision (d) of such rule, as in effect on this date, is amended by inserting 'tangible' before 'property' each place it occurs.''.

(2) The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

**SEC. ___82. DOMESTIC TERRORISM ASSESSMENT AND RECOVERY.**

(a) IN GENERAL.—The Federal Bureau of Investigation shall prepare a study assessing—

(1) the threat posed by the Fuerzas Armadas de Liberacion Nacional Puertorriquena (FALN) and Los Macheteros terrorist organizations to the United States and its territories as of July 31, 1999; and

(2) what effect the President's offer of clemency to 16 FALN and Los Macheteros members on August 11, 1999, and the subsequent release of 11 of those members, will have on the threat posed by those terrorist organizations to the United States and its territories.

(b) ISSUES EXAMINED.—In conducting and preparing the study under subsection (a), the Federal Bureau of Investigation shall address—

(1) the threat posed by the FALN and Los Macheteros organizations to law enforcement officers, prosecutors, defense attorneys, witnesses, and judges involved in the prosecution of members of the FALN and Los Macheteros, both in the United States and its territories;

(2) the roles played by each the 16 members offered clemency by the President on August 11, 1999, in the FALN and Los Macheteros organizations;

(3) the extent to which the FALN and Los Macheteros organizations are associated with other known terrorist organizations or countries suspected of sponsoring terrorism;

(4) the threat posed to the national security interests of the United States by the FALN and Los Macheteros organizations;

(5) whether the offer of clemency to, or release of, any of the 16 FALN or Los Macheteros members would violate, or be inconsistent with, the United States' obligations under international treaties and agreements governing terrorist activity; and

(6) the effect on law enforcement's ability to solve open cases and apprehend fugitives resulting from the offer of clemency to the 16 FALN and Los Macheteros members, without first requiring each of them to provide the government all truthful information and evidence he or she has concerning open investigations and fugitives associated with the FALN and Los Macheteros organizations.

(c) REPORT.—Not later than 30 days after the date of the enactment of this Act, the Federal Bureau of Investigation shall submit to Congress a report on the study conducted under subsection (a).

**SEC. ___83. ANTIDRUG MESSAGES ON FEDERAL GOVERNMENT INTERNET WEBSITES.**

Not later than 90 days after the date of the enactment of this Act, the head of each department, agency, and establishment of the Federal Government shall, in consultation with the Director of the Office of National Drug Control Policy, place antidrug messages on appropriate Internet websites controlled by such department, agency, or establishment which messages shall, where appropriate, contain an electronic hyperlink to the Internet website, if any, of the Office.

**SEC. ___84. SEVERABILITY.**

Any provision of this title held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed as to give the maximum effect permitted by law, unless such provision is held to be utterly invalid or unenforceable, in which event such provision shall be severed from this title and shall not affect the applicability of the remainder of this title, or of such provision, to other persons not similarly situated or to other, dissimilar circumstances.

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## LEAHY (AND OTHERS) AMENDMENT NO. 2528

Mr. LEAHY (for himself, Mrs. MURRAY, and Mrs. FEINSTEIN) proposed an amendment to the bill, S. 625, supra; as follows:

On page 7, line 22, insert after the period the following:

''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.''

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## LEAHY AMENDMENT NO. 2529

Mr. LEAHY proposed an amendment to the bill, S. 625, supra; as follows:

On page 115, line 23, strike all through page 117, line 20, and insert the following:

''(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 projected 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:

''(d)(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 request those documents.

''(2)(A) At any time, a creditor in a case under chapter 13 may file with the court notice that the creditor requests the plan filed by the debtor in the case.

''(B) The court shall make such plan available to the creditor who request such plan—

''(i) at a reasonable cost; and

''(ii) not later than 5 days after such request.

''(e) An individual debtor in a case under chapter 7 or 13 shall file with the court at the request of any party in interest—

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

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

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

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## BYRD AMENDMENT NO. 2530

(Ordered to lie on the table.)

Mr. BYRD submitted an amendment intended to be proposed by him to the bill, S. 625, supra; as follows:

At the appropriate place, insert the following:

**SEC. ___. PROVISION OF ELECTRONIC FTC PAMPHLET WITH ELECTRONIC CREDIT CARD APPLICATIONS AND SOLICITATIONS.**

Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following:

''(5) INCLUSION OF FEDERAL TRADE COMMISSION PAMPHLET.—

''(A) IN GENERAL.—Any application to open a credit card account for any person under an open end consumer credit plan, or a solicitation to open such an account without requiring an application, that is electronically transmitted to or accessed by a consumer shall be accompanied by an electronic version (or an electronic link thereto) of the pamphlet published by the Federal Trade Commission relating to choosing and using credit cards.

''(B) COSTS.—The card issuer with respect to an account described in subparagraph (A) shall be responsible for all costs associated with compliance with that subparagraph.''.

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## DODD AMENDMENT NO. 2531

(Ordered to lie on the table.)

Mr. DODD submitted an amendment intended to be proposed by him to the bill, S. 625, supra; as follows:

On page 83, between lines 4 and 5, insert the following:

**SEC. 2___. PROTECTION OF EDUCATION SAVINGS.**

(a) EXCLUSIONS.—Section 541 of title 11, United States Code, as amended by section 903, is amended—

(1) in subsection (b)—

(A) in paragraph (5), by striking ''or'' at the end;

(B) by redesignating paragraph (6) as paragraph (8); and

(C) by inserting after paragraph (5) the following:

''(6) 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;

''(7) 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; or''; and

(2) by adding at the end the following:

''(f) In determining whether any of the relationships specified in paragraph (6)(A) or (7)(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 sections 105(d), 304(c)(1), 305(2), 315(b), and 316 of this Act, is amended by adding at the end the following:

''(k) 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).''.

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## DODD (AND OTHERS) AMENDMENT NO. 2532

(Ordered to lie on the table.)

Mr. DODD (for himself, Ms. LANDRIEU, and Mr. KENNEDY) submitted an amendment intended to be proposed by them to the bill, S. 625, supra; as follows:

On page 7, line 15, strike ''(ii)'' and insert ''(ii)(I)''.

On page 7, between lines 21 and 22, insert the following:

''(II) The expenses referred to in subclause (I) shall include—

''(aa) taxes and mandatory withholdings from wages;

''(bb) health care;

''(cc) alimony, child, and spousal support payments;

''(dd) legal fees necessary for the debtor's case;

''(ee) child care and the care of elderly or disabled family members;

''(ff) reasonable insurance expenses and pension payments;

''(gg) religious and charitable contributions;

''(hh) educational expenses not to exceed $10,000 per household;

''(ii) union dues;

''(jj) other expenses necessary for the operation of a business of the debtor or for the debtor's employment;

''(kk) utility expenses and home maintenance expenses for a debtor that owns a home;

''(*ll*) ownership costs for a motor vehicle, determined in accordance with Internal Revenue Service transportation standards, reduced by any payments on debts secured by the motor vehicle or vehicle lease payments made by the debtor;

''(mm) expenses for children's toys and recreation for children of the debtor;

''(nn) tax credits for earned income determined under section 32 of the Internal Revenue Code of 1986; and

''(oo) miscellaneous and emergency expenses.

On page 83, between lines 4 and 5, insert the following:

**SEC. 225. TREATMENT OF TAX REFUNDS AND DOMESTIC SUPPORT OBLIGATIONS.**

(a) PROPERTY OF THE ESTATE.—Section 541 of title 11, United States Code, is amended—

(1) in subsection (a)(5)(B) by inserting ''except as provided under subsection (b)(7),'' before ''as a result''; and

(2) in subsection (b)—

(A) in paragraph (4), by striking ''or'' at the end;

(B) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(C) by inserting after paragraph (5) the following:

''(6) any—

''(A) refund of tax due to the debtor under subtitle A of the Internal Revenue Code of 1986 for any taxable year to the extent that the refund does not exceed the amount of an applicable earned income tax credit allowed under section 32 of such Code for such year; and

''(B) advance payment of an earned income tax credit under section 3507 of the Internal Revenue Code of 1986; or

''(7) the right of the debtor to receive alimony, support, or separate maintenance for the debtor or dependent of the debtor.''.

(b) PROTECTION OF EARNED INCOME TAX CREDIT AND SUPPORT PAYMENTS UNDER BANKRUPTCY REPAYMENT PLANS IN CHAPTER 12.—Section 1225(b)(2) of title 11, United States Code, as amended by section 218 of this Act, is amended—

(1) by inserting ''(A)'' before ''For purposes'';

(2) by striking ''(A) for the maintenance'' and inserting ''(i) for the maintenance'';

(3) by striking ''(B) if the debtor'' and inserting ''(ii) if the debtor''; and

(4) by adding at the end the following:

''(B) In determining disposable income the court shall not consider amounts the debtor receives or is entitled to receive from—

''(i) any refund of tax due to the debtor under subtitle A of the Internal Revenue Code of 1986 for any taxable year to the extent that the refund does not exceed the amount of an applicable earned income tax credit allowed by section 32 of the Internal Revenue Code of 1986 for such year;

''(ii) any advance payment for an earned income tax credit described in clause (i); or

''(iii) child support, foster care, or disability payment for the care of a dependent child in accordance with applicable nonbankruptcy law.''.

(c) PROTECTION OF EARNED INCOME TAX CREDIT AND SUPPORT PAYMENTS UNDER BANKRUPTCY REPAYMENT PLANS IN CHAPTER 13.—Section 1325(b)(2) of title 11, United States Code, as amended by section 218 of this Act, is amended—

(1) by inserting ''(A)'' before ''For purposes'';

(2) by striking ''(A) for the maintenance'' and inserting ''(i) for the maintenance'';

(3) by striking ''(B) if the debtor'' and inserting ''(ii) if the debtor''; and

(4) by adding at the end the following:

''(B) In determining disposable income the court shall not consider amounts the debtor receives or is entitled to receive from—

''(i) any refund of tax due to the debtor under subtitle A of the Internal Revenue Code of 1986 for any taxable year to the extent that the refund does not exceed the amount of an applicable earned income tax credit allowed by section 32 of the Internal Revenue Code of 1986 for such year;

''(ii) any advance payment for an earned income tax credit described in clause (i); or

''(iii) child support, foster care, or disability payment for the care of a dependent child in accordance with applicable nonbankruptcy law.''.

(d) EXEMPTIONS.—Section 522(d) of title 11, United States Code, as amended by section 224 of this Act, is amended in paragraph (10)—

(1) in subparagraph (C), by adding ''or'' after the semicolon;

(2) by striking subparagraph (D); and

(3) by striking ''(E)'' and inserting ''(D)''.

On page 92, line 5, strike ''personal property'' and insert ''an item of personal property purchased for more than $3,000''.

On page 93, line 19, strike ''property'' and insert ''an item of personal property purchased for more than $3,000''.

On page 97, line 10, strike ''if'' and insert ''to the extent that''.

On page 97, line 10, after ''incurred'' insert ''to purchase that thing of value''.

On page 98, line 1, strike ''(27A)'' and insert (27B)''.

On page 107, line 9, strike ''and aggregating more than $250'' and insert ''for $400 or more per item or service''.

On page 107, line 11, strike ''90'' and insert ''70''.

On page 107, line 13, after ''dischargeable'' insert the following: ''if the creditor proves by a preponderance of the evidence at a hearing that the goods or services were not reasonably necessary for the maintenance or support of the debtor''.

On page 107, line 15, strike ''$750'' and insert ''$1,075''.

On page 107, line 17, strike ''70'' and insert ''60''.

Beginning on page 109, strike line 21 and all that follows through page 111, line 15, and insert the following:

**SEC. 314. HOUSEHOLD GOOD DEFINED.**

Section 101 of title 11, United States Code, as amended by section 106(c) of this Act, is amended by inserting before paragraph (27B) the following:

''(27A) 'household goods'—

''(A) includes tangible personal property normally found in or around a residence; and

''(B) does not include motor vehicles used for transportation purposes;''.

On page 112, line 6, strike ''(except that,'' and all that follows through ''debts)'' on line 13.

On page 113, between lines 3 and 4, insert the following:

(c) EXCEPTIONS TO DISCHARGE.—Section 523 of title 11, United States Code, is amended—

(1) in subsection (c), by inserting ''(14A),'' after ''(6),'' each place it appears; and

(2) in subsection (d), by striking ''(a)(2)'' and inserting ''(a) (2) or (14A)''.

On page 263, line 8, insert ''as amended by section 322 of this Act,'' after ''United States Code,''.

On page 263, line 11, strike ''(4)'' and insert ''(5)''.

On page 263, line 12, strike ''(5)'' and insert ''(6)''.

On page 263, line 13, strike ''(6)'' and insert ''(7)''.

On page 263, line 14, strike ''(4)'' and insert ''(5)''.

On page 263, line 16, strike ''(5)'' and insert ''(6)''.

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## HATCH AMENDMENTS NOS. 2533–2535

(Ordered to lie on the table.)

Mr. HATCH submitted three amendments intended to be proposed by him to the bill, S. 625, supra; as follows:

AMENDMENT NO. 2533

On page 21, line 25, strike the ending quotation marks and the second period.

On page 22, before line 1, insert the following:

''(b) No attorney or agency that represents a debtor under this title may provide credit counseling services to that debtor.''.

(2) REPORT.—Not later than 180 days after the date of enactment of this Act, the Judicial Conference of the United States shall conduct a study and submit a report to Congress that—

(A) evaluates the implementation of section 111(b) of title 11, United States Code, as amended by this subsection; and

(B) includes any recommendations for Congress.

On page 22, line 1, strike ''(2)'' and insert ''(3)''.

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AMENDMENT NO. 2534

On page 20, between lines 2 and 3, insert the following:

(c) FRESH START CREDIT COUNSELING.—Section 727 of title 11, United States Code, as amended by subsection (b) of this section, is amended by adding at the end the following:

''(f)(1) In addition to meeting the requirements under subsection (a), as a condition to receiving a discharge under this section a debtor shall provide assurances that the debtor will complete by not later than 365 days after the granting of the discharge, an instructional course concerning personal financial management described in section 111. That course shall be in addition to the course completed by the debtor to meet the requirements of section 109.

''(2) If a debtor fails to meet the requirements of paragraph (1) by the date specified in that paragraph, the debtor may not file a voluntary case under this chapter or chapter 13 until after the date that is 10 years after the date of the discharge referred to in that paragraph.''.

On page 20, line 3, strike ''(c)'' and insert ''(d)''.

On page 20, line 22, strike the ending quotation marks and the following period.

On page 20, between lines 22 and 23, insert the following:

''(j)(1) In addition to meeting the requirements under subsection (g), as a condition to receiving a discharge under this section a debtor shall provide assurances that the debtor will complete by not later than 365 days after the granting of the discharge, an instructional course concerning personal financial management described in section 111. That course shall be in addition to the course completed by the debtor to meet the requirements of section 109.

''(2) If a debtor fails to meet the requirements of paragraph (1) by the date specified in that paragraph, the debtor may not file a voluntary case under this chapter or chapter 7 until after the date that is 10 years after the date of the discharge referred to in that paragraph.''.

On page 20, line 23, strike ''(d)'' and insert ''(e)''.

On page 21, line 12, strike ''(e)'' and insert ''(f)''.

On page 22, line 4, strike ''(f)'' and insert ''(g)''.

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AMENDMENT NO. 2535

On page 21, line 25, strike the ending quotation marks and the following period.

On page 21, after line 25, add the following:

''(b)(1) In this subsection, the term 'credit counseling service'—

''(A) means—

''(i) a nonprofit credit counseling service approved under subsection (a); and

''(ii) any other consumer education program carried out by—

''(I) a trustee appointed under chapter 13; or

''(II) any other public or private entity or individual; and

''(B) does not include any counseling service provided by the attorney of the debtor or an agent of the debtor.

''(2)(A) 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.

''(B) 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—

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

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

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## HATCH (AND OTHERS) AMENDMENT NO. 2536

(Ordered to lie on the table.)

Mr. HATCH (for himself, Mr. DODD, and Mr. GREGG) submitted an amendment intended to be proposed by them to the bill, S. 625, supra; as follows:

On page 83, between lines 4 and 5, insert the following:

**SEC. 2___. PROTECTION OF EDUCATION SAVINGS.**

(a) EXCLUSIONS.—Section 541 of title 11, United States Code, as amended by section 903, is amended—

(1) in subsection (b)—

(A) in paragraph (5), by striking ''or'' at the end;

(B) by redesignating paragraph (6) as paragraph (8); and

(C) by inserting after paragraph (5) the following:

''(6) 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;

''(7) 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; or''; and

(2) by adding at the end the following:

''(f) In determining whether any of the relationships specified in paragraph (6)(A) or (7)(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 sections 105(d), 304(c)(1), 305(2), 315(b), and 316 of this Act, is amended by adding at the end the following:

''(k) 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).''.

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## WELLSTONE AMENDMENTS NOS. 2537–2538

(Ordered to lie on the table.)

Mr. WELLSTONE submitted two amendments intended to be proposed

by him to the bill, S. 625, supra; as follows:

AMENDMENT NO. 2537

At appropriate place, insert the following:

**SEC. ___. DISALLOWANCE OF CLAIMS OF CERTAIN INSURED DEPOSITORY INSTITUTIONS.**

Section 502(b) of title 11, United States Code, is amended—

(1) in paragraph (8), by striking ''or'' at the end;

(2) in paragraph (9), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(10) such claim is the claim of an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act) that, as determined by the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act)—

''(A) has total aggregate assets of more than $200,000,000;

''(B) offers retail depository services to the public; and

''(C) does not offer both checking and savings accounts that have—

''(i) low fees or no fees; and

''(ii) low or no minimum balance requirements.''.

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AMENDMENT NO. 2538

At appropriate place, insert the following:

**SEC. ___. DISALLOWANCE OF CERTAIN CLAIMS; PROHIBITION OF COERCIVE DEBT COLLECTION PRACTICES.**

(a) IN GENERAL.—Section 502(b) of title 11, United States Code, is amended—

(1) in paragraph (8), by striking ''or'' at the end;

(2) in paragraph (9), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end of the following:

''(10) such claim arises from a transaction—

''(A) that is—

''(i) a consumer credit transaction;

''(ii) a transaction, for a fee—

''(I) in which the deposit of a personal check is deferred; or

''(II) that consists of a credit and a right to a future debit to a personal deposit account; or

''(iii) a transaction secured by a motor vehicle or the title to a motor vehicle; and

''(B) in which the annual percentage rate (as determined in accordance with section 107 of the Truth in Lending Act) exceeds 100 percent.''.

(b) UNFAIR DEBT COLLECTION PRACTICES.—

(1) IN GENERAL.—Section 808 of the Fair Debt Collection Practices Act (15 U.S.C. 1692f) is amended—

(A) in the first sentence, by striking ''A debt collector'' and inserting the following:

''(a) IN GENERAL.—A debt collector''; and

(B) by adding at the end the following:

''(b) COERCIVE DEBT COLLECTION PRACTICES.—

''(1) IN GENERAL.—It shall be unlawful for any person (including a debt collector or a creditor) who, for a fee, defers deposit of a personal check or who makes a loan in exchange for a personal check or electronic access to a personal deposit account, to—

''(A) threaten to use or use the criminal justice process to collect on the personal check or on the loan;

''(B) threaten to use or use any process to seek a civil penalty if the personal check is returned for insufficient funds; or

''(C) threaten to use or use any civil process to collect on the personal check or the loan that is not generally available to creditors to collect on loans in default.

''(2) CIVIL LIABILITY.—Any person who violates this section shall be liable to the same extent and in the same manner as a debt collector is liable under section 813 for failure to comply with a provision of this title.''.

(2) CONFORMING AMENDMENT.—Section 803(6) of the Fair Debt Collection Practices Act (15 U.S.C. 1692a(6)) is amended by striking ''808(6)'' and inserting ''808(a)(6)''.

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## LEAHY AMENDMENTS NOS. 2539–2540

(Ordered to lie on the table.)

Mr. LEAHY submitted two amendments intended to be proposed by him to the bill, S. 625, supra; as follows:

AMENDMENT NO. 2539

On page 124, insert between lines 14 and 15 the following:

**SEC. 322. BANKRUPTCY APPEALS.**

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

(1) in subsection (c)(1), by striking out ''Subject to subsection (b),'' and inserting in lieu thereof ''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 new paragraph:

''(2) A court of appeals that would have jurisdiction of a subsequent appeal under paragraph (1) or other applicable law may authorize an immediate appeal to that court, in lieu of further proceedings in a district court or before a bankruptcy appellate panel exercising appellate jurisdiction under subsection (a) or (b), if the district court or bankruptcy appellate panel hearing an appeal certifies that—

''(A) a substantial question of law or matter of public importance is presented in the appeal pending in the district court or before the bankruptcy appellate panel; and

''(B) the interests of justice require an immediate appeal to the court of appeals of the judgment, order, or decree that had been appealed to the district court or bankruptcy appellate panel.''.

(b) PROCEDURAL RULES.—

(1) IN GENERAL.—Until rules of practice and procedure are promulgated or amended under chapter 131 of title 28, United States Code, relating to appeals to a court of appeals exercising jurisdiction under section 158(d)(2) of title 28, United States Code, as added by this Act, the provisions of this subsection shall apply.

(2) CERTIFICATION.—A district court or bankruptcy appellate panel may enter a certification as described under section 158(d)(2) of title 28, United States Code, on its own or a party's motion during an appeal to the district court or bankruptcy appellate panel under section 158 (a) or (b) of such title.

(3) APPEAL.—Subject to paragraphs (1), (2), and (4) through (8) of this subsection, an appeal under section 158(d)(2) of title 28, United States Code, shall be taken in the manner prescribed under rule 5 of the Federal Rules of Appellate Procedure.

(4) FILING BASED ON CERTIFICATION.—When an appeal is requested on the basis of a certification of a district court or bankruptcy appellate panel, the petition shall be filed within 10 days after the district court or bankruptcy appellate panel enters the certification.

(5) ATTACHMENT OF CERTIFICATION.—When an appeal is requested on the basis of a certification of a district court or bankruptcy appellate panel, a copy of the certification shall be attached to the petition.

(6) APPLICATION TO BANKRUPTCY APPELLATE PANELS.—When an appeal is requested in a case pending before a bankruptcy appellate panel, rule 5 of the Federal Rules of Appellate Procedure shall apply by using the terms ''bankruptcy appellate panel'' and ''clerk of the bankruptcy appellate panel'' in lieu of the terms ''district court'' and ''district clerk'', respectively.

(7) APPLICATION OF FEDERAL RULES.—When a court of appeals authorizes an 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 or bankruptcy appellate panel exercising appellate jurisdiction under section 158 (a) or (b) of title 28, United States Code.

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AMENDMENT NO. 2540

On page 294, between lines 11 and 12, insert the following:

**SEC. 11___. TOBACCO MULTI-STATE ACCOUNTABILITY.**

(a) PURPOSE.—The purpose of this section is to provide that tobacco companies and their parent corporations may not use Federal bankruptcy law to escape their liability for the debts arising from the settlement of certain litigation by State attorneys general to hold the tobacco industry accountable for its prior actions.

(b) CONFIRMATION OF PLAN DOES NOT PROVIDE FOR DISCHARGE OF CERTAIN DEBTS ARISING FROM TOBACCO-RELATED LITIGATION.—Section 1141(d) of title 11, United States Code, as amended by section 708 of this Act, is amended by adding at the end the following:

''(6)(A) The confirmation of a plan does not discharge a debtor that is a covered corporation from any debt arising under the applicable tobacco settlement.

''(B) In this paragraph:

''(i) The term 'covered corporation' means any manufacturer of a tobacco product (as determined under an applicable tobacco settlement) and its parent corporation, as of the date of the execution of the applicable tobacco settlement.

''(ii) The term 'tobacco settlement' means—

''(I) the Master Settlement Agreement and the Smokeless Tobacco Master Settlement Agreement executed by the applicable State Attorneys General on November 23, 1998, and any subsequent amendments thereto;

''(II) the separate settlement agreements executed by the Attorneys General of the States of Florida, Minnesota, Mississippi, and Texas in 1997 and 1998, concerning their litigation against the tobacco industry; and

''(III) the National Tobacco Growers Settlement Trust executed by the applicable State Attorneys General.

''(iii) The term 'State' means any State, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.''.

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## VETERANS' MILLENNIUM HEALTH CARE ACT

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## SPECTER AMENDMENT NO. 2541

Mr. DOMENICI (for Mr. SPECTER) proposed an amendment to the bill (H.R. 2116) to amend title 38, United States Code, to establish a program of extended care services for veterans and to make other improvements in health care programs of the Department of Veterans Affairs; as follows:

Strike all after the enacting clause and insert the following:

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

(a) SHORT TITLE.—This Act may be cited as the ''Veterans Benefits Act of 1999''.

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



**SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.**

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

## TITLE I—MEDICAL CARE

### Subtitle A—Long-Term Care

**SEC. 101. CONTINUUM OF CARE FOR VETERANS.**

(a) INCLUSION OF NONINSTITUTIONAL EXTENDED CARE SERVICES IN DEFINITION OF MEDICAL SERVICES.—Section 1701 is amended—

(1) in paragraph (6)(A)(i), by inserting ''noninstitutional extended care services,'' after ''preventive health services,''; and

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

''(10) The term 'noninstitutional extended care services' includes—

''(A) home-based primary care;

''(B) adult day health care;

''(C) respite care;

''(D) palliative and end-of-life care; and

''(E) home health aide visits.

''(11) The term 'respite care' means hospital care, nursing home care, or residence-based care which—

''(A) is of limited duration;

''(B) is furnished in a Department facility or in the residence of an individual on an intermittent basis to an individual who is suffering from a chronic illness and who resides primarily at that residence; and

''(C) is furnished for the purpose of helping the individual to continue residing primarily at that residence.''.

(b) CONFORMING AMENDMENTS TO TITLE 38.—(1)(A) Section 1720 is amended by striking subsection (f).

(B) The section heading of such section is amended by striking ''**; adult day health care**''.

(2) Section 1720B is repealed.

(3) Chapter 17 is further amended by redesignating sections 1720C, 1720D, and 1720E as sections 1720B, 1720C, and 1720D, respectively.

(c) CLERICAL AMENDMENTS.—The table of sections for chapter 17 is amended—

(1) in the item relating to section 1720, by striking ''; adult day health care''; and

(2) by striking the items relating to sections 1720B, 1720C, 1720D, and 1720E and inserting the following:

''1720B. Noninstitutional alternatives to nursing home care.
''1720C. Counseling and treatment for sexual trauma.
''1720D. Nasopharyngeal radium irradiation.''.

(d) ADDITIONAL CONFORMING AMENDMENT.—Section 101(g)(2) of the Veterans Health Programs Extension Act of 1994 (Public Law 103–452; 108 Stat. 4785; 38 U.S.C. 1720D note) is amended by striking ''section 1720D'' both places it appears and inserting ''section 1720C''.

**SEC. 102. PILOT PROGRAMS RELATING TO LONG-TERM CARE OF VETERANS.**

(a) IN GENERAL.—The Secretary of Veterans Affairs shall carry out three pilot programs for the purpose of determining the feasibility and practicability of a variety of methods of meeting the long-term care needs of eligible veterans. The pilot programs shall be carried out in accordance with the provisions of this section.

(b) LOCATIONS OF PILOT PROGRAMS.—(1) Each pilot program under this section shall be carried out in two designated health care regions of the Department of Veterans Affairs selected by the Secretary for purposes of this section.

(2) In selecting designated health care regions of the Department for purposes of a particular pilot program, the Secretary shall, to the maximum extent practicable, select designated health care regions containing a medical center or medical centers whose current circumstances and activities most closely mirror the circumstances and activities proposed to be achieved under such pilot program.

(3) The Secretary may not carry out more than one pilot program in any given designated health care region of the Department.

(c) SCOPE OF SERVICES UNDER PILOT PROGRAMS.—(1) The services provided under the pilot programs under this section shall include a comprehensive array of health care services and other services that meet the long-term care needs of veterans, including—

(A) inpatient long-term care in intermediate care beds, in nursing homes, and in domiciliary care facilities; and

(B) non-institutional long-term care, including hospital-based primary care, adult day health care, respite care, and other community-based interventions and care.

(2) As part of the provision of services under the pilot programs, the Secretary shall also provide appropriate case management services.

(3) In providing services under the pilot programs, the Secretary shall emphasize the provision of preventive care services, including screening and education.

(4) The Secretary may provide health care services or other services under the pilot programs only if the Secretary is otherwise authorized to provide such services by law.

(d) DIRECT PROVISION OF SERVICES.—Under one of the pilot programs under this section, the Secretary shall provide long-term care services to eligible veterans directly through facilities and personnel of the Department of Veterans Affairs.

(e) PROVISION OF SERVICES THROUGH COOPERATIVE ARRANGEMENTS.—(1) Under one of the pilot programs under this section, the Secretary shall provide long-term care services to eligible veterans through a combination (as determined by the Secretary) of—

(A) services provided under cooperative arrangements with appropriate public and private non-Governmental entities, including community service organizations; and

(B) services provided through facilities and personnel of the Department.

(2) The consideration provided by the Secretary for services provided by entities under cooperative arrangements under paragraph (1)(A) shall be limited to the provision by the Secretary of appropriate in-kind services to such entities.

(f) PROVISION OF SERVICES BY NON-DEPARTMENT ENTITIES.—(1) Under one of the pilot programs under this section, the Secretary shall provide long-term care services to eligible veterans through arrangements with appropriate non-Department entities under which arrangements the Secretary acts solely as the case manager for the provision of such services.

(2) Payment for services provided to veterans under the pilot programs under this subsection shall be made by the Department to the extent that payment for such services is not otherwise provided by another government or non-government entity.

(g) DATA COLLECTION.—As part of the pilot programs under this section, the Secretary shall collect data regarding—

(1) the cost-effectiveness of such programs and of other activities of the Department for purposes of meeting the long-term care needs of eligible veterans, including any cost advantages under such programs and activities when compared with the Medicare program, Medicaid program, or other Federal program serving similar populations;

(2) the quality of the services provided under such programs and activities;

(3) the satisfaction of participating veterans, non-Department, and non-Government entities with such programs and activities; and

(4) the effect of such programs and activities on the ability of veterans to carry out basic activities of daily living over the course of such veterans' participation in such programs and activities.

(h) REPORT.—(1) Not later than six months after the completion of the pilot programs under subsection (i), the Secretary shall submit to Congress a report on the health services and other services furnished by the Department to meet the long-term care needs of eligible veterans.

(2) The report under paragraph (1) shall—

(A) describe the comprehensive array of health services and other services furnished by the Department under law to meet the long-term care needs of eligible veterans, including—

(i) inpatient long-term care in intermediate care beds, in nursing homes, and in domiciliary care facilities; and

(ii) non-institutional long-term care, including hospital-based primary care, adult day health care, respite care, and other community-based interventions and care;

(B) describe the case management services furnished as part of the services described in subparagraph (A) and assess the role of such case management services in ensuring that eligible veterans receive services to meet their long-term care needs; and

(C) in describing services under subparagraphs (A) and (B), emphasize the role of preventive services in the furnishing of such services.

(i) DURATION OF PROGRAMS.—(1) The Secretary shall commence carrying out the pilot programs required by this section not later than 90 days after the date of the enactment of this Act.

(2) The authority of the Secretary to provide services under the pilot programs shall cease on the date that is three years after the date of the commencement of the pilot programs under paragraph (1).

(j) DEFINITIONS.—In this section:

(1) ELIGIBLE VETERAN.—The term ''eligible veteran'' means the following:

(A) Any veteran eligible to receive hospital care and medical services under section 1710(a)(1) of title 38, United States Code.

(B) Any veteran (other than a veteran described in subparagraph (A)) if the veteran is enrolled in the system of annual patient enrollment under section 1705 of title 38, United States Code.

(2) LONG-TERM CARE NEEDS.—The term ''long-term care needs'' means the need by an individual for any of the following services:

(A) Hospital care.

(B) Medical services.

(C) Nursing home care.

(D) Case management and other social services.

(E) Home and community based services.

**SEC. 103. PILOT PROGRAM RELATING TO ASSISTED LIVING SERVICES.**

(a) IN GENERAL.—The Secretary of Veterans Affairs shall carry out a pilot program for the purpose of determining the feasibility and practicability of providing assisted living services to eligible veterans. The pilot program shall be carried out in accordance with this section.

(b) LOCATION.—The pilot program under this section shall be carried out at a designated health care region of the Department of Veterans Affairs selected by the Secretary for purposes of this section.

(c) SCOPE OF SERVICES.—(1) Subject to paragraph (2), the Secretary shall provide assisted living services under the pilot program to eligible veterans.

(2) Assisted living services may not be provided under the pilot program to a veteran eligible for care under section 1710(a)(3) of title 38, United States Code, unless such veteran agrees to pay the United States an amount equal to the amount determined in accordance with the provisions of section 1710(f) of such title.

(3) Assisted living services may also be provided under the pilot program to the spouse of an eligible veteran if—

(A) such services are provided coincidentally with the provision of identical services to the veteran under the pilot program; and

(B) such spouse agrees to pay the United States an amount equal to the cost, as determined by the Secretary, of the provision of such services.

(d) REPORTS.—(1) The Secretary shall annually submit to Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the pilot program under this section. The report shall include a detailed description of the activities under the pilot program during the one-year period ending on the date of the report and such other matters as the Secretary considers appropriate.

(2)(A) In addition to the reports required by paragraph (1), not later than 90 days before concluding the pilot program under this section, the Secretary shall submit to the committees referred to in that paragraph a final report on the pilot program.

(B) The report on the pilot program under this paragraph shall include the following:

(i) An assessment of the feasibility and practicability of providing assisted living services for veterans and their spouses.

(ii) A financial assessment of the pilot program, including a management analysis, cost-benefit analysis, Department cash-flow analysis, and strategic outlook assessment.

(iii) Recommendations, if any, regarding an extension of the pilot program, including recommendations regarding the desirability of authorizing or requiring the Secretary to seek reimbursement for the costs of the Secretary in providing assisted living services in order to reduce demand for higher-cost nursing home care under the pilot program.

(iv) Any other information or recommendations that the Secretary considers appropriate regarding the pilot program.

(e) DURATION.—(1) The Secretary shall commence carrying out the pilot program required by this section not later than 90 days after the date of the enactment of this Act.

(2) The authority of the Secretary to provide services under the pilot program shall cease on the date that is three years after the date of the commencement of the pilot program under paragraph (1).

(f) DEFINITIONS.—In this section:

(1) ELIGIBLE VETERAN.—The term ''eligible veteran'' means the following:

(A) Any veteran eligible to receive hospital care and medical services under section 1710(a)(1) of title 38, United States Code.

(B) Any veteran (other than a veteran described in subparagraph (A)) if the veteran is enrolled in the system of annual patient enrollment under section 1705 of title 38, United States Code.

(2) ASSISTED LIVING SERVICES.—The term ''assisted living services'' means services which provide personal care, activities, health-related care, supervision, and other assistance on a 24-hour basis within a residential or similar setting which—

(A) maximizes flexibility in the provision of such care, activities, supervision, and assistance;

(B) maximizes the autonomy, privacy, and independence of an individual; and

(C) encourages family and community involvement with the individual.

**Subtitle B—Management of Medical Facilities and Property**

**SEC. 111. ENHANCED-USE LEASE AUTHORITY.**

(a) MAXIMUM TERM OF LEASES.—Section 8162(b)(2) is amended by striking ''may not exceed—'' and all that follows through the end and inserting ''may not exceed 55 years.''.

(b) AVAILABILITY OF FUNDS FOR CERTAIN ACTIVITIES RELATING TO LEASES.—Section 8162(b)(4) is amended—

(1) by inserting ''(A)'' after ''(4)'';

(2) in subparagraph (A), as so designated—

(A) in the first sentence, by striking ''only''; and

(B) by striking the second sentence; and

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

''(B) Any payment by the Secretary in contribution to capital activities on property that has been leased under this subchapter may be made from amounts appropriated to the Department for construction, minor projects.''.

(c) EXTENSION OF AUTHORITY.—Section 8169 is amended by striking ''December 31, 2001'' and inserting ''December 31, 2011''.

(d) TRAINING AND OUTREACH REGARDING AUTHORITY.—The Secretary of Veterans Affairs shall take appropriate actions to provide training and outreach to personnel at Department of Veterans Affairs medical centers regarding the enhanced-use lease authority under subchapter V of chapter 81 of title 38, United States Code. The training and outreach shall address methods of approaching potential lessees in the medical or commercial sectors regarding the possibility of entering into leases under that authority and other appropriate matters.

(e) INDEPENDENT ANALYSIS OF OPPORTUNITIES FOR USE OF AUTHORITY.—(1) The Secretary shall take appropriate actions to secure from an appropriate entity independent of the Department of Veterans Affairs an analysis of opportunities for the use of the enhanced-use lease authority under subchapter V of chapter 81 of title 38, United States Code.

(2) The analysis under paragraph (1) shall include—

(A) a survey of the facilities of the Department for purposes of identifying Department property that presents an opportunity for lease under the enhanced-use lease authority;

(B) an assessment of the feasibility of entering into enhanced-use leases under that authority in the case of any property identified under subparagraph (A) as presenting an opportunity for such lease; and

(C) an assessment of the resources required at the Department facilities concerned, and at the Department Central Office, in order to facilitate the entering into of enhanced-used leases in the case of property so identified.

(3) If as a result of the survey under paragraph (2)(A) the entity determines that a particular Department property presents no opportunities for lease under the enhanced-use lease authority, the analysis shall include the entity's explanation of that determination.

(4) If as a result of the survey the entity determines that certain Department property presents an opportunity for lease under the enhanced-use lease authority, the analysis shall include a single integrated business plan, developed by the entity, that addresses the strategy and resources necessary to implement the plan for all property determined to present an opportunity for such lease.

(f) AUTHORITY FOR ENHANCED-USE LEASE OF PROPERTY UNDER BUSINESS PLAN.—(1) The Secretary may enter into an enhanced-use lease of any property identified as presenting an opportunity for such lease under the analysis under subsection (e) if such lease is consistent with the business plan under paragraph (4) of that subsection.

(2) The provisions of subchapter V of chapter 81 of title 38, United States Code, shall apply with respect to any lease under paragraph (1).

**SEC. 112. DESIGNATION OF HOSPITAL BED REPLACEMENT BUILDING AT DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER IN RENO, NEVADA, AFTER JACK STREETER.**

The hospital bed replacement building under construction at the Ioannis A. Lougaris Department of Veterans Affairs Medical Center in Reno, Nevada, is hereby designated as the ''Jack Streeter Building''. Any reference to that building in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Jack Streeter Building.

**Subtitle C—Other Health Care Provisions**

**SEC. 121. EMERGENCY HEALTH CARE IN NON-DEPARTMENT OF VETERANS AFFAIRS FACILITIES FOR ENROLLED VETERANS.**

(a) DEFINITIONS.—Section 1701 is amended—

(1) in paragraph (6)—

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

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

(C) by inserting after subparagraph (B) the following new subparagraph:

''(C) emergency care, or reimbursement for such care, as described in sections 1703(a)(3) and 1728(a)(2)(E) of this title.''; and

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

''(10) The term 'emergency medical condition' means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—

''(A) placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;

''(B) serious impairment to bodily functions; or

''(C) serious dysfunction of any bodily organ or part.''.

(b) CONTRACT CARE.—Section 1703(a)(3) is amended by striking ''medical emergencies'' and all that follows through ''health of a veteran'' and inserting ''an emergency medical condition of a veteran who is enrolled under section 1705 of this title or who is''.

(c) REIMBURSEMENT OF EXPENSES FOR EMERGENCY CARE.—Section 1728(a)(2) is amended—

(1) by striking ''or'' before ''(D)''; and

(2) by inserting before the semicolon at the end the following: '', or (E) for any emergency medical condition of a veteran enrolled under section 1705 of this title''.

(d) PAYMENT PRIORITY.—Section 1705 is amended by adding at the end the following new subsection:

''(d) The Secretary shall require in a contract under section 1703(a)(3) of this title, and as a condition of payment under section 1728(a)(2) of this title, that payment by the Secretary for treatment under such contract, or under such section, of a veteran enrolled under this section shall be made only after any payment that may be made with respect to such treatment under part A or part B of the Medicare program and after any payment that may be made with respect to such treatment by a third-party insurance provider.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to care or services provided on or after the date of the enactment of this Act.

**SEC. 122. IMPROVEMENT OF SPECIALIZED MENTAL HEALTH SERVICES FOR VETERANS.**

(a) IN GENERAL.—(1) Subchapter II of chapter 17 is amended by inserting after section 1712B the following new section:

**''§ 1712C. Specialized mental health services**

''(a) The Secretary shall carry out programs for purposes of enhancing the provision of specialized mental health services to veterans.

''(b) The programs carried out by the Secretary under subsection (a) shall include the following:

''(1) Programs relating to the treatment of Post Traumatic Stress Disorder (PTSD), including programs for—

''(A) the establishment and operation of additional outpatient and residential treatment facilities for Post Traumatic Stress Disorder in areas that are underserved by existing programs relating to Post Traumatic Stress Disorder, as determined by qualified mental health personnel of the Department who oversee such programs;

''(B) the provision of services in response to the specific needs of veterans with Post Traumatic Stress Disorder and related disorders, including short-term or long-term care services that combine residential treatment of Post Traumatic Stress Disorder;

''(C) the provision of Post Traumatic Stress Disorder or dedicated case management services on an outpatient basis; and

''(D) the enhancement of staffing of existing programs relating to Post Traumatic Stress Disorder which have exceeded the projected workloads for such programs.

''(2) Programs relating to substance use disorders, including programs for—

''(A) the establishment and operation of additional Department-based or community-based residential treatment facilities;

''(B) the expansion of the provision of opioid treatment services, including the establishment and operation of additional programs for the provision of opioid treatment services; and

''(C) the reestablishment or enhancement of substance use disorder services at facilities at which such services have been eliminated or curtailed, with an emphasis on the reestablishment or enhancement of services at facilities where demand for such services is high or which serve large geographic areas.

''(c)(1) The Secretary shall provide for the allocation of funds for the programs carried out under this section in a centralized manner.

''(2) The allocation of funds for such programs shall—

''(A) be based upon an assessment of the need for funds conducted by qualified mental health personnel of the Department who oversee such programs; and

''(B) emphasize, to the maximum extent practicable, the availability of funds for the programs described in paragraphs (1) and (2) of subsection (b).''.

(2) The table of sections at the beginning of chapter 17 is amended by inserting after the item relating to section 1712B the following new item:

''1712C. Specialized mental health services.''.

(b) REPORT.—(1) Not later than March 1 of each of 2000, 2001, and 2002, the Secretary of Veterans Affairs shall submit to Congress a report on the programs carried out by the Secretary under section 1712C of title 38, United States Code (as added by subsection (a)).

(2) The report shall, for the period beginning on the date of the enactment of this Act and ending on the date of the report—

(A) describe the programs carried out under such section 1712C;

(B) set forth the number of veterans provided services under such programs; and

(C) set forth the amounts expended for purposes of carrying out such programs.

**SEC. 123. TREATMENT AND SERVICES FOR DRUG OR ALCOHOL DEPENDENCY.**

Section 1720A(c) is amended—

(1) in the first sentence of paragraph (1)—

(A) by striking ''may not be transferred'' and inserting ''may be transferred''; and

(B) by striking ''unless such transfer is during the last thirty days of such member's enlistment or tour of duty''; and

(2) in the first sentence of paragraph (2), by striking ''during the last thirty days of such person's enlistment period or tour of duty''.

**SEC. 124. ALLOCATION TO DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE FACILITIES OF AMOUNTS IN MEDICAL CARE COLLECTIONS FUND.**

Section 1729A(d) is amended—

(1) by striking ''(1)'';

(2) by striking ''each designated health care region'' and inserting ''each Department health care facility'';

(3) by striking ''each region'' and inserting ''each facility'';

(4) by striking ''such region'' both places it appears and inserting ''such facility''; and

(4) by striking paragraph (2).

**SEC. 125. EXTENSION OF CERTAIN PERSIAN GULF WAR AUTHORITIES.**

(a) THREE-YEAR EXTENSION OF NEWSLETTER ON MEDICAL CARE.—Section 105(b)(2) of the Persian Gulf War Veterans' Benefits Act (title I of Public Law 103–446; 108 Stat. 4659; 38 U.S.C. 1117 note) is amended by striking ''December 31, 1999'' and inserting ''December 31, 2002''.

(b) THREE-YEAR EXTENSION OF PROGRAM FOR EVALUATION OF HEALTH OF SPOUSES AND CHILDREN.—Section 107(b) of Persian Gulf War Veterans' Benefits Act (title I of Public Law 103–446; 38 U.S.C. 1117 note) is amended by striking ''December 31, 1999'' and inserting ''December 31, 2002''.

**SEC. 126. REPORT ON COORDINATION OF PROCUREMENT OF PHARMACEUTICALS AND MEDICAL SUPPLIES BY THE DEPARTMENT OF VETERANS AFFAIRS AND THE DEPARTMENT OF DEFENSE.**

(a) REQUIREMENT.—Not later than March 31, 2000, the Secretary of Veterans Affairs and the Secretary of Defense shall jointly submit to the Committees on Veterans' Affairs and Armed Services of the Senate and the Committees on Veterans' Affairs and Armed Services of the House of Representatives a report on the cooperation between the Department of Veterans Affairs and the Department of Defense in the procurement of pharmaceuticals and medical supplies.

(b) REPORT ELEMENTS.—The report under subsection (a) shall include the following:

(1) A description of the current cooperation between the Department of Veterans Affairs and the Department of Defense in the procurement of pharmaceuticals and medical supplies.

(2) An assessment of the means by which cooperation between the departments in such procurement could be enhanced or improved.

(3) A description of any existing memoranda of agreement between the Department of Veterans Affairs and the Department of Defense that provide for the cooperation referred to in subsection (a).

(4) A description of the effects, if any, such agreements will have on current staffing levels at the Defense Supply Center in Philadelphia, Pennsylvania, and the Department of Veterans Affairs National Acquisition Center in Hines, Illinois.

(5) A description of the effects, if any, of such cooperation on military readiness.

(6) A comprehensive assessment of cost savings realized and projected over the five fiscal year period beginning in fiscal year 1999 for the Department of Veterans Affairs and the Department of Defense as a result of such cooperation, and the overall savings to the Treasury of the United States as a result of such cooperation.

(7) A list of the types of medical supplies and pharmaceuticals for which cooperative agreements would not be appropriate and the reason or reasons therefor.

(8) An assessment of the extent to which cooperative agreements could be expanded to include medical equipment, major systems, and durable goods used in the delivery of health care by the Department of Veterans Affairs and the Department of Defense.

(9) A description of the effects such agreements might have on distribution of items purchased cooperatively by the Department of Veterans Affairs and the Department of Defense, particularly outside the continental United States.

(10) An assessment of the potential to establish common pharmaceutical formularies between the Department of Veterans Affairs and the Department of Defense.

(11) An explanation of the current Uniform Product Number (UPN) requirements of each Department and of any planned standardization of such requirements between the Departments for medical equipment and durable goods manufacturers.

**SEC. 127. REIMBURSEMENT OF MEDICAL EXPENSES OF VETERANS LOCATED IN ALASKA.**

(a) PRESERVATION OF CURRENT REIMBURSEMENT RATES.—Notwithstanding any other provision of law, the Secretary of Veterans Affairs shall, for purposes of reimbursing veterans in Alaska for medical expenses under section 1728 of title 38, United States Code, during the one-year period beginning on the date of the enactment of this Act, use the fee-for-service payment schedule in effect for such purposes on July 31, 1999, rather than the Participating Physician Fee Schedule under the Medicare program.

(b) REPORT.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs and the Secretary of Health and Human Services shall jointly submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report and recommendation on the use of the Participating Physician Fee Schedule under the Medicare program as a means of calculating reimbursement rates for medical expenses of veterans located in Alaska under section 1728 of title 38, United States Code.

(2) The report shall—

(A) assess the differences between health care costs in Alaska and health care costs in the continental United States;

(B) describe any differences between the costs of providing health care in Alaska and the reimbursement rates for the provision of health care under the Participating Physician Fee Schedule; and

(C) assess the effects on health care for veterans in Alaska of implementing the Participating Physician Fee Schedule as a means of calculating reimbursement rates for medical expenses of veterans located in Alaska under section 1728 of title 38, United States Code.

**SEC. 128. REPEAL OF FOUR-YEAR LIMITATION ON TERMS OF UNDER SECRETARY FOR HEALTH AND UNDER SECRETARY FOR BENEFITS.**

(a) UNDER SECRETARY FOR HEALTH.—Section 305 is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

(b) UNDER SECRETARY FOR BENEFITS.—Section 306 is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

(c) APPLICABILITY.—The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act and shall apply with respect to individuals appointed as Under Secretary for Health and Under Secretary for Benefits, respectively, on or after that date.

### Subtitle D—Major Medical Facility Projects Construction Authorizations

**SEC. 131. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS.**

(a) IN GENERAL.—The Secretary of Veterans Affairs may carry out the following major medical facility projects, with each project to be carried out in the amount specified for that project:

(1) Construction of a long term care facility at the Department of Veterans Affairs Medical Center, Lebanon, Pennsylvania, in an amount not to exceed $14,500,000.

(2) Renovations and environmental improvements at the Department of Veterans Affairs Medical Center, Fargo, North Dakota, in an amount not to exceed $12,000,000.

(3) Construction of a surgical suite and post-anesthesia care unit at the Department of Veterans Affairs Medical Center, Kansas City, Missouri, in an amount not to exceed $13,000,000.

(4) Renovations and environmental improvements at the Department of Veterans Affairs Medical Center, Atlanta, Georgia, in an amount not to exceed $12,400,000.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 2000 for the Construction, Major Projects, Account $225,500,000 for the projects authorized in subsection (a) and for the continuation of projects authorized in section 701(a) of the Veterans Programs Enhancement Act of 1998 (Public Law 105–368; 112 Stat. 3348).

(2) LIMITATION ON FISCAL YEAR 2000 PROJECTS.—The projects authorized in subsection (a) may only be carried out using—

(A) funds appropriated for fiscal year 2000 pursuant to the authorizations of appropriations in subsection (a);

(B) funds appropriated for Construction, Major Projects, for a fiscal year before fiscal year 2000 that remain available for obligation; and

(C) funds appropriated for Construction, Major Projects, for fiscal year 2000 for a category of activity not specific to a project.

(c) AVAILABILITY OF FUNDS FOR FISCAL YEAR 1999 PROJECTS.—Section 703(b)(1) of the Veterans Programs Enhancement Act of 1998 (112 Stat. 3349) is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(2) by inserting after subparagraph (A) the following new subparagraph (B):

''(B) funds appropriated for fiscal year 2000 pursuant to the authorization of appropriations in section 341(b)(1) of the Veterans Benefits Act of 1999;''.

## TITLE II—BENEFITS MATTERS

### Subtitle A—Homeless Veterans

**SEC. 201. EXTENSION OF PROGRAM OF HOUSING ASSISTANCE FOR HOMELESS VETERANS.**

Section 3735(c) is amended by striking ''December 31, 1999'' and inserting ''December 31, 2001''.

**SEC. 202. HOMELESS VETERANS COMPREHENSIVE SERVICE PROGRAMS.**

(a) PURPOSES OF GRANTS.—Paragraph (1) of section 3(a) of the Homeless Veterans Comprehensive Service Programs Act of 1992 (38 U.S.C. 7721 note) is amended by inserting '', and expanding existing programs for furnishing,'' after ''new programs to furnish''.

(b) EXTENSION OF AUTHORITY TO MAKE GRANTS.—Paragraph (2) of that section is amended by striking ''September 30, 1999'' and inserting ''September 30, 2001''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 12 of that Act (38 U.S.C. 7721 note) is amended in the first sentence by inserting ''and $50,000,000 for each of fiscal years 2000 and 2001'' after ''for fiscal years 1993 through 1997''.

**SEC. 203. AUTHORIZATIONS OF APPROPRIATIONS FOR HOMELESS VETERANS' REINTEGRATION PROJECTS.**

Section 738(e)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C.

11448(e)(1) is amended by adding at the end the following:

''(H) $10,000,000 for fiscal year 2000.

''(I) $10,000,000 for fiscal year 2001.''.

**SEC. 204. REPORT ON IMPLEMENTATION OF GENERAL ACCOUNTING OFFICE RECOMMENDATIONS REGARDING PERFORMANCE MEASURES.**

(a) REPORT.—Not later than three months after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report containing a detailed plan for the evaluation by the Department of Veterans Affairs of the effectiveness of programs to assist homeless veterans.

(b) OUTCOME MEASURES.—The plan shall include outcome measures which determine whether veterans are housed and employed within six months after housing and employment are secured for veterans under such programs.

**Subtitle B—Other Matters**

**SEC. 211. PAYMENT RATE OF CERTAIN BURIAL BENEFITS FOR CERTAIN FILIPINO VETERANS.**

(a) PAYMENT RATE.—Section 107 is amended—

(1) in subsection (a), by striking ''Payments'' and inserting ''Subject to subsection (c), payments''; and

(2) by adding at the end the following:

''(c)(1) In the case of an individual described in paragraph (2), payments under section 2302 or 2303 of this title by reason of subsection (a)(3) shall be made at the rate of $1 for each dollar authorized.

''(2) Paragraph (1) applies to any individual whose service is described in subsection (a) and who dies after the date of the enactment of the Veterans Benefits Act of 1999 if the individual, on the individual's date of death—

''(A) is a citizen of the United States;

''(B) is residing in the United States; and

''(C) either—

''(i) is receiving compensation under chapter 11 of this title; or

''(ii) if such service had been deemed to be active military, naval, or air service, would have been paid pension under section 1521 of this title without denial or discontinuance by reason of section 1522 of this title.''.

(b) APPLICABILITY.—No benefits shall accrue to any person for any period before the date of the enactment of this Act by reason of the amendments made by subsection (a).

**SEC. 212. EXTENSION OF AUTHORITY TO MAINTAIN A REGIONAL OFFICE IN THE REPUBLIC OF THE PHILIPPINES.**

Section 315(b) is amended by striking ''December 31, 1999'' and inserting ''December 31, 2004''.

**SEC. 213. EXTENSION OF ADVISORY COMMITTEE ON MINORITY VETERANS.**

Section 544(e) is amended by striking ''December 31, 1999'' and inserting ''December 31, 2004''.

**SEC. 214. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES OF FORMER PRISONERS OF WAR.**

(a) ELIGIBILITY.—Section 1318(b) is amended—

(1) by striking ''that either—'' in the matter preceding paragraph (1) and inserting ''rated totally disabling if—''; and

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

''(3) the veteran was a former prisoner of war who died after September 30, 1999, and whose disability was continuously rated totally disabling for a period of one year immediately preceding death.''.

(b) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in paragraph (1)—

(A) by inserting ''the disability'' after ''(1)''; and

(B) by striking ''or'' after ''death;''; and

(2) in paragraph (2)—

(A) by striking ''if so rated for a lesser period, was so rated continuously'' and inserting ''the disability was continuously rated totally disabling''; and

(B) by striking the period at the end and inserting ''; or''.

**SEC. 215. REPEAL OF LIMITATION ON PAYMENTS OF BENEFITS TO INCOMPETENT INSTITUTIONALIZED VETERANS.**

Section 5503 is amended—

(1) by striking subsections (b) and (c); and

(2) by redesignating subsections (d), (e), and (f) as subsections (b), (c), and (d), respectively.

**SEC. 216. CLARIFICATION OF VETERANS EMPLOYMENT OPPORTUNITIES.**

(a) CLARIFICATION.—Section 3304(f) of title 5, United States Code, is amended—

(1) by striking paragraph (4);

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(3) by inserting after paragraph (1) the following new paragraph (2):

''(2) If selected, a preference eligible or veteran described in paragraph (1) shall acquire competitive status and shall receive a career or career-conditional appointment, as appropriate.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the amendment made to section 3304 of title 5, United States Code, by section 2 of the Veterans Employment Opportunities Act of 1998 (Public Law 105–339; 112 Stat. 3182), to which such amendments relate.

**TITLE III—EDUCATION MATTERS**

**SEC. 301. SHORT TITLE.**

This title may be cited as the ''All-Volunteer Force Educational Assistance Programs Improvements Act of 1999''.

**SEC. 302. AVAILABILITY OF MONTGOMERY GI BILL BENEFITS FOR PREPARATORY COURSES FOR COLLEGE AND GRADUATE SCHOOL ENTRANCE EXAMS.**

Section 3002(3) is amended—

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

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

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

''(B) includes—

''(i) a preparatory course for a test that is required or utilized for admission to an institution of higher education; and

''(ii) a preparatory course for a test that is required or utilized for admission to a graduate school; and''.

**SEC. 303. INCREASE IN BASIC BENEFIT OF ACTIVE DUTY EDUCATIONAL ASSISTANCE.**

(a) INCREASE IN BASIC BENEFIT.—Section 3015 is amended—

(1) in subsection (a)(1), by striking ''$528'' and inserting ''$600''; and

(2) in subsection (b)(1), by striking ''$429'' and inserting ''$488''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1999, and shall apply with respect to educational assistance allowances paid for months after September 1999. However, no adjustment in rates of educational assistance shall be made under section 3015(g) of title 38, United States Code, for fiscal year 2000.

**SEC. 304. INCREASE IN RATES OF SURVIVORS AND DEPENDENTS EDUCATIONAL ASSISTANCE.**

(a) SURVIVORS AND DEPENDENTS EDUCATIONAL ASSISTANCE.—Section 3532 is amended—

(1) in subsection (a)(1)—

(A) by striking ''$485'' and inserting ''$550'';

(B) by striking ''$365'' and inserting ''$414''; and

(C) by striking ''$242'' and inserting ''$274'';

(2) in subsection (a)(2), by striking ''$485'' and inserting ''$550'';

(3) in subsection (b), by striking ''$485'' and inserting ''$550''; and

(4) in subsection (c)(2)—

(A) by striking ''$392'' and inserting ''$445'';

(B) by striking ''$294'' and inserting ''$333''; and

(C) by striking ''$196'' and inserting ''$222''.

(b) CORRESPONDENCE COURSE.—Section 3534(b) is amended by striking ''$485'' and inserting ''$550''.

(c) SPECIAL RESTORATIVE TRAINING.—Section 3542(a) is amended—

(1) by striking ''$485'' and inserting ''$550'';

(2) by striking ''$152'' each place it appears and inserting ''$172''; and

(3) by striking ''$16.16'' and inserting ''$18.35''.

(d) APPRENTICESHIP TRAINING.—Section 3687(b)(2) is amended—

(1) by striking ''$353'' and inserting ''$401'';

(2) by striking ''$264'' and inserting ''$299'';

(3) by striking ''$175'' and inserting ''$198''; and

(4) by striking ''$88'' and inserting ''$99''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1999, and shall apply with respect to educational assistance paid for months after September 1999.

**SEC. 305. INCREASED ACTIVE DUTY EDUCATIONAL ASSISTANCE BENEFIT FOR CONTRIBUTING MEMBERS.**

(a) AUTHORITY TO MAKE CONTRIBUTIONS FOR INCREASED ASSISTANCE AMOUNT.—(1) Section 3011 is amended—

(A) by redesignating subsection (i) as subsection (j); and

(B) by inserting after subsection (h) the following new subsection (i):

''(i)(1) Any individual eligible for educational assistance under this section who does not make an election under subsection (c)(1) may contribute amounts for purposes of receiving an increased amount of basic educational assistance as provided for under section 3015(g) of this title. Such contributions shall be in addition to any reductions in the basic pay of such individual under subsection (b).

''(2) An individual covered by paragraph (1) may make the contributions authorized by that paragraph at any time while on active duty.

''(3) The total amount of the contributions made by an individual under paragraph (1) may not exceed $600. Such contributions shall be made in multiples of $4.

''(4) Contributions under this subsection shall be made to the Secretary. The Secretary shall deposit any amounts received by the Secretary as contributions under this subsection into the Treasury as miscellaneous receipts.''.

(2) Section 3012 is amended—

(A) by redesignating subsection (g) as subsection (h); and

(B) by inserting after subsection (f) the following new subsection (g):

''(g)(1) Any individual eligible for educational assistance under this section who does not make an election under subsection (d)(1) may contribute amounts for purposes of receiving an increased amount of basic educational assistance as provided for under section 3015(g) of this title. Such contributions shall be in addition to any reductions in the basic pay of such individual under subsection (c).

''(2) An individual covered by paragraph (1) may make the contributions authorized by that paragraph at any time while on active duty.

''(3) The total amount of the contributions made by an individual under paragraph (1) may not exceed $600. Such contributions shall be made in multiples of $4.

''(4) Contributions under this subsection shall be made to the Secretary. The Secretary shall deposit any amounts received by the Secretary as contributions under this subsection into the Treasury as miscellaneous receipts.''.

(b) INCREASED ASSISTANCE AMOUNT.—Section 3015, as amended by section 303 of this Act, is further amended—

(1) by striking ''subsection (g)'' each place it appears in subsections (a)(1) and (b)(1) and inserting ''subsection (h)'';

(2) by redesignating subsection (g) as subsection (h); and

(3) by inserting after subsection (f) the following new subsection (g):

''(g) In the case of an individual who has made contributions authorized by section 3011(i) or 3012(g) of this title, the monthly amount of basic educational assistance allowance applicable to such individual under subsection (a), (b), or (c) shall be the monthly rate otherwise provided for under the applicable subsection increased by—

''(1) an amount equal to $1 for each $4 contributed by such individual under section 3011(i) or 3012(g), as the case may be, for an approved program of education pursued on a full-time basis; or

''(2) an appropriately reduced amount based on the amount so contributed, as determined under regulations which the Secretary shall prescribe, for an approved program of education pursued on less than a full-time basis.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2000.

**SEC. 306. CONTINUING ELIGIBILITY FOR EDUCATIONAL ASSISTANCE OF MEMBERS OF THE ARMED FORCES ATTENDING OFFICER TRAINING SCHOOL.**

Section 3011(a)(1) is amended—

(1) in subparagraph (A)(ii)—

(A) by striking ''or (III)'' and inserting ''(III)''; and

(B) by inserting before the semicolon at the end the following: ''or (IV) for immediate reenlistment to accept a commission as an officer and subsequently completes the resulting obligated period of active duty service as a commissioned officer''; and

(2) in subparagraph (B)(ii)—

(A) by striking '', or (III)'' and inserting ''; (III)''; and

(B) by inserting before the semicolon at the end the following: ''or (IV) for immediate reenlistment to accept a commission as an officer and subsequently completes the resulting obligated period of active duty service as a commissioned officer''.

**SEC. 307. ELIGIBILITY OF MEMBERS OF THE ARMED FORCES TO WITHDRAW ELECTIONS NOT TO RECEIVE MONTGOMERY GI BILL BASIC EDUCATIONAL ASSISTANCE.**

(a) MEMBERS ON ACTIVE DUTY.—Section 3011(c) is amended by adding at the end the following:

''(4)(A) An individual who makes an election under paragraph (1) may withdraw the election at any time before the discharge or release of the individual from active duty in the Armed Forces. An individual who withdraws such an election may become entitled to basic educational assistance under this chapter.

''(B) The withdrawal of an election under this paragraph shall be made in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

''(C)(i) In the case of an individual who withdraws an election under this paragraph—

''(I) the basic pay of the individual shall be reduced by $100 for each month after the month in which the election is made until the total amount of such reductions equals $1,500; or

''(II) to the extent that basic pay is not so reduced before the individual's discharge or release from active duty in the Armed Forces, the Secretary, before authorizing the payment of educational assistance under this chapter, shall ensure that an amount equal to the difference between $1,500 and the total amount of reductions under subclause (I) was paid before the discharge or release of the individual from active duty in the Armed Forces.

''(ii) An individual described in clause (i) may pay the Secretary at any time before discharge or release from active duty in the Armed Forces an amount equal to the total amount of the reduction in basic pay otherwise required with respect to the individual under that clause minus the total amount of reductions of basic pay of the individual under that clause at the time of the payment under this clause.

''(iii) The second sentence of subsection (b) shall apply to any reductions in basic pay under clause (i)(I).

''(iv) Amounts paid under clauses (i)(II) and (ii) shall be deposited into the Treasury as miscellaneous receipts.

''(D) The withdrawal of an election under this paragraph is irrevocable.''.

(b) MEMBERS OF SELECTED RESERVE.—Section 3012(d) is amended by adding at the end the following:

''(4)(A) An individual who makes an election under paragraph (1) may withdraw the election at any time before the discharge or release of the individual from the Armed Forces. An individual who withdraws such an election may become entitled to basic educational assistance under this chapter.

''(B) The withdrawal of an election under this paragraph shall be made in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

''(C)(i) In the case of an individual who withdraws an election under this paragraph—

''(I) the basic pay or compensation of the individual shall be reduced by $100 for each month after the month in which the election is made until the total amount of such reductions equals $1,500; or

''(II) to the extent that basic pay or compensation is not so reduced before the individual's discharge or release from the Armed Forces, the Secretary, before authorizing the payment of educational assistance under this chapter, shall ensure that an amount equal to the difference between $1,500 and the total amount of reductions under subclause (I) was paid before the discharge or release of the individual from the Armed Forces.

''(ii) An individual described in clause (i) may pay the Secretary at any time before discharge or release from the Armed Forces an amount equal to the total amount of the reduction in basic pay or compensation otherwise required with respect to the individual under that clause minus the total amount of reductions of basic pay or compensation of the individual under that clause at the time of the payment under this clause.

''(iii) The second sentence of subsection (c) shall apply to any reductions in basic pay or compensation under clause (i)(I).

''(iv) Amounts paid under clauses (i)(II) and (ii) shall be deposited into the Treasury as miscellaneous receipts.

''(D) The withdrawal of an election under this paragraph is irrevocable.''.

**SEC. 308. ACCELERATED PAYMENTS OF BASIC EDUCATIONAL ASSISTANCE.**

Section 3014 is amended—

(1) by inserting ''(a)'' before ''The Secretary''; and

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

''(b)(1) The Secretary may make payments of basic educational assistance under this subchapter on an accelerated basis.

''(2) The Secretary may pay basic educational assistance on an accelerated basis under this subsection only to an individual entitled to payment of such assistance under this subchapter who has made a request for payment of such assistance on an accelerated basis.

''(3) In the event an adjustment under section 3015(g) of this title in the monthly rate of basic educational assistance will occur during a period for which a payment of such assistance is made on an accelerated basis under this subsection, the Secretary shall pay on an accelerated basis the amount of such assistance otherwise payable under this subchapter for the period without regard to the adjustment under that section.

''(4) For each accelerated payment made to an individual, the individual's entitlement under this subchapter shall be charged as if the individual had received a monthly educational assistance allowance for the period of educational pursuit covered by the accelerated payment.

''(5) Basic educational assistance shall be paid on an accelerated basis under this subsection as follows:

''(A) In the case of assistance for a course leading to a standard college degree, at the beginning of the quarter, semester, or term of the course in a lump-sum amount equivalent to the aggregate amount of monthly assistance otherwise payable under this subchapter for the quarter, semester, or term, as the case may be, of the course.

''(B) In the case of assistance for a course other than a course referred to in subparagraph (A)—

''(i) at the later of (I) the beginning of the course, or (II) a reasonable time after the request for payment by the individual concerned; and

''(ii) in any amount requested by the individual concerned within the limit, if any, specified in the regulations prescribed by the Secretary under paragraph (6), with such limit not to exceed the aggregate amount of monthly assistance otherwise payable under this subchapter for the period of the course.

''(6) The Secretary shall prescribe regulations for purposes of making payments of basic educational assistance on an accelerated basis under this subsection. Such regulations shall include requirements relating to the request for, making and delivery of, and receipt and use of such payments and may include a limit on the amount payable for a course under paragraph (5)(B)(ii).''.

**SEC. 309. VETERANS EDUCATION AND VOCATIONAL TRAINING BENEFITS PROVIDED BY THE STATES.**

(a) ANNUAL REPORT.—(1) Not later than six months after the date of the enactment of this Act, and January 31 of each year thereafter, the Secretary of Veterans Affairs shall, in consultation with the Secretary of Education, the Secretary of Defense, and the Secretary of Labor, submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on veterans education and vocational training benefits provided by the States.

(2) A report under paragraph (1) shall include, for the one-year period ending on the date of the report, the following:

(A) A description of the assistance in securing post-secondary education and vocational training provided veterans by each State.

(B) A list of the States which provide veterans full or partial waivers of tuition for attending institutions of higher education that are State-supported.

(C) A description of the actions taken by the Department of Veterans Affairs, Department of Defense, Department of Education, and Department of Labor to encourage the States to provide benefits designed to assist veterans in securing post-secondary education and vocational training.

(b) SENSE OF CONGRESS REGARDING STATE VETERANS EDUCATION AND VOCATIONAL TRAINING BENEFITS.—(1) Congress makes the following findings:

(A) The peace and prosperity of the citizens of the States are ensured by the voluntary service of men and women in the Armed Forces.

(B) Veterans benefit from the military training and discipline and the success-oriented attitude that are inculcated by service in the Armed Forces.

(C) It is in the social and economic interests of the States to take advantage of the positive personal attributes of veterans which are nurtured through service in the Armed Forces.

(D) A post-secondary education provides veterans the means to maximize their contribution to the society and economy of the States.

(E) Some States have recognized that it is in their interest to provide veterans post-secondary education on a tuition-free basis.

(2) It is the sense of Congress that each of the States should admit qualified veterans to publicly-supported institutions of higher education on a tuition-free basis.

(c) STATE DEFINED.—In this section, the term ''State'' has the meaning given that term in section 101(20) of title 38, United States Code.

## TITLE IV—MEMORIAL AFFAIRS

### Subtitle A—Arlington National Cemetery

**SEC. 401. SHORT TITLE.**

This subtitle may be cited as the ''Arlington National Cemetery Burial and Inurnment Eligibility Act of 1999''.

**SEC. 402. PERSONS ELIGIBLE FOR BURIAL IN ARLINGTON NATIONAL CEMETERY.**

(a) IN GENERAL.—(1) Chapter 24 is amended by adding at the end the following new section:

**''§ 2412. Arlington National Cemetery: persons eligible for burial**

''(a) PRIMARY ELIGIBILITY.—The remains of the following individuals may be buried in Arlington National Cemetery:

''(1) Any member of the Armed Forces who dies while on active duty.

''(2) Any retired member of the Armed Forces and any person who served on active duty and at the time of death was entitled (or but for age would have been entitled) to retired pay under chapter 1223 of title 10.

''(3) Any former member of the Armed Forces separated for physical disability before October 1, 1949, who—

''(A) served on active duty; and

''(B) would have been eligible for retirement under the provisions of section 1201 of title 10 (relating to retirement for disability) had that section been in effect on the date of separation of the member.

''(4) Any former member of the Armed Forces whose last active duty military service terminated honorably and who has been awarded one of the following decorations:

''(A) Medal of Honor.

''(B) Distinguished Service Cross, Air Force Cross, or Navy Cross.

''(C) Distinguished Service Medal.

''(D) Silver Star.

''(E) Purple Heart.

''(5) Any former prisoner of war who dies on or after November 30, 1993.

''(6) The President or any former President.

''(7) Any former member of the Armed Forces whose last discharge or separation from active duty was under honorable conditions and who is or was one of the following:

''(A) Vice President.

''(B) Member of Congress.

''(C) Chief Justice or Associate Justice of the Supreme Court.

''(D) The head of an Executive department (as such departments are listed in section 101 of title 5).

''(E) An individual who served in the foreign or national security services, if such individual died as a result of a hostile action outside the United States in the course of such service.

''(8) Any individual whose eligibility is authorized in accordance with subsection (b).

''(b) ADDITIONAL AUTHORIZATIONS OF BURIAL.—(1) In the case of a former member of the Armed Forces not otherwise covered by subsection (a) whose last discharge or separation from active duty was under honorable conditions, if the Secretary of Defense makes a determination referred to in paragraph (3) with respect to such member, the Secretary of Defense may authorize the burial of the remains of such former member in Arlington National Cemetery under subsection (a)(8).

''(2) In the case of any individual not otherwise covered by subsection (a) or paragraph (1), if the President makes a determination referred to in paragraph (3) with respect to such individual, the President may authorize the burial of the remains of such individual in Arlington National Cemetery under subsection (a)(8).

''(3) A determination referred to in paragraph (1) or (2) is a determination that the acts, service, or other contributions to the Nation of the former member or individual concerned are of equal or similar merit to the acts, service, or other contributions to the Nation of any of the persons listed in subsection (a).

''(4)(A) In the case of an authorization for burial under this subsection, the President or the Secretary of Defense, as the case may be, shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the authorization not later than 72 hours after the authorization.

''(B) Each report under subparagraph (A) shall—

''(i) identify the individual authorized for burial; and

''(ii) provide a justification for the authorization for burial.

''(5)(A) In the case of an authorization for burial under this subsection, the President or the Secretary of Defense, as the case may be, shall publish in the Federal Register a notice of the authorization as soon as practicable after the authorization.

''(B) Each notice under subparagraph (A) shall—

''(i) identify the individual authorized for burial; and

''(ii) provide a justification for the authorization for burial.

''(c) ELIGIBILITY OF FAMILY MEMBERS.—The remains of the following individuals may be buried in Arlington National Cemetery:

''(1)(A) Except as provided in subparagraph (B), the spouse, surviving spouse, minor child, and, at the discretion of the Superintendent, unmarried adult child of a person listed in subsection (a), but only if buried in the same gravesite as that person.

''(B) In a case under subparagraph (A) in which the same gravesite may not be used due to insufficient space, a person otherwise eligible under that subparagraph may be interred in a gravesite adjoining the gravesite of the person listed in subsection (a) if space in such adjoining gravesite had been reserved for the burial of such person otherwise eligible under that subparagraph before January 1962.

''(2)(A) The spouse, minor child, and, at the discretion of the Superintendent, unmarried adult child of a member of the Armed Forces on active duty if such spouse, minor child, or unmarried adult child dies while such member is on active duty.

''(B) The individual whose spouse, minor child, and unmarried adult child is eligible under subparagraph (A), but only if buried in the same gravesite as the spouse, minor child, or unmarried adult child.

''(3) The parents of a minor child or unmarried adult child whose remains, based on the eligibility of a parent, are already buried in Arlington National Cemetery, but only if buried in the same gravesite as that minor child or unmarried adult child.

''(4)(A) Subject to subparagraph (B), the surviving spouse, minor child, and, at the discretion of the Superintendent, unmarried adult child of a member of the Armed Forces who was lost, buried at sea, or officially determined to be permanently absent in a status of missing or missing in action.

''(B) A person is not eligible under subparagraph (A) if a memorial to honor the memory of the member is placed in a cemetery in the national cemetery system, unless the memorial is removed. A memorial removed under this subparagraph may be placed, at the discretion of the Superintendent, in Arlington National Cemetery.

''(5) The surviving spouse, minor child, and, at the discretion of the Superintendent, unmarried adult child of a member of the Armed Forces buried in a cemetery under the jurisdiction of the American Battle Monuments Commission.

''(d) SPOUSES.—For purposes of subsection (c)(1), a surviving spouse of a person whose remains are buried in Arlington National Cemetery by reason of eligibility under subsection (a) who has remarried is eligible for burial in the same gravesite of that person. The spouse of the surviving spouse is not eligible for burial in such gravesite.

''(e) DISABLED ADULT UNMARRIED CHILDREN.—In the case of an unmarried adult child who is incapable of self-support up to the time of death because of a physical or mental condition, the child may be buried under subsection (c) without requirement for approval by the Superintendent under that subsection if the burial is in the same gravesite as the gravesite in which the parent, who is eligible for burial under subsection (a), has been or will be buried.

''(f) FAMILY MEMBERS OF PERSONS BURIED IN A GROUP GRAVESITE.—In the case of a person eligible for burial under subsection (a) who is buried in Arlington National Cemetery as part of a group burial, the surviving spouse, minor child, or unmarried adult child of the member may not be buried in the group gravesite.

''(g) EXCLUSIVE AUTHORITY FOR BURIAL IN ARLINGTON NATIONAL CEMETERY.—Eligibility for burial of remains in Arlington National Cemetery prescribed under this section is the exclusive eligibility for such burial.

''(h) APPLICATION FOR BURIAL.—A request for burial of remains of an individual in Arlington National Cemetery made before the death of the individual may not be considered by the Secretary of the Army, the Secretary of Defense, or any other responsible official.

''(i) REGISTER OF BURIED INDIVIDUALS.—(1) The Secretary of the Army shall maintain a

register of each individual buried in Arlington National Cemetery and shall make such register available to the public.

''(2) With respect to each such individual buried on or after January 1, 1998, the register shall include a brief description of the basis of eligibility of the individual for burial in Arlington National Cemetery.

''(j) DEFINITIONS.—For purposes of this section:

''(1) The term 'retired member of the Armed Forces' means—

''(A) any member of the Armed Forces on a retired list who served on active duty and who is entitled to retired pay;

''(B) any member of the Fleet Reserve or Fleet Marine Corps Reserve who served on active duty and who is entitled to retainer pay; and

''(C) any member of a reserve component of the Armed Forces who has served on active duty and who has received notice from the Secretary concerned under section 12731(d) of title 10 of eligibility for retired pay under chapter 1223 of title 10.

''(2) The term 'former member of the Armed Forces' includes a person whose service is considered active duty service pursuant to a determination of the Secretary of Defense under section 401 of Public Law 95–202 (38 U.S.C. 106 note).

''(3) The term 'Superintendent' means the Superintendent of Arlington National Cemetery.''.

(2) The table of sections at the beginning of chapter 24 is amended by adding at the end the following new item:

''2412. Arlington National Cemetery: persons eligible for burial.''.

(b) PUBLICATION OF UPDATED PAMPHLET.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Army shall publish an updated pamphlet describing eligibility for burial in Arlington National Cemetery. The pamphlet shall reflect the provisions of section 2412 of title 38, United States Code, as added by subsection (a).

(c) TECHNICAL AMENDMENTS.—Section 2402(7) is amended—

(1) by inserting ''(or but for age would have been entitled)'' after ''was entitled'';

(2) by striking ''chapter 67'' and inserting ''chapter 1223''; and

(3) by striking ''or would have been entitled to'' and all that follows and inserting a period.

(d) EFFECTIVE DATE.—Section 2412 of title 38, United States Code, as added by subsection (a), shall apply with respect to individuals dying on or after the date of the enactment of this Act.

**SEC. 403. PERSONS ELIGIBLE FOR PLACEMENT IN THE COLUMBARIUM IN ARLINGTON NATIONAL CEMETERY.**

(a) IN GENERAL.—(1) Chapter 24 is amended by adding after section 2412, as added by section 402(a)(1) of this Act, the following new section:

**''§ 2413. Arlington National Cemetery: persons eligible for placement in columbarium**

''(a) ELIGIBILITY.—The cremated remains of the following individuals may be placed in the columbarium in Arlington National Cemetery:

''(1) A person eligible for burial in Arlington National Cemetery under section 2412 of this title.

''(2)(A) A veteran whose last period of active duty service (other than active duty for training) ended honorably.

''(B) The spouse, surviving spouse, minor child, and, at the discretion of the Superintendent of Arlington National Cemetery, unmarried adult child of such a veteran.

''(b) SPOUSE.—Section 2412(d) of this title shall apply to a spouse under this section in the same manner as it applies to a spouse under section 2412 of this title.''.

(2) The table of sections at the beginning of chapter 24 is amended by adding after section 2412, as added by section 402(a)(2) of this Act, the following new item:

''2413. Arlington National Cemetery: persons eligible for placement in columbarium.''.

(b) EFFECTIVE DATE.—Section 2413 of title 38, United States Code, as added by subsection (a), shall apply with respect to individuals dying on or after the date of the enactment of this Act.

**Subtitle B—Other Memorial Matters**

**SEC. 411. ESTABLISHMENT OF ADDITIONAL NATIONAL CEMETERIES.**

(a) IN GENERAL.—The Secretary of Veterans Affairs shall establish, in accordance with chapter 24 of title 38, United States Code, the following:

(1) A national cemetery in the Atlanta, Georgia, metropolitan area to serve the needs of veterans and their families.

(2) A national cemetery in Southwestern Pennsylvania to serve the needs of veterans and their families.

(3) A national cemetery in the Miami, Florida, metropolitan area to serve the needs of veterans and their families.

(4) A national cemetery in the Detroit, Michigan, metropolitan area to serve the needs of veterans and their families.

(5) A national cemetery in the Sacramento, California, metropolitan area to serve the needs of veterans and their families.

(b) CONSULTATION IN SELECTION OF SITES.—Before selecting the sites for the national cemeteries to be established under subsection (a), the Secretary shall consult with—

(1) in the case of the national cemetery to be established under paragraph (1) of that subsection, appropriate officials of the State of Georgia and appropriate officials of local governments in the Atlanta, Georgia, metropolitan area;

(2) in the case of the national cemetery to be established under paragraph (2) of that subsection, appropriate officials of the State of Pennsylvania and appropriate officials of local governments in Southwestern Pennsylvania;

(3) in the case of the national cemetery to be established under paragraph (3) of that subsection, appropriate officials of the State of Florida and appropriate officials of local governments in the Miami, Florida, metropolitan area;

(4) in the case of the national cemetery to be established under paragraph (4) of that subsection, appropriate officials of the State of Michigan and appropriate officials of local governments in the Detroit, Michigan, metropolitan area;

(5) in the case of the national cemetery to be established under paragraph (5) of that subsection, appropriate officials of the State of California and appropriate officials of local governments in the Sacramento, California, metropolitan area; and

(6) appropriate officials of the United States, including the Administrator of General Services, with respect to land belonging to the United States that would be suitable as a location for the establishment of each such national cemetery.

(c) REPORT.—As soon as practicable after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the establishment of the national cemeteries under subsection (a). The report shall set forth a schedule for the establishment of each such cemetery and an estimate of the costs associated with the establishment of each such cemetery.

**SEC. 412. USE OF FLAT GRAVE MARKERS AT SANTA FE NATIONAL CEMETERY, NEW MEXICO.**

(a) AUTHORITY TO USE FLAT GRAVE MARKERS AT SANTA FE NATIONAL CEMETERY.—Notwithstanding section 2404(c)(2) of title 38, United States Code, the Secretary of Veterans Affairs may provide for flat grave markers at the Santa Fe National Cemetery, New Mexico.

(b) REPORT COMPARING USE OF FLAT GRAVE MARKERS AND UPRIGHT GRAVE MARKERS.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report assessing the advantages and disadvantages of the use by the National Cemetery Administration of flat grave markers and upright grave markers.

(2) The report under paragraph (1) shall set forth the advantages and disadvantages of the use of each type of grave marker referred to in that paragraph, and shall include criteria to be utilizing in determining whether to prefer the use of one such type of grave marker over the other.

**Subtitle C—World War II Memorial**

**SEC. 421. SHORT TITLE.**

This subtitle may be cited as the ''World War II Memorial Completion Act''.

**SEC. 422. FUND RAISING BY AMERICAN BATTLE MONUMENTS COMMISSION FOR WORLD WAR II MEMORIAL.**

(a) CODIFICATION OF EXISTING AUTHORITY; EXPANSION OF AUTHORITY.—(1) Chapter 21 of title 36, United States Code, is amended by adding at the end the following new section:

**''§ 2113. World War II memorial in the District of Columbia**

''(a) DEFINITIONS.—In this section:

''(1) The term 'World War II memorial' means the memorial authorized by Public Law 103–32 (107 Stat. 90) to be established by the American Battle Monuments Commission on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate the participation of the United States in that war.

''(2) The term 'Commission' means the American Battle Monuments Commission.

''(3) The term 'memorial fund' means the fund created by subsection (c).

''(b) SOLICITATION AND ACCEPTANCE OF CONTRIBUTIONS.—Consistent with the authority of the Commission under section 2103(e) of this title, the Commission shall solicit and accept contributions for the World War II memorial.

''(c) CREATION OF MEMORIAL FUND.—(1) There is hereby created in the Treasury a fund for the World War II memorial, which shall consist of the following:

''(A) Amounts deposited, and interest and proceeds credited, under paragraph (2).

''(B) Obligations obtained under paragraph (3).

''(C) The amount of surcharges paid to the Commission for the World War II memorial under the World War II 50th Anniversary Commemorative Coins Act.

''(D) Amounts borrowed using the authority provided under subsection (e).

''(E) Any funds received by the Commission under section 2103(l) of this title in exchange for use of, or the right to use, any mark, copyright or patent.

''(2) The Chairman of the Commission shall deposit in the memorial fund the amounts accepted as contributions under subsection (b). The Secretary of the Treasury shall credit to the memorial fund the interest on, and the proceeds from sale or redemption of, obligations held in the memorial fund.

''(3) The Secretary of the Treasury shall invest any portion of the memorial fund

that, as determined by the Chairman of the Commission, is not required to meet current expenses. Each investment shall be made in an interest bearing obligation of the United States or an obligation guaranteed as to principal and interest by the United States that, as determined by the Chairman of the Commission, has a maturity suitable for the memorial fund.

''(d) USE OF MEMORIAL FUND.—The memorial fund shall be available to the Commission for—

''(1) the expenses of establishing the World War II memorial, including the maintenance and preservation amount provided for in section 8(b) of the Commemorative Works Act (40 U.S.C. 1008(b));

''(2) such other expenses, other than routine maintenance, with respect to the World War II memorial as the Commission considers warranted; and

''(3) to secure, obtain, register, enforce, protect, and license any mark, copyright or patent that is owned by, assigned to, or licensed to the Commission under section 2103(l) of this title to aid or facilitate the construction of the World War II memorial.

''(e) SPECIAL BORROWING AUTHORITY.—(1) To assure that groundbreaking, construction, and dedication of the World War II memorial are completed on a timely basis, the Commission may borrow money from the Treasury of the United States in such amounts as the Commission considers necessary, but not to exceed a total of $65,000,000. Borrowed amounts shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the month in which the obligations of the Commission are issued. The interest payments on such obligations may be deferred with the approval of the Secretary of the Treasury, but any interest payment so deferred shall also bear interest.

''(2) The borrowing of money by the Commission under paragraph (1) shall be subject to such maturities, terms, and conditions as may be agreed upon by the Commission and the Secretary of the Treasury, except that the maturities may not exceed 20 years and such borrowings may be redeemable at the option of the Commission before maturity.

''(3) The obligations of the Commission shall be issued in amounts and at prices approved by the Secretary of the Treasury. The authority of the Commission to issue obligations under this subsection shall remain available without fiscal year limitation. The Secretary of the Treasury shall purchase any obligations of the Commission to be issued under this subsection, and for such purpose the Secretary of the Treasury may use as a public debt transaction of the United States the proceeds from the sale of any securities issued under chapter 31 of title 31. The purposes for which securities may be issued under such chapter are extended to include any purchase of the Commission's obligations under this subsection.

''(4) Repayment of the interest and principal on any funds borrowed by the Commission under paragraph (1) shall be made from amounts in the memorial fund. The Commission may not use for such purpose any funds appropriated for any other activities of the Commission.

''(f) TREATMENT OF BORROWING AUTHORITY.—In determining whether the Commission has sufficient funds to complete construction of the World War II memorial, as required by section 8 of the Commemorative Works Act (40 U.S.C. 1008), the Secretary of the Interior shall consider the funds that the Commission may borrow from the Treasury under subsection (e) as funds available to complete construction of the memorial, whether or not the Commission has actually exercised the authority to borrow such funds.

''(g) VOLUNTARY SERVICES.—(1) Notwithstanding section 1342 of title 31, the Commission may accept from any person voluntary services to be provided in furtherance of the fund-raising activities of the Commission relating to the World War II memorial.

''(2) A person providing voluntary services under this subsection shall be considered to be a Federal employee for purposes of chapter 81 of title 5, relating to compensation for work-related injuries, and chapter 171 of title 28, relating to tort claims. A volunteer who is not otherwise employed by the Federal Government shall not be considered to be a Federal employee for any other purpose by reason of the provision of such voluntary service, except that any volunteers given responsibility for the handling of funds or the carrying out of a Federal function are subject to the conflict of interest laws contained in chapter 11 of title 18, and the administrative standards of conduct contained in part 2635 of title 5, Code of Federal Regulations.

''(3) The Commission may provide for reimbursement of incidental expenses which are incurred by a person providing voluntary services under this subsection. The Commission shall determine which expenses are eligible for reimbursement under this paragraph.

''(4) Nothing in this subsection shall be construed to require Federal employees to work without compensation or to allow the use of volunteer services to displace or replace Federal employees.

''(h) TREATMENT OF CERTAIN CONTRACTS.—A contract entered into by the Commission for the design or construction of the World War II memorial is not a funding agreement as that term is defined in section 201 of title 35.

''(i) EXTENSION OF AUTHORITY TO ESTABLISH MEMORIAL.—Notwithstanding section 10 of the Commemorative Works Act (40 U.S.C. 1010), the legislative authorization for the construction of the World War II memorial contained in Public Law 103–32 (107 Stat. 90) shall not expire until December 31, 2005.''.

(2) The table of sections at the beginning of chapter 21 of title 36, United States Code, is amended by adding at the end the following new item:

''2113. World War II memorial in the District of Columbia.''.

(b) CONFORMING AMENDMENTS.—Public Law 103–32 (107 Stat. 90) is amended by striking sections 3, 4, and 5.

(c) EFFECT OF REPEAL OF CURRENT MEMORIAL FUND.—Upon the date of the enactment of this Act, the Secretary of the Treasury shall transfer amounts in the fund created by section 4(a) of Public Law 103–32 (107 Stat. 91) to the fund created by section 2113 of title 36, United States Code, as added by subsection (a).

**SEC. 423. GENERAL AUTHORITY OF AMERICAN BATTLE MONUMENTS COMMISSION TO SOLICIT AND RECEIVE CONTRIBUTIONS.**

Subsection (e) of section 2103 of title 36, United States Code, is amended to read as follows:

''(e) SOLICITATION AND RECEIPT OF CONTRIBUTIONS.—(1) The Commission may solicit and receive funds and in-kind donations and gifts from any State, municipal, or private source to carry out the purposes of this chapter. The Commission shall deposit such funds in a separate account in the Treasury. Funds from this account shall be disbursed upon vouchers approved by the Chairman of the Commission as well as by a Federal official authorized to sign payment vouchers.

''(2) The Commission shall establish written guidelines setting forth the criteria to be used in determining whether the acceptance of funds and in-kind donations and gifts under paragraph (1) would—

''(A) reflect unfavorably on the ability of the Commission, or any employee of the Commission, to carry out the responsibilities or official duties of the Commission in a fair and objective manner; or

''(B) compromise the integrity or the appearance of the integrity of the programs of the Commission or any official involved in those programs.''.

**SEC. 424. INTELLECTUAL PROPERTY AND RELATED ITEMS.**

Section 2103 of title 36, United States Code, is amended by adding at the end the following new subsection:

''(l) INTELLECTUAL PROPERTY AND RELATED ITEMS.—(1) The Commission may—

''(A) adopt, use, register, and license trademarks, service marks, and other marks;

''(B) obtain, use, register, and license the use of copyrights consistent with section 105 of title 17;

''(C) obtain, use, and license patents; and

''(D) accept gifts of marks, copyrights, patents and licenses for use by the Commission.

''(2) The Commission may grant exclusive and nonexclusive licenses in connection with any mark, copyright, patent, or license for the use of such mark, copyright or patent, except to extent the grant of such license by the Commission would be contrary to any contract or license by which the use of such mark, copyright or patent was obtained.

''(3) The Commission may enforce any mark, copyright, or patent by an action in the district courts under any law providing for the protection of such marks, copyrights, or patents.

''(4) The Attorney General shall furnish the Commission with such legal representation as the Commission may require under paragraph (3). The Secretary of Defense shall provide representation for the Commission in administrative proceedings before the Patent and Trademark Office and Copyright Office.

''(5) Section 203 of title 17 shall not apply to any copyright transferred in any manner to the Commission.''.

## TITLE V—UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

**SEC. 501. TEMPORARY SERVICE OF CERTAIN JUDGES OF UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS UPON EXPIRATION OF THEIR TERMS OR RETIREMENT.**

(a) AUTHORITY FOR TEMPORARY SERVICE.—(1) Notwithstanding subsection (c) of section 7253 of title 38, United States Code, and subject to the provisions of this section, a judge of the Court whose term on the Court expires in 2004 or 2005 and completes such term, or who retires from the Court under section 7296(b)(1) of such title, may continue to serve on the Court after the expiration of the judge's term or retirement, as the case may be, without reappointment for service on the Court under such section 7253.

(2) A judge may continue to serve on the Court under paragraph (1) only if the judge submits to the chief judge of the Court written notice of an election to so serve 30 days before the earlier of—

(A) the expiration of the judge's term on the Court as described in that paragraph; or

(B) the date on which the judge meets the age and service requirements for eligibility for retirement set forth in section 7296(b)(1) of such title.

(3) The total number of judges serving on the Court at any one time, including the judges serving under this section, may not exceed 7.

(b) PERIOD OF TEMPORARY SERVICE.—(1) The service of a judge on the Court under this section may continue until the earlier of—

(A) the date that is 30 days after the date on which the chief judge of the Court submits to the President and Congress a written certification based on the projected caseload of the Court that the work of the Court can be performed in a timely and efficient manner by judges of the Court under this section who are senior on the Court to the judge electing to continue to provide temporary service under this section or without judges under this section; or

(B) the date on which the person appointed to the position on the Court occupied by the judge under this section is qualified for the position.

(2) Subsections (f) and (g) of section 7253 of title 38, United States Code, shall apply with respect to the service of a judge on the Court under this section.

(c) TEMPORARY SERVICE IN OTHER POSITIONS.—(1) If on the date that the person appointed to the position on the Court occupied by a judge under this section is qualified another position on the Court is vacant, the judge may serve in such other position under this section.

(2) If two or more judges seek to serve in a position on the Court in accordance with paragraph (1), the judge senior in service on the Court shall serve in the position under that paragraph.

(d) COMPENSATION.—(1) Notwithstanding any other provision of law, a person whose service as a judge of the Court continues under this section shall be paid for the period of service under this section an amount as follows:

(A) In the case of a person eligible to receive retired pay under subchapter V of chapter 72 of title 38, United States Code, or a retirement annuity under subchapter III of chapter 83 or subchapter II of chapter 84 of title 5, United States Code, as applicable, an amount equal to one-half of the amount of the current salary payable to a judge of the Court under chapter 72 of title 38, United States Code, having a status on the Court equivalent to the highest status on the Court attained by the person.

(B) In the case of a person not eligible to receive such retired pay or such retirement annuity, an amount equal to the amount of current salary payable to a judge of the Court under such chapter 72 having a status on the Court equivalent to the highest status on the Court attained by the person.

(2) Amounts paid under this subsection to a person described in paragraph (1)(A)—

(A) shall not be treated as—

(i) compensation for employment with the United States for purposes of section 7296(e) of title 38, United States Code, or any provision of title 5, United States Code, relating to the receipt or forfeiture of retired pay or retirement annuities by a person accepting compensation for employment with the United States; or

(ii) pay for purposes of deductions or contributions for or on behalf of the person to retired pay under subchapter V of chapter 72 of title 38, United States Code, or under chapter 83 or 84 of title 5, United States Code, as applicable; but

(B) may, at the election of the person, be treated as pay for purposes of deductions or contributions for or on behalf of the person to a retirement or other annuity, or both, under subchapter V of chapter 72 of title 38, United States Code, or under chapter 83 or 84 of title 5, United States Code, as applicable.

(3) Amounts paid under this subsection to a person described in paragraph (1)(B) shall be treated as pay for purposes of deductions or contributions for or on behalf of the person to retired pay or a retirement or other annuity under subchapter V of chapter 72 of title 38, United States Code, or under chapter 83 or 84 of title 5, United States Code, as applicable.

(4) Amounts paid under this subsection shall be derived from amounts available for payment of salaries and benefits of judges of the Court.

(e) CREDITABLE SERVICE.—(1) The service as a judge of the Court under this section of a person who makes an election provided for under subsection (d)(2)(B) shall constitute creditable service toward the judge's years of judicial service for purposes of section 7297 of title 38, United States Code, with such service creditable at a rate equal to the rate at which such service would be creditable for such purposes if served by a judge of the Court under chapter 72 of that title.

(2) The service as a judge of the Court under this section of a person paid salary under subsection (d)(1)(B) shall constitute creditable service of the person toward retirement under subchapter V of chapter 72 of title 38, United States Code, or subchapter III of chapter 83 or subchapter II of chapter 84 of title 5, United States Code, as applicable.

(f) ELIGIBILITY FOR ADDITIONAL SERVICE.—The service of a person as a judge of the Court under this section shall not affect the eligibility of the person for appointment to an additional term or terms on the Court, whether in the position occupied by the person under this section or in another position on the Court.

(g) TREATMENT OF PARTY MEMBERSHIP.—For purposes of determining compliance with the last sentence of section 7253(b) of title 38, United States Code, the party membership of a judge serving on the Court under this section shall not be taken into account.

**SEC. 502. MODIFIED TERMS FOR CERTAIN JUDGES OF UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.**

(a) MODIFIED TERMS.—Notwithstanding section 7253(c) of title 38, United States Code, the term of any judge of the Court who is appointed to a position on the Court that becomes vacant in 2004 shall be 13 years.

(b) ELIGIBILITY FOR RETIREMENT.—(1) For purposes of determining the eligibility to retire under section 7296 of title 38, United States Code, of a judge appointed as described in subsection (a)—

(A) the age and service requirements in the table in paragraph (2) shall apply to the judge instead of the age and service requirements in the table in subsection (b)(1) of that section that would otherwise apply to the judge; and

(B) the minimum years of service applied to the judge for eligibility to retire under the first sentence of subsection (b)(2) of that section shall be 13 years instead of 15 years.

(2) The age and service requirements in this paragraph are as follows:

| The judge has attained age: | And the years of service as a judge are at least |
|---|---|
| 65 | 13 |
| 66 | 13 |
| 67 | 13 |
| 68 | 12 |
| 69 | 11 |
| 70 | 10 |

**SEC. 503. TEMPORARY AUTHORITY FOR VOLUNTARY SEPARATION INCENTIVES FOR CERTAIN JUDGES ON UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.**

(a) TEMPORARY AUTHORITY.—A voluntary separation incentive payment may be paid in accordance with this section to any judge of the Court described in subsection (c).

(b) AMOUNT OF INCENTIVE PAYMENT.—The amount of a voluntary separation incentive payment paid to a judge under this section shall be $25,000.

(c) COVERED JUDGES.—A voluntary separation incentive payment may be paid under this section to any judge of the Court who—

(1) meets the age and service requirements for retirement set forth in section 7296(b)(1) of title 38, United States Code, as of the date on which the judge retires from the Court;

(2) submits a notice of an intent to retire in accordance with subsection (d); and

(3) retires from the Court under that section not later than 30 days after the date on which the judge meets such age and service requirements.

(d) NOTICE OF INTENT TO RETIRE.—(1) A judge of the Court seeking payment of a voluntary separation incentive payment under this section shall submit to the President and Congress a timely notice of an intent to retire from the Court, together with a request for payment of the voluntary separation incentive payment.

(2) A notice shall be timely submitted under paragraph (1) only if submitted—

(A) not later than one year before the date of retirement of the judge concerned from the Court; or

(B) in the case of a judge whose retirement from the Court will occur less than one year after the date of the enactment of this Act, not later than 30 days after the date of the enactment of this Act.

(e) DATE OF PAYMENT.—A voluntary separation incentive payment may be paid to a judge of the Court under this section only upon the retirement of the judge from the Court.

(f) TREATMENT OF PAYMENT.—A voluntary separation incentive payment paid to a judge under this section shall not be treated as pay for purposes of contributions for or on behalf of the judge to retired pay or a retirement or other annuity under subchapter V of chapter 72 of title 38, United States Code.

(g) ELIGIBILITY FOR TEMPORARY SERVICE ON COURT.—A judge seeking payment of a voluntary separation incentive payment under this section may serve on the Court under section 401 if eligible for such service under that section.

(h) SOURCE OF PAYMENTS.—Amounts for voluntary separation incentive payments under this section shall be derived from amounts available for payment of salaries and benefits of judges of the Court.

(i) EXPIRATION OF AUTHORITY.—A voluntary separation incentive payment may not be paid under this section to a judge who retires from the Court after December 31, 2002.

**SEC. 504. DEFINITION.**

In this title, the term ''Court'' means the United States Court of Appeals for Veterans Claims.

Amend the title so as to read: ''An Act To amend title 38, United States Code, to enhance programs providing health care, education, memorial, and other benefits for veterans, to authorize major medical facility projects for the Department of Veterans Affairs, and for other purposes.''.

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION ACT OF 1999

### FRIST AMENDMENT NO. 2542

Mr. DOMENICI (for Mr. FRIST) proposed an amendment to the bill (H.R. 1654) to authorize appropriations for the National Aeronautics and Space Administration for fiscal years 2000, 2001, and 2002, and for other purposes

[The amendment was not available for printing. It will appear in a future edition of the RECORD.]

## WOMEN'S BUSINESS CENTERS SUSTAINABILITY ACT OF 1999

### KERRY (AND BOND) AMENDMENT NO. 2543

Mr. DOMENICI (for Mr. KERRY (for himself and Mr. DOMENICI)) proposed an amendment to the bill (S. 791) to amend the Small Business Act with respect to the women's busines center program; as follows:

Strike section 4 and insert the following:

**SEC. 4. WOMEN'S BUSINESS CENTERS SUSTAINABILITY PILOT PROGRAM.**

(a) IN GENERAL.—Section 29 of the Small Business Act (15 U.S.C. 656) is amended by adding at the end the following:

''(*l*) SUSTAINABILITY PILOT PROGRAM.—

''(1) IN GENERAL.—There is established a 4-year pilot program under which the Administration is authorized to award grants (referred to in this section as 'sustainability grants') on a competitive basis for an additional 5-year project under this section to any private nonprofit organization (or a division thereof)—

''(A) that has received financial assistance under this section pursuant to a grant, contract, or cooperative agreement; and

''(B) that—

''(i) is in the final year of a 5-year project; or

''(ii) has completed a project financed under this section (or any predecessor to this section) and continues to provide assistance to women entrepreneurs.

''(2) CONDITIONS FOR PARTICIPATION.—In order to receive a sustainability grant, an organization described in paragraph (1) shall submit to the Administration an application, which shall include—

''(A) a certification that the applicant—

''(i) is a private nonprofit organization;

''(ii) employs a full-time executive director or program manager to manage the center; and

''(iii) as a condition of receiving a sustainability grant, agrees—

''(I) to a site visit as part of the final selection process and to an annual programmatic and financial examination; and

''(II) to the maximum extent practicable, to remedy any problems identified pursuant to that site visit or examination;

''(B) information demonstrating that the applicant has the ability and resources to meet the needs of the market to be served by the women's business center site for which a sustainability grant is sought, including the ability to fundraise;

''(C) information relating to assistance provided by the women's business center site for which a sustainability grant is sought in the area in which the site is located, including—

''(i) the number of individuals assisted;

''(ii) the number of hours of counseling, training, and workshops provided; and

''(iii) the number of startup business concerns formed;

''(D) information demonstrating the effective experience of the applicant in—

''(i) conducting financial, management, and marketing assistance programs, as described in paragraphs (1), (2), and (3) of subsection (b), designed to impart or upgrade the business skills of women business owners or potential owners;

''(ii) providing training and services to a representative number of women who are both socially and economically disadvantaged;

''(iii) using resource partners of the Administration and other entities, such as universities;

''(iv) complying with the cooperative agreement of the applicant; and

''(v) the prudent management of finances and staffing, including the manner in which the performance of the applicant compared to the business plan of the applicant and the manner in which grant funds awarded under subsection (b) were used by the applicant; and

''(E) a 5-year plan that projects the ability of the women's business center site for which a sustainability grant is sought—

''(i) to serve women business owners or potential owners in the future by improving fundraising and training activities; and

''(ii) to provide training and services to a representative number of women who are both socially and economically disadvantaged.

''(3) REVIEW OF APPLICATIONS.—

''(A) IN GENERAL.—The Administration shall—

''(i) review each application submitted under paragraph (2) based on the information provided under in subparagraphs (D) and (E) of that paragraph, and the criteria set forth in subsection (f);

''(ii) as part of the final selection process, conduct a site visit at each women's business center for which a sustainability grant is sought; and

''(iii) approve or disapprove applications for sustainability grants simultaneously with applications for grants under subsection (b).

''(B) DATA COLLECTION.—Consistent with the annual report to Congress under subsection (j), each women's business center site that is awarded a sustainability grant shall, to the maximum extent practicable, collect information relating to—

''(i) the number of individuals assisted;

''(ii) the number of hours of counseling and training provided and workshops conducted;

''(iii) the number of startup business concerns formed;

''(iv) any available gross receipts of assisted concerns; and

''(v) the number of jobs created, maintained, or lost at assisted concerns.

''(C) RECORD RETENTION.—The Administration shall maintain a copy of each application submitted under this subsection for not less than 10 years.

''(4) NON-FEDERAL CONTRIBUTION.—

''(A) IN GENERAL.—Notwithstanding any other provision of this section, as a condition of receiving a sustainability grant, an organization described in paragraph (1) shall agree to obtain, after its application has been approved under paragraph (3) and notice of award has been issued, cash and in-kind contributions from non-Federal sources for each year of additional program participation in an amount equal to 1 non-Federal dollar for each Federal dollar.

''(B) FORM OF NON-FEDERAL CONTRIBUTIONS.—Not more than 50 percent of the non-Federal assistance obtained for purposes of subparagraph (A) may be in the form of in-kind contributions that are budget line items only, including office equipment and office space.

''(5) TIMING OF REQUESTS FOR PROPOSALS.—In carrying out this subsection, the Administration shall issue requests for proposals for women's business centers applying for the pilot program under this subsection simultaneously with requests for proposals for grants under subsection (b).''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 29(k) of the Small Business Act (15 U.S.C. 656(k)) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—There is authorized to be appropriated, to remain available until the expiration of the pilot program under subsection (*l*)—

''(A) $12,000,000 for fiscal year 2000;

''(B) $12,800,000 for fiscal year 2001;

''(C) $13,700,000 for fiscal year 2002; and

''(D) $14,500,000 for fiscal year 2003.'';

(2) in paragraph (2)—

(A) by striking ''Amounts made'' and inserting the following:

''(A) IN GENERAL.—Except as provided in subparagraph (B), amounts made''; and

(B) by adding at the end the following:

''(B) EXCEPTIONS.—Of the amount made available under this subsection for a fiscal year, the following amounts shall be available for selection panel costs, post-award conference costs, and costs related to monitoring and oversight:

''(i) For fiscal year 2000, 2 percent.

''(ii) For fiscal year 2001, 1.9 percent.

''(iii) For fiscal year 2002, 1.9 percent.

''(iv) For fiscal year 2003, 1.6 percent.''; and

(3) by adding at the end the following:

''(4) RESERVATION OF FUNDS FOR SUSTAINABILITY PILOT PROGRAM.—

''(A) IN GENERAL.—Subject to subparagraph (B), of the total amount made available under this subsection for a fiscal year, the following amounts shall be reserved for sustainability grants under subsection (*l*):

''(i) For fiscal year 2000, 17 percent.

''(ii) For fiscal year 2001, 18.8 percent.

''(iii) For fiscal year 2002, 30.2 percent.

''(iv) For fiscal year 2003, 30.2 percent.

''(B) USE OF UNAWARDED FUNDS FOR SUSTAINABILITY PILOT PROGRAM GRANTS.—If the amount reserved under subparagraph (A) for any fiscal year is not fully awarded to private nonprofit organizations described in subsection (*l*)(1)(B), the Administration is authorized to use the unawarded amount to fund additional women's business center sites or to increase funding of existing women's business center sites under subsection (b).''.

(c) GUIDELINES.—Not later than 30 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall issue guidelines to implement the amendments made by this section.

## INDEPENDENT OFFICE OF ADVOCACY ACT

### BOND AMENDMENT NO. 2544

Mr. DOMENICI (for Mr. BOND) proposed an amendment to the bill (S. 1346) to ensure the independence and nonpartisan operation of the Office of Advocacy of the Small Business Administration; as follows:

On page 12, line 12, insert after ''Representatives'' the following: '', the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the Committees on the Judiciary of the Senate and the House of Representatives''.

## THE BANKRUPTCY REFORM ACT OF 1999

### COVERDELL (AND OTHERS) AMENDMENT NO. 2545

(Ordered to lie on the table.)

Mr. COVERDELL (for himself, Mr. SARBANES, Mr. BIDEN, Mr. MACK, Mr. EDWARDS, Mr. GRAHAM, and Mr. CLELAND) submitted an amendment intended to be proposed by them to the bill, S. 625, supra; as follows:

At the appropriate place, insert the following:

**SEC. ___. BANKRUPTCY JUDGESHIPS.**

(a) TEMPORARY JUDGESHIPS.—The following judgeship positions shall be filled in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:

(1) One additional bankruptcy judgeship for the district of Delaware.

(2) One additional bankruptcy judgeship for the southern district of Florida.

(3) One additional bankruptcy judgeship for the southern district of Georgia.

(4) One additional bankruptcy judgeship for the district of Maryland.

(5) One additional bankruptcy judgeship for the eastern district of North Carolina.

(6) One additional bankruptcy judgeship for the district of Puerto Rico.

(b) VACANCIES.—The first vacancy occurring in the office of a bankruptcy judge in each of the judicial districts set forth in subsection (a) shall not be filled if the vacancy—

(1) results from the death, retirement, resignation, or removal of a bankruptcy judge; or

(2) occurs 5 years or more after the appointment date of a bankruptcy judge appointed under subsection (a).

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## BENNETT AMENDMENT NO. 2546

(Ordered to lie on the table.)

Mr. BENNETT submitted an amendment intended to be proposed by him to the bill, S. 625, supra; as follows:

At the end of the bill, add the following:

### TITLE XIII—FINANCIAL INSTITUTIONS INSOLVENCY IMPROVEMENT

**SEC 1301. SHORT TITLE.**

This title may be cited as the ''Financial Institutions Insolvency Improvement Act of 1999''.

**SEC. 1302. TREATMENT OF CERTAIN AGREEMENTS BY CONSERVATORS OR RECEIVERS OF INSURED DEPOSITORY INSTITUTIONS.**

(a) DEFINITION OF QUALIFIED FINANCIAL CONTRACT.—Section 11(e)(8)(D)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(i)) is amended by inserting '', resolution, or order'' after ''any similar agreement that the Corporation determines by regulation''.

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

''(ii) SECURITIES CONTRACT.—The term 'securities contract'—

''(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, loan, interest, group or index, or option;

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

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

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

''(V) means any margin loan;

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

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

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

''(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 (other than subclause (II)).''.

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

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

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

''(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date that is more than 2 days after the date on which the contract is entered into, including a repurchase agreement, reverse repurchase agreement, 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) a security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV).''.

(e) DEFINITION OF REPURCHASE AGREEMENT AND REVERSE 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; REVERSE REPURCHASE AGREEMENT.—The terms 'repurchase agreement' and 'reverse repurchase agreement'—

''(I) mean an agreement, including related terms, which provides for the transfer of 1 or more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, securities, loans, or interests as described in this subclause, at a date certain that is not later than 1 year after the date of 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 a security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V).

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

(f) DEFINITION OF SWAP AGREEMENT.—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'—

''(I) means any agreement, including the terms and conditions incorporated by reference in any such agreement, that is—

''(aa) an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap;

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

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

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

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

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

''(gg) a commodity index or commodity swap, option, future, or forward agreement;

''(II) means any agreement or transaction that is similar to any other agreement or transaction referred to in this clause, that is presently, or in the future becomes, regularly entered into in the swap market (including terms and conditions incorporated by reference in such agreement), and that is a forward, swap, future, or option on 1 or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, or economic indices or measures of economic risk or value;

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

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

''(V) means 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);

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

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

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

''(viii) TRANSFER.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the depository institutions's equity of redemption.''.

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

(1) in subparagraph (A), by striking ''paragraph (10)'' and inserting ''paragraphs (9) and (10)'';

(2) in subparagraph (A)(i), by striking ''to cause the termination or liquidation'' and inserting ''such person has to cause the termination, liquidation, or acceleration'';

(3) by striking clause (ii) of subparagraph (A) and inserting the following:

''(ii) any right under any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts described in clause (i); or''; and

(4) by striking clause (ii) of subparagraph (E) and inserting the following:

''(ii) any right under any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts described in clause (i); or''.

(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 (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. 1303. 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:

''(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) or to disaffirm or repudiate any such contract in accordance with subsection (e)(1).

''(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. 1304. 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 1 financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding—

''(I) all qualified financial contracts between any person or any affiliate of such person and the depository institution in default;

''(II) all claims of such person or any affiliate of such person against such depository institution under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such institution);

''(III) all claims of such depository institution against such person or any affiliate of such person under any such contract; and

''(IV) all property securing or any other credit enhancement for any contract described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or

''(ii) transfer none of the qualified financial contracts, claims, property, or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

''(B) TRANSFER TO FOREIGN BANK, FOREIGN FINANCIAL INSTITUTION, OR BRANCH OR AGENCY OF A FOREIGN BANK OR FINANCIAL INSTITUTION.—In transferring any qualified financial contract and related claims and property pursuant to 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 contract, and to any netting contract, any security agreement or arrangement or other credit enhancement related to 1 or more

qualified financial contracts the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements, or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

''(C) TRANSFER OF CONTRACT SUBJECT TO THE RULES OF A CLEARING ORGANIZATION.—If a conservator or receiver transfers any qualified financial contract and related claims, property, and credit enhancements pursuant to subparagraph (A)(i) and such contract is subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.

''(D) DEFINITION.—For purposes of this paragraph, the term 'financial institution' means a broker or dealer, a depository institution, a futures commission merchant, or any other institution that the Corporation determines, by regulation, to be a financial institution.''.

(b) NOTICE TO QUALIFIED FINANCIAL CONTRACT COUNTERPARTIES.—Section 11(e)(10)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)(A)) is amended by striking the flush material immediately following clause (ii) 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:

''(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 such person has to terminate, liquidate, or net such contract under paragraph (8)(A) 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 such person has to terminate, liquidate, or net such contract under paragraph (8)(E) or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the depository institution (or the insolvency or financial condition of the depository institution for which the conservator has been appointed).

''(iii) NOTICE.—For purposes of this paragraph, the Corporation as receiver or conservator of an insured depository institution shall be deemed to have notified a person who is a party to a qualified financial contract with such depository institution if the Corporation has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A).

''(C) TREATMENT OF BRIDGE BANKS.—A financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or that is otherwise the subject of a bankruptcy or insolvency proceeding for purposes of subsection (e)(9) does not include—

''(i) a bridge bank; or

''(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 such institution and the Corporation as receiver for a depository institution in default.''.

**SEC. 1305. 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) in paragraph (8)(C)(i), by striking ''(11)'' and inserting ''(12)'';

(3) in paragraph (8)(E), by striking ''(12)'' and inserting ''(13)''; and

(4) by inserting after paragraph (10) the following:

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

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

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

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

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

**SEC. 1306. 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 1 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. 1307. 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 (6)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively;

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

''(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 striking subparagraph (C) (as redesignated) and inserting the following:

''(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;'';

(2) in paragraph (11), by inserting before the period ''and any other clearing organization with which such clearing organization has a netting contract'';

(3) in paragraph (14)(A), by striking clause (i) and inserting the following:

''(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

(4) by adding at the end the following:

''(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 Federal or State 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:

''(f) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement or arrangement or other credit enhancement related to 1 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 Federal or State 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 of a member of a clearing organization to and from all other members of the clearing organization 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:

''(h) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement or arrangement or other credit enhancement related to 1 or more netting contracts between any 2 members of a clearing organization shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code) and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and section 5(b)(2) of the Securities Investor Protection Act of 1970).''.

(d) ENFORCEABILITY OF CONTRACTS WITH UNINSURED NATIONAL BANKS AND UNINSURED FEDERAL BRANCHES AND AGENCIES.—The Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4401 et seq.) is amended by adding at the end the following:

**''SEC. 408. TREATMENT OF CONTRACTS WITH UNINSURED NATIONAL BANKS AND UNINSURED FEDERAL BRANCHES AND AGENCIES.**

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

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

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

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

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

''(c) REGULATORY AUTHORITY.—

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

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

''(d) DEFINITIONS.—For purposes of this section, the terms 'Federal branch', 'Federal agency', and 'foreign bank' have the same meanings as in section 1(b) of the International Banking Act of 1978.''.

**SEC. 1308. 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:

''(H) RECORDKEEPING REQUIREMENTS.—The Corporation, in consultation with the appropriate Federal banking agencies, may prescribe regulations requiring more detailed recordkeeping with respect to qualified financial contracts (including market valuations) by insured depository institutions.''.

**SEC. 1309. 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.—

''(A) IN GENERAL.—An agreement described in subparagraph (B) shall not be deemed to be invalid pursuant to paragraph (1)(B) solely on the basis—

''(i) that the agreement was not executed contemporaneously with the acquisition of the collateral; or

''(ii) of any pledge, delivery, or substitution of the collateral made in accordance with the agreement.

''(B) AGREEMENT DESCRIBED.—An agreement is described in this subparagraph if it is an agreement to provide for the lawful collateralization of—

''(i) 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;

''(ii) securities deposited under section 345(b)(2) of title 11, United States Code;

''(iii) extensions of credit, including an overdraft, from a Federal reserve bank or Federal home loan bank; or

''(iv) 1 or more qualified financial contracts (as defined in section 11(e)(8)(D)).''.

**SEC. 1310. 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:

''(C) EXCEPTION FROM STAY.—

''(i) IN GENERAL.—Notwithstanding section 362 of title 11, United States Code, neither the filing of an application under subsection (a)(3) of this section nor any order or decree obtained by SIPC from the court shall operate as a stay of any contractual right of a creditor to liquidate, terminate, or accelerate a securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, or master netting agreement, each as defined in title 11, United States Code, to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with 1 or more of such contracts or agreements, or to foreclose on any cash collateral pledged by the debtor, whether or not with respect to 1 or more of such contracts or agreements.

''(ii) STAYS ON FORECLOSURE.—Notwithstanding clause (i), an application, order, or decree described therein may operate as a stay of the foreclosure on securities collateral pledged by the debtor, whether or not with respect to 1 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) DEFINITION.—As used in this section, the term 'contractual right' includes—

''(I) a right set forth in a rule or bylaw of a national securities exchange, a national securities association, or a securities clearing agency;

''(II) a right set forth in a bylaw of a clearing organization or contract market or in a resolution of the governing board thereof; and

''(III) a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice.''.

**SEC. 1311. FEDERAL RESERVE COLLATERAL REQUIREMENTS.**

Section 16 of the Federal Reserve Act (12 U.S.C. 412) is amended in the third sentence of the second undesignated paragraph, by striking ''acceptances acquired under section 13 of this Act'' and inserting ''acceptances acquired under section 10A, 10B, 13, or 13A''.

**SEC. 1312. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.**

(a) SEVERABILITY.—If any provision of this title or any amendment made by this title, or the application of any such provision or amendment to any person or circumstance, is held to be unconstitutional, the remaining provisions of and amendments made by this title and the application of such other provisions and amendments to any person or circumstance shall not be affected thereby.

(b) EFFECTIVE DATE.—This title and the amendments made by this title shall take effect on the date of enactment of this Act.

(c) APPLICATION OF AMENDMENTS.—The amendments made by this title shall apply with respect to cases commenced or appointments made under any Federal or State law after the date of enactment of this Act, but shall not apply with respect to cases commenced or appointments made under any Federal or State law before the date of enactment of this Act.

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## DOMENICI (AND OTHERS) AMENDMENT NO. 2547

(Ordered to lie on the table.)

Mr. DOMENICI (for himself, Mr. ABRAHAM, and Mr. SANTORUM) submitted an amendment intended to be proposed by them to the bill, S. 625, supra; as follows:

At the appropriate place, insert the following:

**TITLE ____—AMENDMENTS TO FAIR LABOR STANDARDS ACT OF 1938**

**SEC. ____01. MINIMUM WAGE.**

Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

''(1) except as otherwise provided in this section, not less than—

''(A) $5.15 an hour beginning September 1, 1997,

''(B) $5.50 an hour during the year beginning March 1, 2000,

''(C) $5.85 an hour during the year beginning March 1, 2001, and

''(D) $6.15 an hour during the year beginning March 1, 2002.''.

**SEC. ____02. REGULAR RATE FOR OVERTIME PURPOSES.**

Section 7(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(e)) is amended—

(1) by inserting before the semicolon at the end of paragraph (3) the following: ''; or (d) the payments are made to reward an employee or group of employees for meeting or exceeding the productivity, quality, efficiency, or sales goals as specified in a gainsharing, incentive bonus, commission, or performance contingent bonus plan''; and

(2) by inserting after and below paragraph (7) the following:

''A plan described in paragraph (3)(d) shall be in writing and made available to employees, provide that the amount of the payments to be made under the plan be based upon a formula that is stated in the plan, and be established and maintained in good faith for the purpose of distributing to employees additional remuneration over and above the wages and salaries that are not dependent upon the existence of such plan or payments made pursuant to such plan.''.

**TITLE ____—TAX RELIEF**

**SEC. ____00. AMENDMENT OF 1986 CODE.**

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

**Subtitle A—Small Business Tax Relief**

**SEC. ___01. INCREASE IN EXPENSING LIMITATION TO $30,000.**

(a) IN GENERAL.—Paragraph (1) of section 179(b) (relating to limitations) is amended to read as follows:

''(1) DOLLAR LIMITATION.—The aggregate cost which may be taken into account under subsection (a) for any taxable year shall not exceed $30,000.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2000.

**SEC. ___02. REPEAL OF TEMPORARY UNEMPLOYMENT TAX.**

Section 3301 (relating to rate of unemployment tax) is amended—

(1) by striking ''2007'' in paragraph (1) and inserting ''2000''; and

(2) by striking ''2008'' in paragraph (2) and inserting ''2001''.

**SEC. ___03. FULL DEDUCTION OF HEALTH INSURANCE COSTS FOR SELF-EMPLOYED INDIVIDUALS.**

(a) IN GENERAL.—Section 162(l)(1) (relating to allowance of deduction) is amended to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer and the taxpayer's spouse and dependents.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1999.

**SEC. ___04. PERMANENT EXTENSION OF WORK OPPORTUNITY TAX CREDIT.**

(a) IN GENERAL.—Section 51(c) (defining wages) is amended by striking paragraph (4).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to individuals who begin work for the employer after June 30, 1999.

**SEC. ___05. SMALL BUSINESSES ALLOWED INCREASED DEDUCTION FOR MEAL AND ENTERTAINMENT EXPENSES.**

(a) IN GENERAL.—Subsection (n) of section 274 (relating to only 50 percent of meal and entertainment expenses allowed as deduction) is amended by adding at the end the following:

''(4) SPECIAL RULE FOR SMALL BUSINESSES.—

''(A) IN GENERAL.—In the case of any taxpayer which is a small business, paragraph (1) shall be applied by substituting 'the applicable percentage' for '50 percent'. For purposes of the preceding sentence, the term 'applicable percentage' means 55 percent in the case of taxable years beginning in 2001, increased (but not above 80 percent) by 5 percentage points for each succeeding calendar year after 2001 with respect to taxable years beginning in each such calendar year.

''(B) SMALL BUSINESS.—For purposes of this paragraph, the term 'small business' means, with respect to expenses paid or incurred during any taxable year—

''(i) any C corporation which meets the requirements of section 55(e)(1) for such year, and

''(ii) any S corporation, partnership, or sole proprietorship which would meet such requirements if it were a C corporation.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2000.

**Subtitle B—Deduction for Health and Long-Term Care Insurance**

**SEC. ___11. DEDUCTION FOR HEALTH AND LONG-TERM CARE INSURANCE COSTS OF INDIVIDUALS NOT PARTICIPATING IN EMPLOYER-SUBSIDIZED HEALTH PLANS.**

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 is amended by redesignating section 222 as section 223 and by inserting after section 221 the following new section:

**''SEC. 222. HEALTH AND LONG-TERM CARE INSURANCE COSTS.**

''(a) IN GENERAL.—In the case of an individual, there shall be allowed as a deduction an amount equal to the applicable percentage of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer and the taxpayer's spouse and dependents.

''(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage shall be determined in accordance with the following table:

| ''For taxable years beginning in calendar year: | The applicable dollar amount: |
|---|---|
| 2002, 2003, and 2004 | 25 |
| 2005 | 35 |
| 2006 | 65 |
| 2007 and thereafter | 100. |

''(c) LIMITATION BASED ON OTHER COVERAGE.—

''(1) COVERAGE UNDER CERTAIN SUBSIDIZED EMPLOYER PLANS.—

''(A) IN GENERAL.—Subsection (a) shall not apply to any taxpayer for any calendar month for which the taxpayer participates in any health plan maintained by any employer of the taxpayer or of the spouse of the taxpayer if 50 percent or more of the cost of coverage under such plan (determined under section 4980B and without regard to payments made with respect to any coverage described in subsection (e)) is paid or incurred by the employer.

''(B) EMPLOYER CONTRIBUTIONS TO CAFETERIA PLANS, FLEXIBLE SPENDING ARRANGEMENTS, AND MEDICAL SAVINGS ACCOUNTS.—Employer contributions to a cafeteria plan, a flexible spending or similar arrangement, or a medical savings account which are excluded from gross income under section 106 shall be treated for purposes of subparagraph (A) as paid by the employer.

''(C) AGGREGATION OF PLANS OF EMPLOYER.—A health plan which is not otherwise described in subparagraph (A) shall be treated as described in such subparagraph if such plan would be so described if all health plans of persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 were treated as one health plan.

''(D) SEPARATE APPLICATION TO HEALTH INSURANCE AND LONG-TERM CARE INSURANCE.—Subparagraphs (A) and (C) shall be applied separately with respect to—

''(i) plans which include primarily coverage for qualified long-term care services or are qualified long-term care insurance contracts, and

''(ii) plans which do not include such coverage and are not such contracts.

''(2) COVERAGE UNDER CERTAIN FEDERAL PROGRAMS.—

''(A) IN GENERAL.—Subsection (a) shall not apply to any amount paid for any coverage for an individual for any calendar month if, as of the first day of such month, the individual is covered under any medical care program described in—

''(i) title XVIII, XIX, or XXI of the Social Security Act,

''(ii) chapter 55 of title 10, United States Code,

''(iii) chapter 17 of title 38, United States Code,

''(iv) chapter 89 of title 5, United States Code, or

''(v) the Indian Health Care Improvement Act.

''(B) EXCEPTIONS.—

''(i) QUALIFIED LONG-TERM CARE.—Subparagraph (A) shall not apply to amounts paid for coverage under a qualified long-term care insurance contract.

''(ii) CONTINUATION COVERAGE OF FEHBP.—Subparagraph (A)(iv) shall not apply to coverage which is comparable to continuation coverage under section 4980B.

''(d) LONG-TERM CARE DEDUCTION LIMITED TO QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.—In the case of a qualified long-term care insurance contract, only eligible long-term care premiums (as defined in section 213(d)(10)) may be taken into account under subsection (a).

''(e) DEDUCTION NOT AVAILABLE FOR PAYMENT OF ANCILLARY COVERAGE PREMIUMS.—Any amount paid as a premium for insurance which provides for—

''(1) coverage for accidents, disability, dental care, vision care, or a specified illness, or

''(2) making payments of a fixed amount per day (or other period) by reason of being hospitalized.

shall not be taken into account under subsection (a).

''(f) SPECIAL RULES.—

''(1) COORDINATION WITH DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—The amount taken into account by the taxpayer in computing the deduction under section 162(l) shall not be taken into account under this section.

''(2) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—The amount taken into account by the taxpayer in computing the deduction under this section shall not be taken into account under section 213.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this section, including regulations requiring employers to report to their employees and the Secretary such information as the Secretary determines to be appropriate.''.

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 is amended by inserting after paragraph (17) the following new item:

''(18) HEALTH AND LONG-TERM CARE INSURANCE COSTS.—The deduction allowed by section 222.''.

(c) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking the last item and inserting the following new items:

''Sec. 222. Health and long-term care insurance costs.
''Sec. 223. Cross reference.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

**Subtitle C—Pension Tax Relief**

**PART I—EXPANDING COVERAGE**

**SEC. ___21. INCREASE IN BENEFIT AND CONTRIBUTION LIMITS.**

(a) DEFINED BENEFIT PLANS.—

(1) DOLLAR LIMIT.—

(A) Subparagraph (A) of section 415(b)(1) (relating to limitation for defined benefit plans) is amended by striking ''$90,000'' and inserting ''$160,000''.

(B) Subparagraphs (C) and (D) of section 415(b)(2) are each amended by striking ''$90,000'' each place it appears in the headings and the text and inserting ''$160,000''.

(C) Paragraph (7) of section 415(b) (relating to benefits under certain collectively bargained plans) is amended by striking ''the greater of $68,212 or one-half the amount otherwise applicable for such year under paragraph (1)(A) for '$90,000' '' and inserting ''one-half the amount otherwise applicable for such year under paragraph (1)(A) for '$160,000' ''.

(2) LIMIT REDUCED WHEN BENEFIT BEGINS BEFORE AGE 62.—Subparagraph (C) of section 415(b)(2) is amended by striking ''the social security retirement age'' each place it appears in the heading and text and inserting ''age 62''.

(3) LIMIT INCREASED WHEN BENEFIT BEGINS AFTER AGE 65.—Subparagraph (D) of section 415(b)(2) is amended by striking ''the social security retirement age'' each place it appears in the heading and text and inserting ''age 65''.

(4) COST-OF-LIVING ADJUSTMENTS.—Subsection (d) of section 415 (related to cost-of-living adjustments) is amended—

(A) by striking ''$90,000'' in paragraph (1)(A) and inserting ''$160,000'', and

(B) in paragraph (3)(A)—

(i) by striking ''$90,000'' in the heading and inserting ''$160,000'', and

(ii) by striking ''October 1, 1986'' and inserting ''July 1, 2000''.

(5) CONFORMING AMENDMENT.—Section 415(b)(2) is amended by striking subparagraph (F).

(b) DEFINED CONTRIBUTION PLANS.—

(1) DOLLAR LIMIT.—Subparagraph (A) of section 415(c)(1) (relating to limitation for defined contribution plans) is amended by striking ''$30,000'' and inserting ''$40,000''.

(2) COST-OF-LIVING ADJUSTMENTS.—Subsection (d) of section 415 (related to cost-of-living adjustments) is amended—

(A) by striking ''$30,000'' in paragraph (1)(C) and inserting ''$40,000'', and

(B) in paragraph (3)(D)—

(i) by striking ''$30,000'' in the heading and inserting ''$40,000'', and

(ii) by striking ''October 1, 1993'' and inserting ''July 1, 2000''.

(c) QUALIFIED TRUSTS.—

(1) COMPENSATION LIMIT.—Sections 401(a)(17), 404(l), 408(k), and 505(b)(7) are each amended by striking ''$150,000'' each place it appears and inserting ''$200,000''.

(2) BASE PERIOD AND ROUNDING OF COST-OF-LIVING ADJUSTMENT.—Subparagraph (B) of section 401(a)(17) is amended—

(A) by striking ''October 1, 1993'' and inserting ''July 1, 2000'', and

(B) by striking ''$10,000'' both places it appears and inserting ''$5,000''.

(d) ELECTIVE DEFERRALS.—

(1) IN GENERAL.—Paragraph (1) of section 402(g) (relating to limitation on exclusion for elective deferrals) is amended to read as follows:

''(1) IN GENERAL.—

''(A) LIMITATION.—Notwithstanding subsections (e)(3) and (h)(1)(B), the elective deferrals of any individual for any taxable year shall be included in such individual's gross income to the extent the amount of such deferrals for the taxable year exceeds the applicable dollar amount.

''(B) APPLICABLE DOLLAR AMOUNT.—For purposes of subparagraph (A), the applicable dollar amount shall be the amount determined in accordance with the following table:

| ''For taxable years beginning in calendar year: | The applicable dollar amount: |
|---|---|
| 2001 | $11,000 |
| 2002 | $12,000 |
| 2003 | $13,000 |
| 2004 | $14,000 |
| 2005 or thereafter | $15,000.''. |

(2) COST-OF-LIVING ADJUSTMENT.—Paragraph (5) of section 402(g) is amended to read as follows:

''(5) COST-OF-LIVING ADJUSTMENT.—In the case of taxable years beginning after December 31, 2005, the Secretary shall adjust the $15,000 amount under paragraph (1)(B) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar quarter beginning July 1, 2004, and any increase under this paragraph which is not a multiple of $500 shall be rounded to the next lowest multiple of $500.''.

(3) CONFORMING AMENDMENTS.—

(A) Section 402(g) (relating to limitation on exclusion for elective deferrals), as amended by paragraphs (1) and (2), is further amended by striking paragraph (4) and redesignating paragraphs (5), (6), (7), (8), and (9) as paragraphs (4), (5), (6), (7), and (8), respectively.

(B) Paragraph (2) of section 457(c) is amended by striking ''402(g)(8)(A)(iii)'' and inserting ''402(g)(7)(A)(iii)''.

(C) Clause (iii) of section 501(c)(18)(D) is amended by striking ''(other than paragraph (4) thereof)''.

(e) DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.—

(1) IN GENERAL.—Section 457 (relating to deferred compensation plans of State and local governments and tax-exempt organizations) is amended—

(A) in subsections (b)(2)(A) and (c)(1) by striking ''$7,500'' each place it appears and inserting ''the applicable dollar amount'', and

(B) in subsection (b)(3)(A) by striking ''$15,000'' and inserting ''twice the dollar amount in effect under subsection (b)(2)(A)''.

(2) APPLICABLE DOLLAR AMOUNT; COST-OF-LIVING ADJUSTMENT.—Paragraph (15) of section 457(e) is amended to read as follows:

''(15) APPLICABLE DOLLAR AMOUNT.—

''(A) IN GENERAL.—The applicable dollar amount shall be the amount determined in accordance with the following table:

| ''For taxable years beginning in calendar year: | The applicable dollar amount: |
|---|---|
| 2001 | $11,000 |
| 2002 | $12,000 |
| 2003 | $13,000 |
| 2004 | $14,000 |
| 2005 or thereafter | $15,000. |

''(B) COST-OF-LIVING ADJUSTMENTS.—In the case of taxable years beginning after December 31, 2005, the Secretary shall adjust the $15,000 amount specified in the table in subparagraph (A) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar quarter beginning July 1, 2004, and any increase under this paragraph which is not a multiple of $500 shall be rounded to the next lowest multiple of $500.''.

(f) SIMPLE RETIREMENT ACCOUNTS.—

(1) LIMITATION.—Clause (ii) of section 408(p)(2)(A) (relating to general rule for qualified salary reduction arrangement) is amended by striking ''$6,000'' and inserting ''the applicable dollar amount''.

(2) APPLICABLE DOLLAR AMOUNT.—Subparagraph (E) of 408(p)(2) is amended to read as follows:

''(E) APPLICABLE DOLLAR AMOUNT; COST-OF-LIVING ADJUSTMENT.—

''(i) IN GENERAL.—For purposes of subparagraph (A)(ii), the applicable dollar amount shall be the amount determined in accordance with the following table:

| ''For taxable years beginning in calendar year: | The applicable dollar amount: |
|---|---|
| 2001 | $7,000 |
| 2002 | $8,000 |
| 2003 | $9,000 |
| 2004 or thereafter | $10,000. |

''(ii) COST-OF-LIVING ADJUSTMENT.—In the case of a year beginning after December 31, 2004, the Secretary shall adjust the $10,000 amount under clause (i) at the same time and in the same manner as under section 415(d), except that the base period taken into account shall be the calendar quarter beginning July 1, 2003, and any increase under this subparagraph which is not a multiple of $500 shall be rounded to the next lower multiple of $500.''.

(3) CONFORMING AMENDMENTS.—

(A) Clause (I) of section 401(k)(11)(B)(i) is amended by striking ''$6,000'' and inserting ''the amount in effect under section 408(p)(2)(A)(ii)''.

(B) Section 401(k)(11) is amended by striking subparagraph (E).

(g) ROUNDING RULE RELATING TO DEFINED BENEFIT PLANS AND DEFINED CONTRIBUTION PLANS.—Paragraph (4) of section 415(d) is amended to read as follows:

''(4) ROUNDING.—

''(A) $160,000 AMOUNT.—Any increase under subparagraph (A) of paragraph (1) which is not a multiple of $5,000 shall be rounded to the next lowest multiple of $5,000.

''(B) $40,000 AMOUNT.—Any increase under subparagraph (C) of paragraph (1) which is not a multiple of $1,000 shall be rounded to the next lowest multiple of $1,000.''.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2000.

**SEC. 22. PLAN LOANS FOR SUBCHAPTER S OWNERS, PARTNERS, AND SOLE PROPRIETORS.**

(a) AMENDMENT TO 1986 CODE.—Subparagraph (B) of section 4975(f)(6) (relating to exemptions not to apply to certain transactions) is amended by adding at the end the following new clause:

''(iii) LOAN EXCEPTION.—For purposes of subparagraph (A)(i), the term 'owner-employee' shall only include a person described in subclause (II) or (III) of clause (i).''.

(b) AMENDMENT TO ERISA.—Section 408(d)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(d)(2)) is amended by adding at the end the following new subparagraph:

''(C) For purposes of paragraph (1)(A), the term 'owner-employee' shall only include a person described in clause (ii) or (iii) of subparagraph (A).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to loans made after December 31, 2000.

**SEC. 23. MODIFICATION OF TOP-HEAVY RULES.**

(a) SIMPLIFICATION OF DEFINITION OF KEY EMPLOYEE.—

(1) IN GENERAL.—Section 416(i)(1)(A) (defining key employee) is amended—

(A) by striking ''or any of the 4 preceding plan years'' in the matter preceding clause (i),

(B) by striking clause (i) and inserting the following:

''(i) an officer of the employer having an annual compensation greater than $150,000,'',

(C) by striking clause (ii) and redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively, and

(D) by striking the second sentence in the matter following clause (iii), as redesignated by subparagraph (C).

(2) CONFORMING AMENDMENT.—Section 416(i)(1)(B)(iii) is amended by striking ''and subparagraph (A)(ii)''.

(b) MATCHING CONTRIBUTIONS TAKEN INTO ACCOUNT FOR MINIMUM CONTRIBUTION REQUIREMENTS.—Section 416(c)(2)(A) (relating to defined contribution plans) is amended by adding at the end the following: ''Employer matching contributions (as defined in section 401(m)(4)(A)) shall be taken into account for purposes of this subparagraph.''.

(c) DISTRIBUTIONS DURING LAST YEAR BEFORE DETERMINATION DATE TAKEN INTO ACCOUNT.—

(1) IN GENERAL.—Paragraph (3) of section 416(g) is amended to read as follows:

''(3) DISTRIBUTIONS DURING LAST YEAR BEFORE DETERMINATION DATE TAKEN INTO ACCOUNT.—

''(A) IN GENERAL.—For purposes of determining—

''(i) the present value of the cumulative accrued benefit for any employee, or

''(ii) the amount of the account of any employee,

such present value or amount shall be increased by the aggregate distributions made with respect to such employee under the plan during the 1-year period ending on the determination date. The preceding sentence shall also apply to distributions under a terminated plan which if it had not been terminated would have been required to be included in an aggregation group.

''(B) 5-YEAR PERIOD IN CASE OF IN-SERVICE DISTRIBUTION.—In the case of any distribution made for a reason other than separation from service, death, or disability, subparagraph (A) shall be applied by substituting '5-year period' for '1-year period'.''.

(2) BENEFITS NOT TAKEN INTO ACCOUNT.—Subparagraph (E) of section 416(g)(4) is amended—

(A) by striking ''LAST 5 YEARS'' in the heading and inserting ''LAST YEAR BEFORE DETERMINATION DATE'', and

(B) by striking ''5-year period'' and inserting ''1-year period''.

(d) DEFINITION OF TOP-HEAVY PLANS.—Paragraph (4) of section 416(g) (relating to other special rules for top-heavy plans) is amended by adding at the end the following new subparagraph:

''(H) CASH OR DEFERRED ARRANGEMENTS USING ALTERNATIVE METHODS OF MEETING NONDISCRIMINATION REQUIREMENTS.—The term 'top-heavy plan' shall not include a plan which consists solely of—

''(i) a cash or deferred arrangement which meets the requirements of section 401(k)(12), and

''(ii) matching contributions with respect to which the requirements of section 401(m)(11) are met.

If, but for this subparagraph, a plan would be treated as a top-heavy plan because it is a member of an aggregation group which is a top-heavy group, contributions under the plan may be taken into account in determining whether any other plan in the group meets the requirements of subsection (c)(2).''.

(e) FROZEN PLAN EXEMPT FROM MINIMUM BENEFIT REQUIREMENT.—Subparagraph (C) of section 416(c)(1) (relating to defined benefit plans) is amended—

(A) by striking ''clause (ii)'' in clause (i) and inserting ''clause (ii) or (iii)'', and

(B) by adding at the end the following:

''(iii) EXCEPTION FOR FROZEN PLAN.—For purposes of determining an employee's years of service with the employer, any service with the employer shall be disregarded to the extent that such service occurs during a plan year when the plan benefits (within the meaning of section 410(b)) no employee or former employee.''.

(f) ELIMINATION OF FAMILY ATTRIBUTION.—Section 416(i)(1)(B) (defining 5-percent owner) is amended by adding at the end the following new clause:

''(iv) FAMILY ATTRIBUTION DISREGARDED.—Solely for purposes of applying this paragraph (and not for purposes of any provision of this title which incorporates by reference the definition of a key employee or 5-percent owner under this paragraph), section 318 shall be applied without regard to subsection (a)(1) thereof in determining whether any person is a 5-percent owner.''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2000.

**SEC. ___24. ELECTIVE DEFERRALS NOT TAKEN INTO ACCOUNT FOR PURPOSES OF DEDUCTION LIMITS.**

(a) IN GENERAL.—Section 404 (relating to deduction for contributions of an employer to an employees' trust or annuity plan and compensation under a deferred payment plan) is amended by adding at the end the following new subsection:

''(n) ELECTIVE DEFERRALS NOT TAKEN INTO ACCOUNT FOR PURPOSES OF DEDUCTION LIMITS.—Elective deferrals (as defined in section 402(g)(3)) shall not be subject to any limitation contained in paragraph (3), (7), or (9) of subsection (a), and such elective deferrals shall not be taken into account in applying any such limitation to any other contributions.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 2000.

**SEC. ___25. REPEAL OF COORDINATION REQUIREMENTS FOR DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.**

(a) IN GENERAL.—Subsection (c) of section 457 (relating to deferred compensation plans of State and local governments and tax-exempt organizations), as amended by section ___21, is amended to read as follows:

''(c) LIMITATION.—The maximum amount of the compensation of any one individual which may be deferred under subsection (a) during any taxable year shall not exceed the amount in effect under subsection (b)(2)(A) (as modified by any adjustment provided under subsection (b)(3)).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 2000.

**SEC. ___26. ELIMINATION OF USER FEE FOR REQUESTS TO IRS REGARDING PENSION PLANS.**

(a) ELIMINATION OF CERTAIN USER FEES.—The Secretary of the Treasury or the Secretary's delegate shall not require payment of user fees under the program established under section 7527 of the Internal Revenue Code of 1986 for requests to the Internal Revenue Service for determination letters with respect to the qualified status of a pension benefit plan maintained solely by one or more eligible employers or any trust which is part of the plan. The preceding sentence shall not apply to any request—

(1) made after the 5th plan year the pension benefit plan is in existence, or

(2) made by the sponsor of any prototype or similar plan which the sponsor intends to market to participating employers.

(b) PENSION BENEFIT PLAN.—For purposes of this section, the term ''pension benefit plan'' means a pension, profit-sharing, stock bonus, annuity, or employee stock ownership plan.

(c) ELIGIBLE EMPLOYER.—For purposes of this section, the term ''eligible employer'' has the same meaning given such term in section 408(p)(2)(C)(i)(I) of the Internal Revenue Code of 1986. The determination of whether an employer is an eligible employer under this section shall be made as of the date of the request described in subsection (a).

(d) EFFECTIVE DATE.—The provisions of this section shall apply with respect to requests made after December 31, 2000.

**SEC. ___27. DEDUCTION LIMITS.**

(a) IN GENERAL.—Section 404(a) (relating to general rule) is amended by adding at the end the following:

''(12) DEFINITION OF COMPENSATION.—For purposes of paragraphs (3), (7), (8), and (9), the term 'compensation' shall include amounts treated as participant's compensation under subparagraph (C) or (D) of section 415(c)(3).''.

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 404(a)(3) is amended by striking the last sentence thereof.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2000.

**SEC. ___28. OPTION TO TREAT ELECTIVE DEFERRALS AS AFTER-TAX CONTRIBUTIONS.**

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 (relating to deferred compensation, etc.) is amended by inserting after section 402 the following new section:

**''SEC. 402A. OPTIONAL TREATMENT OF ELECTIVE DEFERRALS AS PLUS CONTRIBUTIONS.**

''(a) GENERAL RULE.—If an applicable retirement plan includes a qualified plus contribution program—

''(1) any designated plus contribution made by an employee pursuant to the program shall be treated as an elective deferral for purposes of this chapter, except that such contribution shall not be excludable from gross income, and

''(2) such plan (and any arrangement which is part of such plan) shall not be treated as failing to meet any requirement of this chapter solely by reason of including such program.

''(b) QUALIFIED PLUS CONTRIBUTION PROGRAM.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified plus contribution program' means a program under which an employee may elect to make designated plus contributions in lieu of all or a portion of elective deferrals the employee is otherwise eligible to make under the applicable retirement plan.

''(2) SEPARATE ACCOUNTING REQUIRED.—A program shall not be treated as a qualified plus contribution program unless the applicable retirement plan—

''(A) establishes separate accounts ('designated plus accounts') for the designated plus contributions of each employee and any earnings properly allocable to the contributions, and

''(B) maintains separate recordkeeping with respect to each account.

''(c) DEFINITIONS AND RULES RELATING TO DESIGNATED PLUS CONTRIBUTIONS.—For purposes of this section—

''(1) DESIGNATED PLUS CONTRIBUTION.—The term 'designated plus contribution' means any elective deferral which—

''(A) is excludable from gross income of an employee without regard to this section, and

''(B) the employee designates (at such time and in such manner as the Secretary may prescribe) as not being so excludable.

''(2) DESIGNATION LIMITS.—The amount of elective deferrals which an employee may designate under paragraph (1) shall not exceed the excess (if any) of—

''(A) the maximum amount of elective deferrals excludable from gross income of the employee for the taxable year (without regard to this section), over

''(B) the aggregate amount of elective deferrals of the employee for the taxable year which the employee does not designate under paragraph (1).

''(3) ROLLOVER CONTRIBUTIONS.—

''(A) IN GENERAL.—A rollover contribution of any payment or distribution from a designated plus account which is otherwise allowable under this chapter may be made only if the contribution is to—

''(i) another designated plus account of the individual from whose account the payment or distribution was made, or

''(ii) a Roth IRA of such individual.

''(B) COORDINATION WITH LIMIT.—Any rollover contribution to a designated plus account under subparagraph (A) shall not be taken into account for purposes of paragraph (1).

''(d) DISTRIBUTION RULES.—For purposes of this title—

''(1) EXCLUSION.—Any qualified distribution from a designated plus account shall not be includible in gross income.

''(2) QUALIFIED DISTRIBUTION.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified distribution' has the meaning given such term by section 408A(d)(2)(A) (without regard to clause (iv) thereof).

''(B) DISTRIBUTIONS WITHIN NONEXCLUSION PERIOD.—A payment or distribution from a designated plus account shall not be treated as a qualified distribution if such payment or distribution is made within the 5-taxable-year period beginning with the earlier of—

''(i) the first taxable year for which the individual made a designated plus contribution to any designated plus account established for such individual under the same applicable retirement plan, or

''(ii) if a rollover contribution was made to such designated plus account from a designated plus account previously established for such individual under another applicable retirement plan, the first taxable year for which the individual made a designated plus contribution to such previously established account.

''(C) DISTRIBUTIONS OF EXCESS DEFERRALS AND EARNINGS.—The term 'qualified distribution' shall not include any distribution of any excess deferral under section 402(g)(2) and any income on the excess deferral.

''(3) AGGREGATION RULES.—Section 72 shall be applied separately with respect to distributions and payments from a designated plus account and other distributions and payments from the plan.

''(e) OTHER DEFINITIONS.—For purposes of this section—

''(1) APPLICABLE RETIREMENT PLAN.—The term 'applicable retirement plan' means—

''(A) an employees' trust described in section 401(a) which is exempt from tax under section 501(a), and

''(B) a plan under which amounts are contributed by an individual's employer for an annuity contract described in section 403(b).

''(2) ELECTIVE DEFERRAL.—The term 'elective deferral' means any elective deferral described in subparagraph (A) or (C) of section 402(g)(3).''.

(b) EXCESS DEFERRALS.—Section 402(g) (relating to limitation on exclusion for elective deferrals) is amended—

(1) by adding at the end of paragraph (1) the following new sentence: ''The preceding sentence shall not apply to so much of such excess as does not exceed the designated plus contributions of the individual for the taxable year.'', and

(2) by inserting ''(or would be included but for the last sentence thereof)'' after ''paragraph (1)'' in paragraph (2)(A).

(c) ROLLOVERS.—Subparagraph (B) of section 402(c)(8) is amended by adding at the end the following:

''If any portion of an eligible rollover distribution is attributable to payments or distributions from a designated plus account (as defined in section 402A), an eligible retirement plan with respect to such portion shall include only another designated plus account and a Roth IRA.''.

(d) REPORTING REQUIREMENTS.—

(1) W–2 INFORMATION.—Section 6051(a)(8) is amended by inserting '', including the amount of designated plus contributions (as defined in section 402A)'' before the comma at the end.

(2) INFORMATION.—Section 6047 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) DESIGNATED PLUS CONTRIBUTIONS.—The Secretary shall require the plan administrator of each applicable retirement plan (as defined in section 402A) to make such returns and reports regarding designated plus contributions (as so defined) to the Secretary, participants and beneficiaries of the plan, and such other persons as the Secretary may prescribe.''.

(e) CONFORMING AMENDMENTS.—

(1) Section 408A(e) is amended by adding after the first sentence the following new sentence: ''Such term includes a rollover contribution described in section 402A(c)(3)(A).''.

(2) The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 402 the following new item:

''Sec. 402A. Optional treatment of elective deferrals as plus contributions.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

## PART II—ENHANCING FAIRNESS FOR WOMEN

### SEC. ___31. CATCHUP CONTRIBUTIONS FOR INDIVIDUALS AGE 50 OR OVER.

(a) IN GENERAL.—Section 414 (relating to definitions and special rules) is amended by adding at the end the following new subsection:

''(v) CATCHUP CONTRIBUTIONS FOR INDIVIDUALS AGE 50 OR OVER.—

''(1) IN GENERAL.—An applicable employer plan shall not be treated as failing to meet any requirement of this title solely because the plan permits an eligible participant to make additional elective deferrals in any plan year.

''(2) LIMITATION ON AMOUNT OF ADDITIONAL DEFERRALS.—

''(A) IN GENERAL.—A plan shall not permit additional elective deferrals under paragraph (1) for any year in an amount greater than the lesser of—

''(i) the applicable percentage of the applicable dollar amount for such elective deferrals for such year, or

''(ii) the excess (if any) of—

''(I) the participant's compensation for the year, over

''(II) any other elective deferrals of the participant for such year which are made without regard to this subsection.

''(B) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the applicable percentage shall be determined in accordance with the following table:

| 'For taxable years beginning in: | The applicable percentage is: |
|---|---|
| 2001 | 10 percent |
| 2002 | 20 percent |
| 2003 | 30 percent |
| 2004 | 40 percent |
| 2005 and thereafter | 50 percent. |

''(3) TREATMENT OF CONTRIBUTIONS.—In the case of any contribution to a plan under paragraph (1)—

''(A) such contribution shall not, with respect to the year in which the contribution is made—

''(i) be subject to any otherwise applicable limitation contained in section 402(g), 402(h), 403(b), 404(a), 404(h), 408, 415, or 457, or

''(ii) be taken into account in applying such limitations to other contributions or benefits under such plan or any other such plan, and

''(B) such plan shall not be treated as failing to meet the requirements of section 401(a)(4), 401(a)(26), 401(k)(3), 401(k)(11), 401(k)(12), 401(m), 403(b)(12), 408(k), 408(p), 408B, 410(b), or 416 by reason of the making of (or the right to make) such contribution.

''(4) ELIGIBLE PARTICIPANT.—For purposes of this subsection, the term 'eligible participant' means, with respect to any plan year, a participant in a plan—

''(A) who has attained the age of 50 before the close of the plan year, and

''(B) with respect to whom no other elective deferrals may (without regard to this subsection) be made to the plan for the plan year by reason of the application of any limitation or other restriction described in paragraph (3) or contained in the terms of the plan.

''(5) OTHER DEFINITIONS AND RULES.—For purposes of this subsection—

''(A) APPLICABLE DOLLAR AMOUNT.—The term 'applicable dollar amount' means, with respect to any year, the amount in effect under section 402(g)(1)(B), 408(p)(2)(E)(i), or 457(e)(15)(A), whichever is applicable to an applicable employer plan, for such year.

''(B) APPLICABLE EMPLOYER PLAN.—The term 'applicable employer plan' means—

''(i) an employees' trust described in section 401(a) which is exempt from tax under section 501(a),

''(ii) a plan under which amounts are contributed by an individual's employer for an annuity contract described in section 403(b),

''(iii) an eligible deferred compensation plan under section 457 of an eligible employer as defined in section 457(e)(1)(A), and

''(iv) an arrangement meeting the requirements of section 408 (k) or (p).

''(C) ELECTIVE DEFERRAL.—The term 'elective deferral' has the meaning given such term by subsection (u)(2)(C).

''(D) EXCEPTION FOR SECTION 457 PLANS.—This subsection shall not apply to an applicable employer plan described in subparagraph (B)(iii) for any year to which section 457(b)(3) applies.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions in taxable years beginning after December 31, 2000.

### SEC. ___32. EQUITABLE TREATMENT FOR CONTRIBUTIONS OF EMPLOYEES TO DEFINED CONTRIBUTION PLANS.

(a) EQUITABLE TREATMENT.—

(1) IN GENERAL.—Subparagraph (B) of section 415(c)(1) (relating to limitation for defined contribution plans) is amended by striking ''25 percent'' and inserting ''100 percent''.

(2) APPLICATION TO SECTION 403(b).—Section 403(b) is amended—

(A) by striking ''the exclusion allowance for such taxable year'' in paragraph (1) and inserting ''the applicable limit under section 415'',

(B) by striking paragraph (2), and

(C) by inserting ''or any amount received by a former employee after the 5th taxable year following the taxable year in which such employee was terminated'' before the period at the end of the second sentence of paragraph (3).

(3) CONFORMING AMENDMENTS.—

(A) Subsection (f) of section 72 is amended by striking ''section 403(b)(2)(D)(iii))'' and inserting ''section 403(b)(2)(D)(iii), as in effect before the enactment of the Taxpayer Refund and Relief Act of 1999)''.

(B) Section 404(a)(10)(B) is amended by striking '', the exclusion allowance under section 403(b)(2),''.

(C) Section 415(a)(2) is amended by striking '', and the amount of the contribution for such portion shall reduce the exclusion allowance as provided in section 403(b)(2)''.

(D) Section 415(c)(3) is amended by adding at the end the following new subparagraph:

''(E) ANNUITY CONTRACTS.—In the case of an annuity contract described in section 403(b), the term 'participant's compensation' means the participant's includible compensation determined under section 403(b)(3).''.

(E) Section 415(c) is amended by striking paragraph (4).

(F) Section 415(c)(7) is amended to read as follows:

''(7) CERTAIN CONTRIBUTIONS BY CHURCH PLANS NOT TREATED AS EXCEEDING LIMIT.—

''(A) IN GENERAL.—Notwithstanding any other provision of this subsection, at the election of a participant who is an employee of a church or a convention or association of churches, including an organization described in section 414(e)(3)(B)(ii), contributions and other additions for an annuity contract or retirement income account described in section 403(b) with respect to such participant, when expressed as an annual addition to such participant's account, shall be treated as not exceeding the limitation of paragraph (1) if such annual addition is not in excess of $10,000.

''(B) $40,000 AGGREGATE LIMITATION.—The total amount of additions with respect to any participant which may be taken into account for purposes of this subparagraph for all years may not exceed $40,000.

''(C) ANNUAL ADDITION.—For purposes of this paragraph, the term 'annual addition' has the meaning given such term by paragraph (2).''.

(G) Subparagraph (B) of section 402(g)(7) (as redesignated by section 1201) is amended by inserting before the period at the end the following: ''(as in effect before the enactment of the Taxpayer Refund and Relief Act of 1999)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to years beginning after December 31, 2000.

(b) SPECIAL RULES FOR SECTIONS 403(b) AND 408.—

(1) IN GENERAL.—Subsection (k) of section 415 is amended by adding at the end the following new paragraph:

''(4) SPECIAL RULES FOR SECTIONS 403(b) AND 408.—For purposes of this section, any annuity contract described in section 403(b) for the benefit of a participant shall be treated as a defined contribution plan maintained by each employer with respect to which the participant has the control required under subsection (b) or (c) of section 414 (as modified by subsection (h)). For purposes of this section, any contribution by an employer to a simplified employee pension plan for an individual for a taxable year shall be treated as an employer contribution to a defined contribution plan for such individual for such year.''.

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendment made by paragraph (1) shall apply to limitation years beginning after December 31, 1999.

(B) EXCLUSION ALLOWANCE.—Effective for limitation years beginning in 2000, in the case of any annuity contract described in section 403(b) of the Internal Revenue Code of 1986, the amount of the contribution disqualified by reason of section 415(g) of such Code shall reduce the exclusion allowance as provided in section 403(b)(2) of such Code.

(3) MODIFICATION OF 403(b) EXCLUSION ALLOWANCE TO CONFORM TO 415 MODIFICATION.—The Secretary of the Treasury shall modify the regulations regarding the exclusion allowance under section 403(b)(2) of the Internal Revenue Code of 1986 to render void the requirement that contributions to a defined benefit pension plan be treated as previously excluded amounts for purposes of the exclusion allowance. For taxable years beginning after December 31, 1999, such regulations shall be applied as if such requirement were void.

(c) DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.—

(1) IN GENERAL.—Subparagraph (B) of section 457(b)(2) (relating to salary limitation on eligible deferred compensation plans) is amended by striking ''33⅓ percent'' and inserting ''100 percent''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to years beginning after December 31, 2000.

**SEC. ___33. FASTER VESTING OF CERTAIN EMPLOYER MATCHING CONTRIBUTIONS.**

(a) AMENDMENTS TO 1986 CODE.—Section 411(a) (relating to minimum vesting standards) is amended—

(1) in paragraph (2), by striking ''A plan'' and inserting ''Except as provided in paragraph (12), a plan'', and

(2) by adding at the end the following:

''(12) FASTER VESTING FOR MATCHING CONTRIBUTIONS.—In the case of matching contributions (as defined in section 401(m)(4)(A)), paragraph (2) shall be applied—

''(A) by substituting '3 years' for '5 years' in subparagraph (A), and

''(B) by substituting the following table for the table contained in subparagraph (B):

| ''Years of service: | The nonforfeitable percentage is: |
|---|---|
| 2 | 20 |
| 3 | 40 |
| 4 | 60 |
| 5 | 80 |
| 6 | 100.''. |

(b) AMENDMENTS TO ERISA.—Section 203(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)) is amended—

(1) in paragraph (2), by striking ''A plan'' and inserting ''Except as provided in paragraph (4), a plan'', and

(2) by adding at the end the following:

''(4) FASTER VESTING FOR MATCHING CONTRIBUTIONS.—In the case of matching contributions (as defined in section 401(m)(4)(A) of the Internal Revenue Code of 1986), paragraph (2) shall be applied—

''(A) by substituting '3 years' for '5 years' in subparagraph (A), and

''(B) by substituting the following table for the table contained in subparagraph (B):

| ''Years of service: | The nonforfeitable percentage is: |
|---|---|
| 2 | 20 |
| 3 | 40 |
| 4 | 60 |
| 5 | 80 |
| 6 | 100.''. |

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to contributions for plan years beginning after December 31, 2000.

(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified by the date of the enactment of this Act, the amendments made by this section shall not apply to contributions on behalf of employees covered by any such agreement for plan years beginning before the earlier of—

(A) the later of—

(i) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof on or after such date of the enactment), or

(ii) January 1, 2001, or

(B) January 1, 2005.

(3) SERVICE REQUIRED.—With respect to any plan, the amendments made by this section shall not apply to any employee before the date that such employee has 1 hour of service under such plan in any plan year to which the amendments made by this section apply.

**SEC. ___34. SIMPLIFY AND UPDATE THE MINIMUM DISTRIBUTION RULES.**

(a) SIMPLIFICATION AND FINALIZATION OF MINIMUM DISTRIBUTION REQUIREMENTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall—

(A) simplify and finalize the regulations relating to minimum distribution requirements under sections 401(a)(9), 408(a)(6) and (b)(3), 403(b)(10), and 457(d)(2) of the Internal Revenue Code of 1986, and

(B) modify such regulations to—

(i) reflect current life expectancy, and

(ii) revise the required distribution methods so that, under reasonable assumptions, the amount of the required minimum distribution does not decrease over a participant's life expectancy.

(2) FRESH START.—Notwithstanding subparagraph (D) of section 401(a)(9) of such Code, during the first year that regulations are in effect under this subsection, required distributions for future years may be redetermined to reflect changes under such regulations. Such redetermination shall include the opportunity to choose a new designated beneficiary and to elect a new method of calculating life expectancy.

(3) EFFECTIVE DATE FOR REGULATIONS.—Regulations referred to in paragraph (1) shall be effective for years beginning after December 31, 2000, and shall apply in such years without regard to whether an individual had previously begun receiving minimum distributions.

(b) REPEAL OF RULE WHERE DISTRIBUTIONS HAD BEGUN BEFORE DEATH OCCURS.—

(1) IN GENERAL.—Subparagraph (B) of section 401(a)(9) is amended by striking clause (i) and redesignating clauses (ii), (iii), and (iv) as clauses (i), (ii), and (iii), respectively.

(2) CONFORMING CHANGES.—

(A) Clause (i) of section 401(a)(9)(B) (as so redesignated) is amended—

(i) by striking ''FOR OTHER CASES'' in the heading, and

(ii) by striking ''the distribution of the employee's interest has begun in accordance with subparagraph (A)(ii)'' and inserting ''his entire interest has been distributed to him,''.

(B) Clause (ii) of section 401(a)(9)(B) (as so redesignated) is amended by striking ''clause (ii)'' and inserting ''clause (i)''.

(C) Clause (iii) of section 401(a)(9)(B) (as so redesignated) is amended—

(i) by striking ''clause (iii)(I)'' and inserting ''clause (ii)(I)'',

(ii) by striking ''clause (iii)(III)'' in subclause (I) and inserting ''clause (ii)(III)'',

(iii) by striking ''the date on which the employee would have attained the age 70½,'' in subclause (I) and inserting ''April 1 of the calendar year following the calendar year in which the spouse attains 70½,'', and

(iv) by striking ''the distributions to such spouse begin,'' in subclause (II) and inserting ''his entire interest has been distributed to him,''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to years beginning after December 31, 2000.

(c) REDUCTION IN EXCISE TAX.—

(1) IN GENERAL.—Subsection (a) of section 4974 is amended by striking ''50 percent'' and inserting ''10 percent''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to years beginning after December 31, 2000.

**SEC. ___35. CLARIFICATION OF TAX TREATMENT OF DIVISION OF SECTION 457 PLAN BENEFITS UPON DIVORCE.**

(a) IN GENERAL.—Section 414(p)(11) (relating to application of rules to governmental and church plans) is amended—

(1) by inserting ''or an eligible deferred compensation plan (within the meaning of section 457(b))'' after ''subsection (e))'', and

(2) in the heading, by striking ''GOVERNMENTAL AND CHURCH PLANS'' and inserting ''CERTAIN OTHER PLANS''.

(b) WAIVER OF CERTAIN DISTRIBUTION REQUIREMENTS.—Paragraph (10) of section 414(p) is amended by striking ''and section 409(d)''

and inserting ''section 409(d), and section 457(d)''.

(c) TAX TREATMENT OF PAYMENTS FROM A SECTION 457 PLAN.—Subsection (p) of section 414 is amended by redesignating paragraph (12) as paragraph (13) and inserting after paragraph (11) the following new paragraph:

''(12) TAX TREATMENT OF PAYMENTS FROM A SECTION 457 PLAN.—If a distribution or payment from an eligible deferred compensation plan described in section 457(b) is made pursuant to a qualified domestic relations order, rules similar to the rules of section 402(e)(1)(A) shall apply to such distribution or payment.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers, distributions, and payments made after December 31, 2000.

**SEC. ___36. MODIFICATION OF SAFE HARBOR RELIEF FOR HARDSHIP WITHDRAWALS FROM CASH OR DEFERRED ARRANGEMENTS.**

(a) IN GENERAL.—The Secretary of the Treasury shall revise the regulations relating to hardship distributions under section 401(k)(2)(B)(i)(IV) of the Internal Revenue Code of 1986 to provide that the period an employee is prohibited from making elective and employee contributions in order for a distribution to be deemed necessary to satisfy financial need shall be equal to 6 months.

(b) EFFECTIVE DATE.—The revised regulations under subsection (a) shall apply to years beginning after December 31, 2000.

**PART III—INCREASING PORTABILITY FOR PARTICIPANTS**

**SEC. ___41. ROLLOVERS ALLOWED AMONG VARIOUS TYPES OF PLANS.**

(a) ROLLOVERS FROM AND TO SECTION 457 PLANS.—

(1) ROLLOVERS FROM SECTION 457 PLANS.—

(A) IN GENERAL.—Section 457(e) (relating to other definitions and special rules) is amended by adding at the end the following:

''(16) ROLLOVER AMOUNTS.—

''(A) GENERAL RULE.—In the case of an eligible deferred compensation plan established and maintained by an employer described in subsection (e)(1)(A), if—

''(i) any portion of the balance to the credit of an employee in such plan is paid to such employee in an eligible rollover distribution (within the meaning of section 402(c)(4) without regard to subparagraph (C) thereof),

''(ii) the employee transfers any portion of the property such employee receives in such distribution to an eligible retirement plan described in section 402(c)(8)(B), and

''(iii) in the case of a distribution of property other than money, the amount so transferred consists of the property distributed,

then such distribution (to the extent so transferred) shall not be includible in gross income for the taxable year in which paid.

''(B) CERTAIN RULES MADE APPLICABLE.—The rules of paragraphs (2) through (7) (other than paragraph (4)(C)) and (9) of section 402(c) and section 402(f) shall apply for purposes of subparagraph (A).

''(C) REPORTING.—Rollovers under this paragraph shall be reported to the Secretary in the same manner as rollovers from qualified retirement plans (as defined in section 4974(c)).''.

(B) DEFERRAL LIMIT DETERMINED WITHOUT REGARD TO ROLLOVER AMOUNTS.—Section 457(b)(2) (defining eligible deferred compensation plan) is amended by inserting ''(other than rollover amounts)'' after ''taxable year''.

(C) DIRECT ROLLOVER.—Paragraph (1) of section 457(d) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by inserting after subparagraph (B) the following:

''(C) in the case of a plan maintained by an employer described in subsection (e)(1)(A), the plan meets requirements similar to the requirements of section 401(a)(31).

Any amount transferred in a direct trustee-to-trustee transfer in accordance with section 401(a)(31) shall not be includible in gross income for the taxable year of transfer.''.

(D) WITHHOLDING.—

(i) Paragraph (12) of section 3401(a) is amended by adding at the end the following:

''(E) under or to an eligible deferred compensation plan which, at the time of such payment, is a plan described in section 457(b) maintained by an employer described in section 457(e)(1)(A); or''.

(ii) Paragraph (3) of section 3405(c) is amended to read as follows:

''(3) ELIGIBLE ROLLOVER DISTRIBUTION.—For purposes of this subsection, the term 'eligible rollover distribution' has the meaning given such term by section 402(f)(2)(A).''.

(iii) LIABILITY FOR WITHHOLDING.—Subparagraph (B) of section 3405(d)(2) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', or'', and by adding at the end the following:

''(iv) section 457(b).''.

(2) ROLLOVERS TO SECTION 457 PLANS.—

(A) IN GENERAL.—Section 402(c)(8)(B) (defining eligible retirement plan) is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by inserting after clause (iv) the following new clause:

''(v) an eligible deferred compensation plan described in section 457(b) of an employer described in section 457(e)(1)(A).''.

(B) SEPARATE ACCOUNTING.—Section 402(c) is amended by adding at the end the following new paragraph:

''(11) SEPARATE ACCOUNTING.—Unless a plan described in clause (v) of paragraph (8)(B) agrees to separately account for amounts rolled into such plan from eligible retirement plans not described in such clause, the plan described in such clause may not accept transfers or rollovers from such retirement plans.''.

(C) 10 PERCENT ADDITIONAL TAX.—Subsection (t) of section 72 (relating to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end the following new paragraph:

''(9) SPECIAL RULE FOR ROLLOVERS TO SECTION 457 PLANS.—For purposes of this subsection, a distribution from an eligible deferred compensation plan (as defined in section 457(b)) of an employer described in section 457(e)(1)(A) shall be treated as a distribution from a qualified retirement plan described in 4974(c)(1) to the extent that such distribution is attributable to an amount transferred to an eligible deferred compensation plan from a qualified retirement plan (as defined in section 4974(c)).''.

(b) ALLOWANCE OF ROLLOVERS FROM AND TO 403 (b) PLANS.—

(1) ROLLOVERS FROM SECTION 403 (b) PLANS.—Section 403(b)(8)(A)(ii) (relating to rollover amounts) is amended by striking ''such distribution'' and all that follows and inserting ''such distribution to an eligible retirement plan described in section 402(c)(8)(B), and''.

(2) ROLLOVERS TO SECTION 403 (b) PLANS.—Section 402(c)(8)(B) (defining eligible retirement plan), as amended by subsection (a), is amended by striking ''and'' at the end of clause (iv), by striking the period at the end of clause (v) and inserting '', and'', and by inserting after clause (v) the following new clause:

''(vi) an annuity contract described in section 403(b).''.

(c) EXPANDED EXPLANATION TO RECIPIENTS OF ROLLOVER DISTRIBUTIONS.—Paragraph (1) of section 402(f) (relating to written explanation to recipients of distributions eligible for rollover treatment) is amended by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', and'', and by adding at the end the following new subparagraph:

''(E) of the provisions under which distributions from the eligible retirement plan receiving the distribution may be subject to restrictions and tax consequences which are different from those applicable to distributions from the plan making such distribution.''.

(d) SPOUSAL ROLLOVERS.—Section 402(c)(9) (relating to rollover where spouse receives distribution after death of employee) is amended by striking ''; except that'' and all that follows up to the end period.

(e) CONFORMING AMENDMENTS.—

(1) Section 72(o)(4) is amended by striking ''and 408(d)(3)'' and inserting ''403(b)(8), 408(d)(3), and 457(e)(16)''.

(2) Section 219(d)(2) is amended by striking ''or 408(d)(3)'' and inserting ''408(d)(3), or 457(e)(16)''.

(3) Section 401(a)(31)(B) is amended by striking ''and 403(a)(4)'' and inserting '', 403(a)(4), 403(b)(8), and 457(e)(16)''.

(4) Subparagraph (A) of section 402(f)(2) is amended by striking ''or paragraph (4) of section 403(a)'' and inserting '', paragraph (4) of section 403(a), subparagraph (A) of section 403(b)(8), or subparagraph (A) of section 457(e)(16)''.

(5) Paragraph (1) of section 402(f) is amended by striking ''from an eligible retirement plan''.

(6) Subparagraphs (A) and (B) of section 402(f)(1) are amended by striking ''another eligible retirement plan'' and inserting ''an eligible retirement plan''.

(7) Subparagraph (B) of section 403(b)(8) is amended to read as follows:

''(B) CERTAIN RULES MADE APPLICABLE.—The rules of paragraphs (2) through (7) and (9) of section 402(c) and section 402(f) shall apply for purposes of subparagraph (A), except that section 402(f) shall be applied to the payor in lieu of the plan administrator.''.

(8) Section 408(a)(1) is amended by striking ''or 403(b)(8)'' and inserting '', 403(b)(8), or 457(e)(16)''.

(9) Subparagraphs (A) and (B) of section 415(b)(2) are each amended by striking ''and 408(d)(3)'' and inserting ''403(b)(8), 408(d)(3), and 457(e)(16)''.

(10) Section 415(c)(2) is amended by striking ''and 408(d)(3)'' and inserting ''408(d)(3), and 457(e)(16)''.

(11) Section 4973(b)(1)(A) is amended by striking ''or 408(d)(3)'' and inserting ''408(d)(3), or 457(e)(16)''.

(f) EFFECTIVE DATE; SPECIAL RULE.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 2000.

(2) SPECIAL RULE.—Notwithstanding any other provision of law, subsections (h)(3) and (h)(5) of section 1122 of the Tax Reform Act of 1986 shall not apply to any distribution from an eligible retirement plan (as defined in clause (iii) or (iv) of section 402(c)(8)(B) of the Internal Revenue Code of 1986) on behalf of an individual if there was a rollover to such plan on behalf of such individual which is permitted solely by reason of any amendment made by this section.

**SEC. ___42. ROLLOVERS OF IRAS INTO WORKPLACE RETIREMENT PLANS.**

(a) IN GENERAL.—Subparagraph (A) of section 408(d)(3) (relating to rollover amounts) is amended by adding ''or'' at the end of clause (i), by striking clauses (ii) and (iii), and by adding at the end the following:

''(ii) the entire amount received (including money and any other property) is paid into

an eligible retirement plan for the benefit of such individual not later than the 60th day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the amount received which is includible in gross income (determined without regard to this paragraph).

For purposes of clause (ii), the term 'eligible retirement plan' means an eligible retirement plan described in clause (iii), (iv), (v), or (vi) of section 402(c)(8)(B).''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 403(b) is amended by striking ''section 408(d)(3)(A)(iii)'' and inserting ''section 408(d)(3)(A)(ii)''.

(2) Clause (i) of section 408(d)(3)(D) is amended by striking ''(i), (ii), or (iii)'' and inserting ''(i) or (ii)''.

(3) Subparagraph (G) of section 408(d)(3) is amended to read as follows:

''(G) SIMPLE RETIREMENT ACCOUNTS.—In the case of any payment or distribution out of a simple retirement account (as defined in subsection (p)) to which section 72(t)(6) applies, this paragraph shall not apply unless such payment or distribution is paid into another simple retirement account.''.

(c) EFFECTIVE DATE; SPECIAL RULE.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 2000.

(2) SPECIAL RULE.—Notwithstanding any other provision of law, subsections (h)(3) and (h)(5) of section 1122 of the Tax Reform Act of 1986 shall not apply to any distribution from an eligible retirement plan (as defined in clause (iii) or (iv) of section 402(c)(8)(B) of the Internal Revenue Code of 1986) on behalf of an individual if there was a rollover to such plan on behalf of such individual which is permitted solely by reason of the amendments made by this section.

**SEC. ___43. ROLLOVERS OF AFTER-TAX CONTRIBUTIONS.**

(a) ROLLOVERS FROM EXEMPT TRUSTS.—Paragraph (2) of section 402(c) (relating to maximum amount which may be rolled over) is amended by adding at the end the following: ''The preceding sentence shall not apply to such distribution to the extent—

''(A) such portion is transferred in a direct trustee-to-trustee transfer to a qualified trust which is part of a plan which is a defined contribution plan and which agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible, or

''(B) such portion is transferred to an eligible retirement plan described in clause (i) or (ii) of paragraph (8)(B).''.

(b) OPTIONAL DIRECT TRANSFER OF ELIGIBLE ROLLOVER DISTRIBUTIONS.—Subparagraph (B) of section 401(a)(31) (relating to limitation) is amended by adding at the end the following: ''The preceding sentence shall not apply to such distribution if the plan to which such distribution is transferred—

''(i) agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible, or

''(ii) is an eligible retirement plan described in clause (i) or (ii) of section 402(c)(8)(B).''.

(c) RULES FOR APPLYING SECTION 72 TO IRAS.—Paragraph (3) of section 408(d) (relating to special rules for applying section 72) is amended by inserting at the end the following:

''(H) APPLICATION OF SECTION 72.—

''(i) IN GENERAL.—If—

''(I) a distribution is made from an individual retirement plan, and

''(II) a rollover contribution is made to an eligible retirement plan described in section 402(c)(8)(B)(iii), (iv), (v), or (vi) with respect to all or part of such distribution,

then, notwithstanding paragraph (2), the rules of clause (ii) shall apply for purposes of applying section 72.

''(ii) APPLICABLE RULES.—In the case of a distribution described in clause (i)—

''(I) section 72 shall be applied separately to such distribution,

''(II) notwithstanding the pro rata allocation of income on, and investment in, the contract to distributions under section 72, the portion of such distribution rolled over to an eligible retirement plan described in clause (i) shall be treated as from income on the contract (to the extent of the aggregate income on the contract from all individual retirement plans of the distributee), and

''(III) appropriate adjustments shall be made in applying section 72 to other distributions in such taxable year and subsequent taxable years.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions made after December 31, 2000.

**SEC. ___44. HARDSHIP EXCEPTION TO 60-DAY RULE.**

(a) EXEMPT TRUSTS.—Paragraph (3) of section 402(c) (relating to transfer must be made within 60 days of receipt) is amended to read as follows:

''(3) TRANSFER MUST BE MADE WITHIN 60 DAYS OF RECEIPT.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), paragraph (1) shall not apply to any transfer of a distribution made after the 60th day following the day on which the distributee received the property distributed.

''(B) HARDSHIP EXCEPTION.—The Secretary may waive the 60-day requirement under subparagraph (A) where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement.''.

(b) IRAS.—Paragraph (3) of section 408(d) (relating to rollover contributions), as amended by section ___43, is amended by adding after subparagraph (H) the following new subparagraph:

''(I) WAIVER OF 60-DAY REQUIREMENT.—The Secretary may waive the 60-day requirement under subparagraphs (A) and (D) where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 2000.

**SEC. ___45. TREATMENT OF FORMS OF DISTRIBUTION.**

(a) PLAN TRANSFERS.—

(1) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Paragraph (6) of section 411(d) (relating to accrued benefit not to be decreased by amendment) is amended by adding at the end the following:

''(D) PLAN TRANSFERS.—

''(i) A defined contribution plan (in this subparagraph referred to as the 'transferee plan') shall not be treated as failing to meet the requirements of this subsection merely because the transferee plan does not provide some or all of the forms of distribution previously available under another defined contribution plan (in this subparagraph referred to as the 'transferor plan') to the extent that—

''(I) the forms of distribution previously available under the transferor plan applied to the account of a participant or beneficiary under the transferor plan that was transferred from the transferor plan to the transferee plan pursuant to a direct transfer rather than pursuant to a distribution from the transferor plan,

''(II) the terms of both the transferor plan and the transferee plan authorize the transfer described in subclause (I),

''(III) the transfer described in subclause (I) was made pursuant to a voluntary election by the participant or beneficiary whose account was transferred to the transferee plan,

''(IV) the election described in subclause (III) was made after the participant or beneficiary received a notice describing the consequences of making the election,

''(V) if the transferor plan provides for an annuity as the normal form of distribution under the plan in accordance with section 417, the transfer is made with the consent of the participant's spouse (if any), and such consent meets requirements similar to the requirements imposed by section 417(a)(2), and

''(VI) the transferee plan allows the participant or beneficiary described in clause (iii) to receive any distribution to which the participant or beneficiary is entitled under the transferee plan in the form of a single sum distribution.

''(ii) Clause (i) shall apply to plan mergers and other transactions having the effect of a direct transfer, including consolidations of benefits attributable to different employers within a multiple employer plan.

''(E) ELIMINATION OF FORM OF DISTRIBUTION.—Except to the extent provided in regulations, a defined contribution plan shall not be treated as failing to meet the requirements of this section merely because of the elimination of a form of distribution previously available thereunder. This subparagraph shall not apply to the elimination of a form of distribution with respect to any participant unless—

''(i) a single sum payment is available to such participant at the same time or times as the form of distribution being eliminated, and

''(ii) such single sum payment is based on the same or greater portion of the participant's account as the form of distribution being eliminated.''.

(2) AMENDMENT TO ERISA.—Section 204(g) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(g)) is amended by adding at the end the following:

''(4)(A) A defined contribution plan (in this subparagraph referred to as the 'transferee plan') shall not be treated as failing to meet the requirements of this subsection merely because the transferee plan does not provide some or all of the forms of distribution previously available under another defined contribution plan (in this subparagraph referred to as the 'transferor plan') to the extent that—

''(i) the forms of distribution previously available under the transferor plan applied to the account of a participant or beneficiary under the transferor plan that was transferred from the transferor plan to the transferee plan pursuant to a direct transfer rather than pursuant to a distribution from the transferor plan;

''(ii) the terms of both the transferor plan and the transferee plan authorize the transfer described in clause (i);

''(iii) the transfer described in clause (i) was made pursuant to a voluntary election by the participant or beneficiary whose account was transferred to the transferee plan;

''(iv) the election described in clause (iii) was made after the participant or beneficiary received a notice describing the consequences of making the election;

''(v) if the transferor plan provides for an annuity as the normal form of distribution under the plan in accordance with section 205, the transfer is made with the consent of the participant's spouse (if any), and such consent meets requirements similar to the requirements imposed by section 205(c)(2); and

''(vi) the transferee plan allows the participant or beneficiary described in clause (iii) to receive any distribution to which the participant or beneficiary is entitled under the transferee plan in the form of a single sum distribution.

''(B) Subparagraph (A) shall apply to plan mergers and other transactions having the effect of a direct transfer, including consolidations of benefits attributable to different employers within a multiple employer plan.

''(5) ELIMINATION OF FORM OF DISTRIBUTION.—Except to the extent provided in regulations, a defined contribution plan shall not be treated as failing to meet the requirements of this section merely because of the elimination of a form of distribution previously available thereunder. This paragraph shall not apply to the elimination of a form of distribution with respect to any participant unless—

''(A) a single sum payment is available to such participant at the same time or times as the form of distribution being eliminated; and

''(B) such single sum payment is based on the same or greater portion of the participant's account as the form of distribution being eliminated.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to years beginning after December 31, 2000.

(b) REGULATIONS.—

(1) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—The last sentence of paragraph (6)(B) of section 411(d) (relating to accrued benefit not to be decreased by amendment) is amended to read as follows: ''The Secretary shall by regulations provide that this subparagraph shall not apply to any plan amendment that does not adversely affect the rights of participants in a material manner.''.

(2) AMENDMENT TO ERISA.—The last sentence of section 204(g)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(g)(2)) is amended to read as follows: ''The Secretary of the Treasury shall by regulations provide that this paragraph shall not apply to any plan amendment that does not adversely affect the rights of participants in a material manner.''.

(3) SECRETARY DIRECTED.—Not later than December 31, 2001, the Secretary of the Treasury is directed to issue final regulations under section 411(d)(6) of the Internal Revenue Code of 1986 and section 204(g) of the Employee Retirement Income Security Act of 1974, including the regulations required by the amendments made by this subsection. Such regulations shall apply to plan years beginning after December 31, 2001, or such earlier date as is specified by the Secretary of the Treasury.

**SEC. ___46. RATIONALIZATION OF RESTRICTIONS ON DISTRIBUTIONS.**

(a) MODIFICATION OF SAME DESK EXCEPTION.—

(1) SECTION 401(k).—

(A) Section 401(k)(2)(B)(i)(I) (relating to qualified cash or deferred arrangements) is amended by striking ''separation from service'' and inserting ''severance from employment''.

(B) Subparagraph (A) of section 401(k)(10) (relating to distributions upon termination of plan or disposition of assets or subsidiary) is amended to read as follows:

''(A) IN GENERAL.—An event described in this subparagraph is the termination of the plan without establishment or maintenance of another defined contribution plan (other than an employee stock ownership plan as defined in section 4975(e)(7)).''.

(C) Section 401(k)(10) is amended—

(i) in subparagraph (B)—

(I) by striking ''An event'' in clause (i) and inserting ''A termination'', and

(II) by striking ''the event'' in clause (i) and inserting ''the termination'',

(ii) by striking subparagraph (C), and

(iii) by striking ''OR DISPOSITION OF ASSETS OR SUBSIDIARY'' in the heading.

(2) SECTION 403(b).—

(A) Paragraphs (7)(A)(ii) and (11)(A) of section 403(b) are each amended by striking ''separates from service'' and inserting ''has a severance from employment''.

(B) The heading for paragraph (11) of section 403(b) is amended by striking ''SEPARATION FROM SERVICE'' and inserting ''SEVERANCE FROM EMPLOYMENT''.

(3) SECTION 457.—Clause (ii) of section 457(d)(1)(A) is amended by striking ''is separated from service'' and inserting ''has a severance from employment''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 2000.

**SEC. ___47. PURCHASE OF SERVICE CREDIT IN GOVERNMENTAL DEFINED BENEFIT PLANS.**

(a) 403(b) PLANS.—Subsection (b) of section 403 is amended by adding at the end the following new paragraph:

''(13) TRUSTEE-TO-TRUSTEE TRANSFERS TO PURCHASE PERMISSIVE SERVICE CREDIT.—No amount shall be includible in gross income by reason of a direct trustee-to-trustee transfer to a defined benefit governmental plan (as defined in section 414(d)) if such transfer is—

''(A) for the purchase of permissive service credit (as defined in section 415(n)(3)(A)) under such plan, or

''(B) a repayment to which section 415 does not apply by reason of subsection (k)(3) thereof.''.

(b) 457 PLANS.—

(1) Subsection (e) of section 457 is amended by adding after paragraph (16) the following new paragraph:

''(17) TRUSTEE-TO-TRUSTEE TRANSFERS TO PURCHASE PERMISSIVE SERVICE CREDIT.—No amount shall be includible in gross income by reason of a direct trustee-to-trustee transfer to a defined benefit governmental plan (as defined in section 414(d)) if such transfer is—

''(A) for the purchase of permissive service credit (as defined in section 415(n)(3)(A)) under such plan, or

''(B) a repayment to which section 415 does not apply by reason of subsection (k)(3) thereof.''.

(2) Section 457(b)(2) is amended by striking ''(other than rollover amounts)'' and inserting ''(other than rollover amounts and amounts received in a transfer referred to in subsection (e)(17))''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to trustee-to-trustee transfers after December 31, 2000.

**SEC. ___48. EMPLOYERS MAY DISREGARD ROLLOVERS FOR PURPOSES OF CASH-OUT AMOUNTS.**

(a) QUALIFIED PLANS.—

(1) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 411(a)(11) (relating to restrictions on certain mandatory distributions) is amended by adding at the end the following:

''(D) SPECIAL RULE FOR ROLLOVER CONTRIBUTIONS.—A plan shall not fail to meet the requirements of this paragraph if, under the terms of the plan, the present value of the nonforfeitable accrued benefit is determined without regard to that portion of such benefit which is attributable to rollover contributions (and earnings allocable thereto). For purposes of this subparagraph, the term 'rollover contributions' means any rollover contribution under sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), and 457(e)(16).''.

(2) AMENDMENT TO ERISA.—Section 203(e) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(c)) is amended by adding at the end the following:

''(4) A plan shall not fail to meet the requirements of this subsection if, under the terms of the plan, the present value of the nonforfeitable accrued benefit is determined without regard to that portion of such benefit which is attributable to rollover contributions (and earnings allocable thereto). For purposes of this subparagraph, the term 'rollover contributions' means any rollover contribution under sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), and 457(e)(16) of the Internal Revenue Code of 1986.''.

(b) ELIGIBLE DEFERRED COMPENSATION PLANS.—Clause (i) of section 457(e)(9)(A) is amended by striking ''such amount'' and inserting ''the portion of such amount which is not attributable to rollover contributions (as defined in section 411(a)(11)(D))''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 2000.

**SEC. ___49. MINIMUM DISTRIBUTION AND INCLUSION REQUIREMENTS FOR SECTION 457 PLANS.**

(a) MINIMUM DISTRIBUTION REQUIREMENTS.—Paragraph (2) of section 457(d) (relating to distribution requirements) is amended to read as follows:

''(2) MINIMUM DISTRIBUTION REQUIREMENTS.—A plan meets the minimum distribution requirements of this paragraph if such plan meets the requirements of section 401(a)(9).''.

(b) INCLUSION IN GROSS INCOME.—

(1) YEAR OF INCLUSION.—Subsection (a) of section 457 (relating to year of inclusion in gross income) is amended to read as follows:

''(a) YEAR OF INCLUSION IN GROSS INCOME.—

''(1) IN GENERAL.—Any amount of compensation deferred under an eligible deferred compensation plan, and any income attributable to the amounts so deferred, shall be includible in gross income only for the taxable year in which such compensation or other income—

''(A) is paid to the participant or other beneficiary, in the case of a plan of an eligible employer described in subsection (e)(1)(A), and

''(B) is paid or otherwise made available to the participant or other beneficiary, in the case of a plan of an eligible employer described in subsection (e)(1)(B).

''(2) SPECIAL RULE FOR ROLLOVER AMOUNTS.—To the extent provided in section 72(t)(9), section 72(t) shall apply to any amount includible in gross income under this subsection.''.

(2) CONFORMING AMENDMENTS.—

(A) So much of paragraph (9) of section 457(e) as precedes subparagraph (A) is amended to read as follows:

''(9) BENEFITS OF TAX EXEMPT ORGANIZATION PLANS NOT TREATED AS MADE AVAILABLE BY REASON OF CERTAIN ELECTIONS, ETC.—In the case of an eligible deferred compensation plan of an employer described in subsection (e)(1)(B)—''.

(B) Section 457(d) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE FOR GOVERNMENT PLAN.—An eligible deferred compensation plan of an employer described in subsection (e)(1)(A) shall not be treated as failing to meet the requirements of this subsection solely by reason of making a distribution described in subsection (e)(9)(A).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 2000.

**PART IV—STRENGTHENING PENSION SECURITY AND ENFORCEMENT**

**SEC. ___51. REPEAL OF 150 PERCENT OF CURRENT LIABILITY FUNDING LIMIT.**

(a) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 412(c)(7) (relating to full-funding limitation) is amended—

(1) by striking ''the applicable percentage'' in subparagraph (A)(i)(I) and inserting ''in the case of plan years beginning before January 1, 2004, the applicable percentage'', and

(2) by amending subparagraph (F) to read as follows:

''(F) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A)(i)(I), the applicable percentage shall be determined in accordance with the following table:

| "In the case of any plan year beginning in— | The applicable percentage is— |
|---|---|
| 2001 | 160 |
| 2002 | 165 |
| 2003 | 170.''. |

(b) AMENDMENT TO ERISA.—Section 302(c)(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(c)(7)) is amended—

(1) by striking ''the applicable percentage'' in subparagraph (A)(i)(I) and inserting ''in the case of plan years beginning before January 1, 2004, the applicable percentage'', and

(2) by amending subparagraph (F) to read as follows:

''(F) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A)(i)(I), the applicable percentage shall be determined in accordance with the following table:

| "In the case of any plan year beginning in— | The applicable percentage is— |
|---|---|
| 2001 | 160 |
| 2002 | 165 |
| 2003 | 170.''. |

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2000.

**SEC. ___52. MAXIMUM CONTRIBUTION DEDUCTION RULES MODIFIED AND APPLIED TO ALL DEFINED BENEFIT PLANS.**

(a) IN GENERAL.—Subparagraph (D) of section 404(a)(1) (relating to special rule in case of certain plans) is amended to read as follows:

''(D) SPECIAL RULE IN CASE OF CERTAIN PLANS.—

''(i) IN GENERAL.—In the case of any defined benefit plan, except as provided in regulations, the maximum amount deductible under the limitations of this paragraph shall not be less than the unfunded termination liability (determined as if the proposed termination date referred to in section 4041(b)(2)(A)(i)(II) of the Employee Retirement Income Security Act of 1974 were the last day of the plan year).

''(ii) PLANS WITH LESS THAN 100 PARTICIPANTS.—For purposes of this subparagraph, in the case of a plan which has less than 100 participants for the plan year, termination liability shall not include the liability attributable to benefit increases for highly compensated employees (as defined in section 414(q)) resulting from a plan amendment which is made or becomes effective, whichever is later, within the last 2 years before the termination date.

''(iii) RULE FOR DETERMINING NUMBER OF PARTICIPANTS.—For purposes of determining whether a plan has more than 100 participants, all defined benefit plans maintained by the same employer (or any member of such employer's controlled group (within the meaning of section 412(l)(8)(C))) shall be treated as one plan, but only employees of such member or employer shall be taken into account.

''(iv) PLANS ESTABLISHED AND MAINTAIN BY PROFESSIONAL SERVICE EMPLOYERS.—Clause (i) shall not apply to a plan described in section 4021(b)(13) of the Employee Retirement Income Security Act of 1974.''.

(b) CONFORMING AMENDMENT.—Paragraph (6) of section 4972(c) is amended to read as follows:

''(6) EXCEPTIONS.—In determining the amount of nondeductible contributions for any taxable year, there shall not be taken into account so much of the contributions to one or more defined contribution plans which are not deductible when contributed solely because of section 404(a)(7) as does not exceed the greater of—

''(A) the amount of contributions not in excess of 6 percent of compensation (within the meaning of section 404(a)) paid or accrued (during the taxable year for which the contributions were made) to beneficiaries under the plans, or

''(B) the sum of—

''(i) the amount of contributions described in section 401(m)(4)(A), plus

''(ii) the amount of contributions described in section 402(g)(3)(A).

For purposes of this paragraph, the deductible limits under section 404(a)(7) shall first be applied to amounts contributed to a defined benefit plan and then to amounts described in subparagraph (B).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2000.

**SEC. ___53. EXCISE TAX RELIEF FOR SOUND PENSION FUNDING.**

(a) IN GENERAL.—Subsection (c) of section 4972 (relating to nondeductible contributions) is amended by adding at the end the following new paragraph:

''(7) DEFINED BENEFIT PLAN EXCEPTION.—In determining the amount of nondeductible contributions for any taxable year, an employer may elect for such year not to take into account any contributions to a defined benefit plan except to the extent that such contributions exceed the full-funding limitation (as defined in section 412(c)(7), determined without regard to subparagraph (A)(i)(I) thereof). For purposes of this paragraph, the deductible limits under section 404(a)(7) shall first be applied to amounts contributed to defined contribution plans and then to amounts described in this paragraph. If an employer makes an election under this paragraph for a taxable year, paragraph (6) shall not apply to such employer for such taxable year.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2000.

**SEC. ___54. EXCISE TAX ON FAILURE TO PROVIDE NOTICE BY DEFINED BENEFIT PLANS SIGNIFICANTLY REDUCING FUTURE BENEFIT ACCRUALS.**

(a) AMENDMENT TO 1986 CODE.—Chapter 43 of subtitle D (relating to qualified pension, etc., plans) is amended by adding at the end the following new section:

**"SEC. 4980F. FAILURE OF APPLICABLE PLANS REDUCING BENEFIT ACCRUALS TO SATISFY NOTICE REQUIREMENTS.**

''(a) IMPOSITION OF TAX.—There is hereby imposed a tax on the failure of any applicable pension plan to meet the requirements of subsection (e) with respect to any applicable individual.

''(b) AMOUNT OF TAX.—

''(1) IN GENERAL.—The amount of the tax imposed by subsection (a) on any failure with respect to any applicable individual shall be $100 for each day in the noncompliance period with respect to such failure.

''(2) NONCOMPLIANCE PERIOD.—For purposes of this section, the term 'noncompliance period' means, with respect to any failure, the period beginning on the date the failure first occurs and ending on the date the failure is corrected.

''(c) LIMITATIONS ON AMOUNT OF TAX.—

''(1) OVERALL LIMITATION FOR UNINTENTIONAL FAILURES.—In the case of failures that are due to reasonable cause and not to willful neglect, the tax imposed by subsection (a) for failures during the taxable year of the employer (or, in the case of a multiemployer plan, the taxable year of the trust forming part of the plan) shall not exceed $500,000. For purposes of the preceding sentence, all multiemployer plans of which the same trust forms a part shall be treated as one plan. For purposes of this paragraph, if not all persons who are treated as a single employer for purposes of this section have the same taxable year, the taxable years taken into account shall be determined under principles similar to the principles of section 1561.

''(2) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

''(d) LIABILITY FOR TAX.—The following shall be liable for the tax imposed by subsection (a):

''(1) In the case of a plan other than a multiemployer plan, the employer.

''(2) In the case of a multiemployer plan, the plan.

''(e) NOTICE REQUIREMENTS FOR PLANS SIGNIFICANTLY REDUCING BENEFIT ACCRUALS.—

''(1) IN GENERAL.—If an applicable pension plan is amended to provide for a significant reduction in the rate of future benefit accrual, the plan administrator shall provide written notice to each applicable individual (and to each employee organization representing applicable individuals).

''(2) NOTICE.—The notice required by paragraph (1) shall be written in a manner calculated to be understood by the average plan participant and shall provide sufficient information (as determined in accordance with regulations prescribed by the Secretary) to allow applicable individuals to understand the effect of the plan amendment.

''(3) TIMING OF NOTICE.—Except as provided in regulations, the notice required by paragraph (1) shall be provided within a reasonable time before the effective date of the plan amendment.

''(4) DESIGNEES.—Any notice under paragraph (1) may be provided to a person designated, in writing, by the person to which it would otherwise be provided.

''(5) NOTICE BEFORE ADOPTION OF AMENDMENT.—A plan shall not be treated as failing to meet the requirements of paragraph (1) merely because notice is provided before the adoption of the plan amendment if no material modification of the amendment occurs before the amendment is adopted.

''(f) APPLICABLE INDIVIDUAL; APPLICABLE PENSION PLAN.—For purposes of this section—

''(1) APPLICABLE INDIVIDUAL.—The term 'applicable individual' means, with respect to any plan amendment—

''(A) any participant in the plan, and

''(B) any beneficiary who is an alternate payee (within the meaning of section 414(p)(8)) under an applicable qualified domestic relations order (within the meaning of section 414(p)(1)(A)),

who may reasonably be expected to be affected by such plan amendment.

''(2) APPLICABLE PENSION PLAN.—The term 'applicable pension plan' means—

''(A) any defined benefit plan, or

''(B) an individual account plan which is subject to the funding standards of section 412,

which had 100 or more participants who had accrued a benefit, or with respect to whom contributions were made, under the plan (whether or not vested) as of the last day of the plan year preceding the plan year in which the plan amendment becomes effective. Such term shall not include a governmental plan (within the meaning of section 414(d)) or a church plan (within the meaning of section 414(e)) with respect to which the election provided by section 410(d) has not been made.''.

(b) AMENDMENT TO ERISA.—Section 204(h) of the Employee Retirement Income Security Act or 1974 (29 U.S.C. 1054(h)) is amended by adding at the end the following new paragraph:

''(3)(A) A plan to which paragraph (1) applies shall not be treated as meeting the requirements of such paragraph unless, in addition to any notice required to be provided to an individual or organization under such paragraph, the plan administrator provides the notice described in subparagraph (B).

''(B) The notice required by subparagraph (A) shall be written in a manner calculated to be understood by the average plan participant and shall provide sufficient information (as determined in accordance with regulations prescribed by the Secretary of the Treasury) to allow individuals to understand the effect of the plan amendment.

''(C) Except as provided in regulations prescribed by the Secretary of the Treasury, the notice required by subparagraph (A) shall be provided within a reasonable time before the effective date of the plan amendment.

''(D) A plan shall not be treated as failing to meet the requirements of subparagraph (A) merely because notice is provided before the adoption of the plan amendment if no material modification of the amendment occurs before the amendment is adopted.''.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 43 of subtitle D is amended by adding at the end the following new item:

''Sec. 4980F. Failure of applicable plans reducing benefit accruals to satisfy notice requirements.''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan amendments taking effect on or after the date of the enactment of this Act.

(2) TRANSITION.—Until such time as the Secretary of the Treasury issues regulations under sections 4980F(e)(2) and (3) of the Internal Revenue Code of 1986 and section 204(h)(3) of the Employee Retirement Income Security Act of 1974 (as added by the amendments made by this section), a plan shall be treated as meeting the requirements of such sections if it makes a good faith effort to comply with such requirements.

(3) SPECIAL RULE.—The period for providing any notice required by the amendments made by this section shall not end before the date which is 3 months after the date of the enactment of this Act.

**SEC. ___55. PROTECTION OF INVESTMENT OF EMPLOYEE CONTRIBUTIONS TO 401(K) PLANS.**

(a) IN GENERAL.—Section 1524(b) of the Taxpayer Relief Act of 1997 is amended to read as follows:

''(b) EFFECTIVE DATE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to elective deferrals for plan years beginning after December 31, 1998.

''(2) NONAPPLICATION TO PREVIOUSLY ACQUIRED PROPERTY.—The amendments made by this section shall not apply to any elective deferral which is invested in assets consisting of qualifying employer securities, qualifying employer real property, or both, if such assets were acquired before January 1, 1999.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply as if included in the provision of the Taxpayer Relief Act of 1997 to which it relates.

**SEC. ___56. TREATMENT OF MULTIEMPLOYER PLANS UNDER SECTION 415.**

(a) COMPENSATION LIMIT.—Paragraph (11) of section 415(b) (relating to limitation for defined benefit plans) is amended to read as follows:

''(11) SPECIAL LIMITATION RULE FOR GOVERNMENTAL AND MULTIEMPLOYER PLANS.—In the case of a governmental plan (as defined in section 414(d)) or a multiemployer plan (as defined in section 414(f)), subparagraph (B) of paragraph (1) shall not apply.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 2000.

## PART V—REDUCING REGULATORY BURDENS

**SEC. ___61. MODIFICATION OF TIMING OF PLAN VALUATIONS.**

(a) IN GENERAL.—Section 412(c)(9) (relating to annual valuation) is amended—

(1) by striking ''For purposes'' and inserting the following:

''(A) IN GENERAL.—For purposes'', and

(2) by adding at the end the following:

''(B) ELECTION TO USE PRIOR YEAR VALUATION.—

''(i) IN GENERAL.—Except as provided in clause (ii), if, for any plan year—

''(I) an election is in effect under this subparagraph with respect to a plan, and

''(II) the assets of the plan are not less than 125 percent of the plan's current liability (as defined in paragraph (7)(B)), determined as of the valuation date for the preceding plan year,

then this section shall be applied using the information available as of such valuation date.

''(ii) EXCEPTIONS.—

''(I) ACTUAL VALUATION EVERY 3 YEARS.—Clause (i) shall not apply for more than 2 consecutive plan years and valuation shall be under subparagraph (A) with respect to any plan year to which clause (i) does not apply by reason of this subclause.

''(II) REGULATIONS.—Clause (i) shall not apply to the extent that more frequent valuations are required under the regulations under subparagraph (A).

''(iii) ADJUSTMENTS.—Information under clause (i) shall, in accordance with regulations, be actuarially adjusted to reflect significant differences in participants.

''(iv) ELECTION.—An election under this subparagraph, once made, shall be irrevocable without the consent of the Secretary.''.

(b) AMENDMENTS TO ERISA.—Paragraph (9) of section 302(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(c)) is amended—

(1) by inserting ''(A)'' after ''(9)'', and

(2) by adding at the end the following:

''(B)(i) Except as provided in clause (ii), if, for any plan year—

''(I) an election is in effect under this subparagraph with respect to a plan, and

''(II) the assets of the plan are not less than 125 percent of the plan's current liability (as defined in paragraph (7)(B)), determined as of the valuation date for the preceding plan year,

then this section shall be applied using the information available as of such valuation date.

''(ii)(I) Clause (i) shall not apply for more than 2 consecutive plan years and valuation shall be under subparagraph (A) with respect to any plan year to which clause (i) does not apply by reason of this subclause.

''(II) Clause (i) shall not apply to the extent that more frequent valuations are required under the regulations under subparagraph (A).

''(iii) Information under clause (i) shall, in accordance with regulations, be actuarially adjusted to reflect significant differences in participants.

''(iv) An election under this subparagraph, once made, shall be irrevocable without the consent of the Secretary of the Treasury.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2000.

**SEC. ___62. ESOP DIVIDENDS MAY BE REINVESTED WITHOUT LOSS OF DIVIDEND DEDUCTION.**

(a) IN GENERAL.—Section 404(k)(2)(A) (defining applicable dividends) is amended by striking ''or'' at the end of clause (ii), by redesignating clause (iii) as clause (iv), and by inserting after clause (ii) the following new clause:

''(iii) is, at the election of such participants or their beneficiaries—

''(I) payable as provided in clause (i) or (ii), or

''(II) paid to the plan and reinvested in qualifying employer securities, or''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

**SEC. ___63. REPEAL OF TRANSITION RULE RELATING TO CERTAIN HIGHLY COMPENSATED EMPLOYEES.**

(a) IN GENERAL.—Paragraph (4) of section 1114(c) of the Tax Reform Act of 1986 is hereby repealed.

(b) EFFECTIVE DATE.—The repeal made by subsection (a) shall apply to plan years beginning after December 31, 1999.

**SEC. ___64. EMPLOYEES OF TAX-EXEMPT ENTITIES.**

(a) IN GENERAL.—The Secretary of the Treasury shall modify Treasury Regulations section 1.410(b)–6(g) to provide that employees of an organization described in section 403(b)(1)(A)(i) of the Internal Revenue Code of 1986 who are eligible to make contributions under section 403(b) of such Code pursuant to a salary reduction agreement may be treated as excludable with respect to a plan under section 401 (k) or (m) of such Code that is provided under the same general arrangement as a plan under such section 401(k), if—

(1) no employee of an organization described in section 403(b)(1)(A)(i) of such Code is eligible to participate in such section 401(k) plan or section 401(m) plan, and

(2) 95 percent of the employees who are not employees of an organization described in section 403(b)(1)(A)(i) of such Code are eligible to participate in such plan under such section 401 (k) or (m).

(b) EFFECTIVE DATE.—The modification required by subsection (a) shall apply as of the same date set forth in section 1426(b) of the Small Business Job Protection Act of 1996.

**SEC. ___65. CLARIFICATION OF TREATMENT OF EMPLOYER-PROVIDED RETIREMENT ADVICE.**

(a) IN GENERAL.—Subsection (a) of section 132 (relating to exclusion from gross income) is amended by striking ''or'' at the end of paragraph (5), by striking the period at the end of paragraph (6) and inserting '', or'', and by adding at the end the following new paragraph:

''(7) qualified retirement planning services.''.

(b) QUALIFIED RETIREMENT PLANNING SERVICES DEFINED.—Section 132 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following:

''(m) QUALIFIED RETIREMENT PLANNING SERVICES.—

''(1) IN GENERAL.—For purposes of this section, the term 'qualified retirement planning services' means any retirement planning service provided to an employee and his spouse by an employer maintaining a qualified employer plan.

''(2) NONDISCRIMINATION RULE.—Subsection (a)(7) shall apply in the case of highly compensated employees only if such services are available on substantially the same terms to each member of the group of employees normally provided education and information regarding the employer's qualified employer plan.

''(3) QUALIFIED EMPLOYER PLAN.—For purposes of this subsection, the term 'qualified employer plan' means a plan, contract, pension, or account described in section 219(g)(5).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2000.

**SEC. ___66. REPORTING SIMPLIFICATION.**

(a) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR OWNERS AND THEIR SPOUSES.—

(1) IN GENERAL.—The Secretary of the Treasury shall modify the requirements for filing annual returns with respect to one-participant retirement plans to ensure that such plans with assets of $250,000 or less as of the close of the plan year need not file a return for that year.

(2) ONE-PARTICIPANT RETIREMENT PLAN DEFINED.—For purposes of this subsection, the term ''one-participant retirement plan'' means a retirement plan that—

(A) on the first day of the plan year—

(i) covered only the employer (and the employer's spouse) and the employer owned the entire business (whether or not incorporated), or

(ii) covered only one or more partners (and their spouses) in a business partnership (including partners in an S or C corporation),

(B) meets the minimum coverage requirements of section 410(b) of the Internal Revenue Code of 1986 without being combined with any other plan of the business that covers the employees of the business,

(C) does not provide benefits to anyone except the employer (and the employer's spouse) or the partners (and their spouses),

(D) does not cover a business that is a member of an affiliated service group, a controlled group of corporations, or a group of businesses under common control, and

(E) does not cover a business that leases employees.

(3) OTHER DEFINITIONS.—Terms used in paragraph (2) which are also used in section 414 of the Internal Revenue Code of 1986 shall have the respective meanings given such terms by such section.

(b) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR PLANS WITH FEWER THAN 25 EMPLOYEES.—In the case of a retirement plan which covers less than 25 employees on the first day of the plan year and meets the requirements described in subparagraphs (B), (D), and (E) of subsection (a)(2), the Secretary of the Treasury shall provide for the filing of a simplified annual return that is substantially similar to the annual return required to be filed by a one-participant retirement plan.

(c) EFFECTIVE DATE.—The provisions of this section shall take effect on January 1, 2001.

**SEC. ___67. IMPROVEMENT OF EMPLOYEE PLANS COMPLIANCE RESOLUTION SYSTEM.**

The Secretary of the Treasury shall continue to update and improve the Employee Plans Compliance Resolution System (or any successor program) giving special attention to—

(1) increasing the awareness and knowledge of small employers concerning the availability and use of the program,

(2) taking into account special concerns and circumstances that small employers face with respect to compliance and correction of compliance failures,

(3) extending the duration of the self-correction period under the Administrative Policy Regarding Self-Correction for significant compliance failures,

(4) expanding the availability to correct insignificant compliance failures under the Administrative Policy Regarding Self-Correction during audit, and

(5) assuring that any tax, penalty, or sanction that is imposed by reason of a compliance failure is not excessive and bears a reasonable relationship to the nature, extent, and severity of the failure.

**SEC. ___68. MODIFICATION OF EXCLUSION FOR EMPLOYER PROVIDED TRANSIT PASSES.**

(a) IN GENERAL.—Section 132(f)(3) (relating to cash reimbursements) is amended by striking the last sentence.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1999.

**SEC. ___69. REPEAL OF THE MULTIPLE USE TEST.**

(a) IN GENERAL.—Paragraph (9) of section 401(m) is amended to read as follows:

''(9) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection and subsection (k), including regulations permitting appropriate aggregation of plans and contributions.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 2000.

**SEC. ___70. FLEXIBILITY IN NONDISCRIMINATION, COVERAGE, AND LINE OF BUSINESS RULES.**

(a) NONDISCRIMINATION.—

(1) IN GENERAL.—The Secretary of the Treasury shall, by regulation, provide that a plan shall be deemed to satisfy the requirements of section 401(a)(4) of the Internal Revenue Code of 1986 if such plan satisfies the facts and circumstances test under section 401(a)(4) of such Code, as in effect before January 1, 1994, but only if—

(A) the plan satisfies conditions prescribed by the Secretary to appropriately limit the availability of such test, and

(B) the plan is submitted to the Secretary for a determination of whether it satisfies such test.

Subparagraph (B) shall only apply to the extent provided by the Secretary.

(2) EFFECTIVE DATES.—

(A) REGULATIONS.—The regulation required by paragraph (1) shall apply to years beginning after December 31, 2000.

(B) CONDITIONS OF AVAILABILITY.—Any condition of availability prescribed by the Secretary under paragraph (1)(A) shall not apply before the first year beginning not less than 120 days after the date on which such condition is prescribed.

(b) COVERAGE TEST.—

(1) IN GENERAL.—Section 410(b)(1) (relating to minimum coverage requirements) is amended by adding at the end the following:

''(D) In the case that the plan fails to meet the requirements of subparagraphs (A), (B) and (C), the plan—

''(i) satisfies subparagraph (B), as in effect immediately before the enactment of the Tax Reform Act of 1986,

''(ii) is submitted to the Secretary for a determination of whether it satisfies the requirement described in clause (i), and

''(iii) satisfies conditions prescribed by the Secretary by regulation that appropriately limit the availability of this subparagraph.

Clause (ii) shall apply only to the extent provided by the Secretary.''.

(2) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendment made by paragraph (1) shall apply to years beginning after December 31, 2000.

(B) CONDITIONS OF AVAILABILITY.—Any condition of availability prescribed by the Secretary under regulations prescribed by the Secretary under section 410(b)(1)(D) of the Internal Revenue Code of 1986 shall not apply before the first year beginning not less than 120 days after the date on which such condition is prescribed.

(c) LINE OF BUSINESS RULES.—The Secretary of the Treasury shall, on or before December 31, 2000, modify the existing regulations issued under section 414(r) of the Internal Revenue Code of 1986 in order to expand (to the extent that the Secretary determines appropriate) the ability of a pension plan to demonstrate compliance with the line of business requirements based upon the facts and circumstances surrounding the design and operation of the plan, even though the plan is unable to satisfy the mechanical tests currently used to determine compliance.

**SEC. ___71. EXTENSION TO INTERNATIONAL ORGANIZATIONS OF MORATORIUM ON APPLICATION OF CERTAIN NONDISCRIMINATION RULES APPLICABLE TO STATE AND LOCAL PLANS.**

(a) IN GENERAL.—Subparagraph (G) of section 401(a)(5), subparagraph (H) of section 401(a)(26), subparagraph (G) of section 401(k)(3), and paragraph (2) of section 1505(d) of the Taxpayer Relief Act of 1997 are each amended by inserting ''or by an international organization which is described in section 414(d)'' after ''or instrumentality thereof)''.

(b) CONFORMING AMENDMENTS.—

(1) The headings for subparagraph (G) of section 401(a)(5) and subparagraph (H) of section 401(a)(26) are each amended by inserting ''AND INTERNATIONAL ORGANIZATION'' after ''GOVERNMENTAL''.

(2) Subparagraph (G) of section 401(k)(3) is amended by inserting ''STATE AND LOCAL GOVERNMENTAL AND INTERNATIONAL ORGANIZATION PLANS.—'' after ''(G)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2000.

## PART VI—PLAN AMENDMENTS

**SEC. ___81. PROVISIONS RELATING TO PLAN AMENDMENTS.**

(a) IN GENERAL.—If this section applies to any plan or contract amendment—

(1) such plan or contract shall be treated as being operated in accordance with the terms of the plan during the period described in subsection (b)(2)(A), and

(2) such plan shall not fail to meet the requirements of section 411(d)(6) of the Internal Revenue Code of 1986 by reason of such amendment.

(b) AMENDMENTS TO WHICH SECTION APPLIES.—

(1) IN GENERAL.—This section shall apply to any amendment to any plan or annuity contract which is made—

(A) pursuant to any amendment made by this title, or pursuant to any regulation issued under this title, and

(B) on or before the last day of the first plan year beginning on or after January 1, 2003.

In the case of a government plan (as defined in section 414(d) of the Internal Revenue Code of 1986), this paragraph shall be applied by substituting ''2005'' for ''2003''.

(2) CONDITIONS.—This section shall not apply to any amendment unless—

(A) during the period—

(i) beginning on the date the legislative or regulatory amendment described in paragraph (1)(A) takes effect (or in the case of a

plan or contract amendment not required by such legislative or regulatory amendment, the effective date specified by the plan), and

(ii) ending on the date described in paragraph (1)(B) (or, if earlier, the date the plan or contract amendment is adopted),

the plan or contract is operated as if such plan or contract amendment were in effect, and

(B) such plan or contract amendment applies retroactively for such period.

**Subtitle D—Revenue Provisions**

**SEC. ___91. MODIFICATION OF INSTALLMENT METHOD AND REPEAL OF INSTALLMENT METHOD FOR ACCRUAL METHOD TAXPAYERS.**

(a) REPEAL OF INSTALLMENT METHOD FOR ACCRUAL BASIS TAXPAYERS.—

(1) IN GENERAL.—Subsection (a) of section 453 (relating to installment method) is amended to read as follows:

''(a) USE OF INSTALLMENT METHOD.—

''(1) IN GENERAL.—Except as otherwise provided in this section, income from an installment sale shall be taken into account for purposes of this title under the installment method.

''(2) ACCRUAL METHOD TAXPAYER.—The installment method shall not apply to income from an installment sale if such income would be reported under an accrual method of accounting without regard to this section. The preceding sentence shall not apply to a disposition described in subparagraph (A) or (B) of subsection (l)(2).''.

(2) CONFORMING AMENDMENTS.—Sections 453(d)(1), 453(i)(1), and 453(k) of such Code are each amended by striking ''(a)'' each place it appears and inserting ''(a)(1)''.

(b) MODIFICATION OF PLEDGE RULES.—Paragraph (4) of section 453A(d) (relating to pledges, etc., of installment obligations) is amended by adding at the end the following: ''A payment shall be treated as directly secured by an interest in an installment obligation to the extent an arrangement allows the taxpayer to satisfy all or a portion of the indebtedness with the installment obligation.''.

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

**SEC. ___92. MODIFICATION OF ESTIMATED TAX RULES FOR CLOSELY HELD REAL ESTATE INVESTMENT TRUSTS.**

(a) IN GENERAL.—Subsection (e) of section 6655 (relating to estimated tax by corporations) is amended by adding at the end the following new paragraph:

''(5) TREATMENT OF CERTAIN REIT DIVIDENDS.—

''(A) IN GENERAL.—Any dividend received from a closely held real estate investment trust by any person which owns (after application of subsections (d)(5) and (l)(3)(B) of section 856) 10 percent or more (by vote or value) of the stock or beneficial interests in the trust shall be taken into account in computing annualized income installments under paragraph (2) in a manner similar to the manner under which partnership income inclusions are taken into account.

''(B) CLOSELY HELD REIT.—For purposes of subparagraph (A), the term 'closely held real estate investment trust' means a real estate investment trust with respect to which 5 or fewer persons own (after application of subsections (d)(5) and (l)(3)(B) of section 856) 50 percent or more (by vote or value) of the stock or beneficial interests in the trust.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to estimated tax payments due on or after November 15, 1999.

## HUTCHISON (AND BROWNBACK) AMENDMENTS NOS. 2548–2549

(Ordered to lie on the table.)

Mrs. HUTCHISON (for herself and Mr. BROWNBACK) submitted two amendments intended to be proposed by them to the bill, S. 625, supra; as follows:

AMENDMENT NO. 2548

At the appropriate place in the bill, add the following:

**SEC. . HOMESTEAD EXEMPTION OPT OUT.**

The provisions relating to a Federal homestead exemption shall not apply to debtors if applicable State law provides by statute that such provisions shall not apply to debtors and shall not take effect in any State before the end of the first regular session of the State legislature following the date of enactment of this Act.

AMENDMENT NO. 2549

At the end of the amendment add the following: ''The preceding provisions relating to a limitation on State homestead exemptions shall not apply to debtors if applicable State law provides by statute that such provisions shall not apply to debtors and shall not take effect in any State before the end of the first regular session of the State legislature following the date of enactment of this Act.''.

## HUTCHISON AMENDMENT NO. 2550

(Ordered to lie on the table.)

Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill, S. 625, supra; as follows:

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

**SEC. . STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 1 year after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

## HUTCHISON (AND BROWNBACK) AMENDMENTS NOS. 2551–2647

(Ordered to lie on the table.)

Mrs. HUTCHISON (for herself and Mr. BROWNBACK) submitted 97 amendments intended to be proposed by them to the bill, S. 625, supra; as follows:

AMENDMENT NO. 2551

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 330 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

AMENDMENT NO. 2552

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 320 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

AMENDMENT NO. 2553

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 310 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

AMENDMENT NO. 2554

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 300 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2555

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 370 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2556

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 380 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2557

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 390 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2558

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 395 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2559

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 400 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2560

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 426 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2561

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 425 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2562

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 420 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2563

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 415 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2564

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 410 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2565

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 405 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2566

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 200 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2567

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 201 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2568

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 202 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2569

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 203 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2570

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any

findings and recommendations not later than 204 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2571

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 205 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2572

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 206 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2573

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 207 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2574

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 208 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2575

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 209 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2576

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 210 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2577

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 211 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2578

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 212 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000

to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2579

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 213 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2580

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 214 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2581

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 215 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2582

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 216 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2583

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 217 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2584

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 218 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2585

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 220 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2586

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 221 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

---

AMENDMENT NO. 2587

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 222 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

---

AMENDMENT NO. 2588

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 223 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2589

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 224 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

---

AMENDMENT NO. 2590

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 225 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

---

AMENDMENT NO. 2591

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 226 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

---

AMENDMENT NO. 2592

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 227 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

---

AMENDMENT NO. 2593

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 228 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

---

AMENDMENT NO. 2594

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 229 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

---

AMENDMENT NO. 2595

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 230 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

---

AMENDMENT NO. 2596

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 231 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2597

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 343 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2598

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 342 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2599

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 341 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2600

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 340 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2601

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 339 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2602

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 338 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead

within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2603

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 290 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2604

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 350 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2605

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 349 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2606

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 348 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2607

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 347 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2608

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 346 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2609

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 345 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2610

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 344 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

AMENDMENT NO. 2611

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 243 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2612

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 244 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2613

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 245 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2614

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 246 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2615

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 247 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2616

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 248 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2617

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 249 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2618

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 250 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2619

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 255 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2620

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 260 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2621

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 265 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2622

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 270 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

---

AMENDMENT NO. 2623

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 275 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2624

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 280 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2625

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 241 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2626

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 242 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

---

AMENDMENT NO. 2627

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any

findings and recommendations not later than 237 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2628

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 238 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2629

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 239 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2630

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 240 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2631

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 236 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2632

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 362 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2633

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 363 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2634

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 232 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2635

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 234 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000

to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2636

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 235 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2637

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 364 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2638

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 361 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2639

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 352 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2640

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 353 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2641

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 354 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2642

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 356 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

---

AMENDMENT NO. 2643

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 357 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2644

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 359 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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AMENDMENT NO. 2645

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 360 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

---

AMENDMENT NO. 2646

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 358 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

---

AMENDMENT NO. 2647

At the appropriate place in the bill, insert the following new section:

**SEC. ___. STUDY OF EFFECTS OF THE HOMESTEAD EXEMPTION.**

The Comptroller General shall conduct a nationwide study and report to Congress any findings and recommendations not later than 351 days after the date of enactment of this Act regarding—

(1) the utilization of State homestead exemption in States where there is no limitation on the homestead exemption or in States where the limitation exceeds $100,000 to determine the income level of the debtors utilizing the homestead exemption in those States;

(2) the extent to which those individuals who have utilized the homestead exemption in those States would be prohibited from doing so by the provisions in this Act—

(A) restricting utilization of the homestead exemption to those who have resided in the State for at least 2 years (section 303);

(B) providing for enhanced judicial scrutiny of any asset transfers to the homestead within 2 years of the date of filing bankruptcy (section 303); and

(C) the presumption against allowance of filing for chapter 7 (liquidation of assets) for certain high-income individuals (section 102).

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## JEFFORDS AMENDMENT NO. 2648

(Ordered to lie on the table.)

Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill, S. 625, supra; as follows:

At the end, add the following:

**TITLE ____—PROTECTION FROM THE IMPACT OF BANKRUPTCY OF CERTAIN ELECTRIC UTILITIES**

**SECTION ___01. SHORT TITLE.**

This title may be cited as the ''Emergency Imported Electric Power Price Reduction Act of 1999''.

**SEC. ___02. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds that—

(1) the protection of the public health and welfare, the preservation of national security, and the regulation of interstate and foreign commerce require that electric power imported into the United States be priced fairly and competitively;

(2) the importation of electric power into the United States is a matter vested with the public interest that—

(A) involves an essential and extensively regulated infrastructure industry; and

(B) affects consumers, the cost of goods manufactured and services rendered, and the economic well-being and livelihood of individuals and society;

(3) it is essential that imported electric power be priced—

(A) in a manner that is competitive with domestic electric power and thereby contribute to robust and sound national and regional economies; and

(B) not at a rate that is so high as to result in the imminent bankruptcy of electric utilities in a State; and

(4) the purchase of imported electric power by the Vermont Joint Owners under the Firm Power and Energy Contract with Hydro-Quebec dated December 4, 1987—

(A) is not consistent with the findings stated in paragraphs (1), (2), and (3); and

(B) threatens the economic well-being of the States and regions in which the imported electric power is provided contrary to the public policy of the United States as set forth in the findings stated in paragraphs (1), (2), and (3).

(b) PURPOSES.—The purposes of this title are—

(1) to facilitate the public policy of the United States as set forth in the findings stated in paragraphs (1), (2), and (3) of subsection (a);

(2) to remove a serious threat to the economic well-being of the States and regions in which imported electric power is provided under the contract referred to in section ___02(a)(4); and

(3) to facilitate revisions to the price elements of the contract referred to in section ___02(a)(4) by declaring and making unlawful, effective 180 days after the date of enactment of this Act, the contract as it exists on the date of enactment of this Act.

**SEC. ___03. UNLAWFUL CONTRACT AND AMENDED CONTRACT.**

(a) IN GENERAL.—Effective on the date that is 180 days after the date of enactment of this Act, the contract referred to in section ___02(a)(4), as the contract exists on the date of enactment of this Act, shall be void.

(b) AMENDMENT OF CONTRACT.—This title does not preclude the parties to the contract referred to in section ___02(a)(4) from amending the contract or entering into a new contract after the date of enactment of this Act in a manner that is consistent with the findings and purposes of this title.

**SEC. ___04. EXCLUSIVE ENFORCEMENT.**

(a) IN GENERAL.—Only the Attorney General of a State in which electric power is provided under the contract referred to in section ___02(a)(4), as the contract may be amended after the date of enactment of this Act, may bring a civil action in United States district court for an order that—

(1) declares the amended contract not consistent with the findings and purposes of this title and is therefore void;

(2) enjoins performance of the amended contract; and

(3) relieves the electric utilities that are party to the amended contract of any liability under the contract.

(b) TIMING.—A civil action under subsection (a) shall be brought not later than 1 year after the date of the amended contract or new contract.

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## GRAMM AMENDMENT NO. 2649

(Ordered to lie on the table.)

Mr. GRAMM submitted an amendment intended to be proposed by him to the bill, S. 625, supra; as follows:

At the end of the bill, add the following new title:

TITLE XX—CONSUMER CREDIT DISCLOSURE

**SEC. XX01. 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, in typeface no smaller than the largest typeface used to make other clear and conspicuous disclosures under this subsection: ''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 a 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: XXXXXX. A creditor subject to this subparagraph (A) with total assets not exceeding $250 million and that is an insured depository institution as defined in Section 3(c)(2) of the Federal Deposit Insurance Act or a depository institution insured by the National Credit Union Share Insurance Fund shall not be required to provide a toll-free telephone number, but may instead recoup reasonable average costs of providing telephone information access to consumers.'.

''(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, in typeface no smaller than the largest typeface used to make other clear and conspicuous disclosures under this subsection: '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 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: XXXXXX. A creditor subject to this subparagraph (B) with total assets not exceeding $250 million and that is an insured depository institution as defined in Section 3(c)(2) of the Federal Deposit Insurance Act or a depository institution insured by the National Credit Union Share Insurance Fund shall not be required to provide a toll-free telephone number, but may instead recoup reasonable average costs of providing telephone information access to consumers.'.

''(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, in typeface no smaller than the largest typeface used to make other clear and conspicuous disclosures under this subsection: '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 a 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: XXXXXX'.

''(D) Notwithstanding subparagraph (B) or (C), in complying with either such subparagraph, a creditor may substitute an example based on an interest rate that is greater than 17 percent. Any creditor who 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) The telephone number disclosed by a creditor or the Federal Trade Commission under subparagraph (A) or (B) or (G), as appropriate, may be a telephone number established and maintained by the creditor or the Federal Trade Commission, as appropriate, or may be a 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 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 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 formula promulgated by the Board under subparagraph (H)(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)(a) establish a formula for the computation of the approximate number of months that it would take to repay an outstanding balance and the approximate total cost to the consumer, including interest and principal payments, of paying that balance in full, if the consumer pays only the required minimum monthly payments and if no other advances are made; and (b) in establishing the formula required under (i)(a), the Board may use such data and assumptions as it deems necessary from time to time to carry out the purposes of this section.

''(ii) establish the formula 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;

''(IV) that only minimum monthly payments are made and no additional extensions of credit are obtained;

''(V) one or more balance computation methods or one or more periods to be used as the number of days per billing cycle; and

''(VI) such other facts or data as the Board shall deem necessary to carry out the purposes of this section; and

''(iii) promulgate regulations that provide instructional guidance regarding the manner in which the information contained in the formula 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).''.

(b) EXCEPTION FOR CHARGE CARD ACCOUNTS.—The disclosure requirements under this section do not apply to a charge account, the primary purpose of which is to require payment of charges in full each month.

(c) EXCEPTION FOR ACTUAL DISCLOSURE.—Creditors that maintain a toll-free telephone number for the purpose of providing customers with the actual number of months that it would take to repay an outstanding balance are exempt from the requirements of paragraphs (11) (A) and (B).

(d) REGULATORY IMPLEMENTATION.—The Board of Governors of the Federal Reserve System (hereafter in this Act 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. Section 127(b)(11) of the Truth in Lending Act, as added by subsection (a) of this section, and the regulations issued under this subsection shall not take effect until the later of 18 months after the date of enactment of this Act or 12 months after the publication of such regulations by the Board.

(e) 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 the study under paragraph (1), the Board may, 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 minimum payment under open end credit plans;

(D) consumers are aware that making only 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.—Before the end of the 2-year period beginning on the date of enactment of this Act, findings of the Board in connection with the study, if conducted, shall be submitted to Congress. Such report also shall include recommendations for legislative initiatives, if any, of the Board based upon its findings.

**SEC. XX02. 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 ADVISOR.—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 by the Board) of the dwelling, the interest on the portion of the credit extension that is greater than the fair market value (as defined by the Board) 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 (as defined by the Board) 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 may want to consult a tax advisor 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 (as defined by the Board) 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 may want to consult a tax advisor 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 (as defined by the Board) 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 may want to consult a tax advisor for further information regarding the deductibility of interest and charges.''.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective 12 months after the date of enactment of this Act.

**SEC. ___03. DISCLOSURES RELATED TO ''INTRODUCTORY RATES''.**

(a) Section 127(c) of the Truth in Lending Act (15 U.S.C. 16379c)) 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, 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 that will apply after the end of the temporary rate period will be a fixed rate, state the following clearly and conspicuously in a prominent location closely proximate to the first listing of the temporary annual percentage rate; or if the first listing is not the most prominent listing, then immediately proximate to the most prominent 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;

''(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 the following clearly and conspicuously in a prominent location closely proximate to the first listing of the temporary annual percentage rate; or if the first listing is not the most prominent listing, then closely proximate to the most prominent listing of the temporary annual percentage rate (other than a listing in the tabular format prescribed by section 122(c)): The period in which the introductory period will end and an annual percentage rate that was in effect within 60 days before 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 shall, if that rate 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 or events that may result in the revocation of the temporary annual percentage rate, including representative examples; 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, an annual percentage rate that was in effect within 60 days before mailing the application or solicitation.

''(D) DEFINITIONS.—In this paragraph—

''(i) the terms 'temporary annual percentage rate' 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 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.—The Board of Governors of the Federal Reserve System (hereafter in this Act referred to as the ''Board'') shall promulgate regulations implementing the requirements of section 127 of the Truth in Lending Act, as amended by subsection (a) of this section. Any provision set forth in subsection (a) and such regulations shall not take effect until the later of 18 months after the date of enactment of this Act or 12 months after the publication of such regulations by the Board.

**SEC. XX04. INTERNET-BASED CREDIT CARD SOLICITATIONS.**

(a) 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 disclosures 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.—The Board of Governors of the Federal Reserve System (hereafter in this Act referred to as the ''Board'') shall promulgate regulations implementing the requirements of section 127 of the Truth in Lending Act, as amended by subsection (a) of this section. Any provision set forth in subsection (a) and such regulations shall not take effect until the later of 18 months after the date of enactment of this Act or 12 months after the publication of such regulations by the Board.

**SEC. XX05. DISCLOSURES RELATED TO LATE PAYMENT DEADLINES AND PENALTIES.**

(a) 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 started clearly and conspicuously on the billing statement:

''(A) The date 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.—The Board of Governors of the Federal Reserve System (hereafter in this Act referred to as the ''Board'') shall promulgate regulations implementing the requirements of section 127 of the Truth in Lending Act, as amended by subsection (a) of this section. Any provision set forth in subsection (a) and such regulations shall not take effect until the later of 18 months after the date of enactment of this Act or 12 months after the publication of such regulations by the Board.

**SEC. XX06. TERMINATION OF OPEN-END CONSUMER CREDIT ACCOUNTS 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) TERMINATION OF OPEN-END CONSUMER CREDIT ACCOUNTS FOR FAILURE TO INCUR FINANCE CHARGES.—The Board may conduct or supervise surveys to determine whether and to what extent open-end consumer credit accounts may be terminated by creditors solely based upon the accountholder's failure to incur finance charges on the account. If the results of such surveys produce results that in any significant manner, as determined by the Board, establish materially adverse impacts upon open-end consumer credit accountholders arising from terminations based solely upon their failure to incur finance charges, the Board shall present such findings to the Congress and recommendations for legislative initiatives, if any, based upon such findings. The Board also may promulgate regulations pursuant to its authority under the Truth in Lending Act. Any such regulations shall not take effect until 12 months after publication of such regulations by the Board.''.

**SEC. XX07. DUAL USE DEBIT CARD.**

(a) REPORT REQUIRED.—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 shall include recommendations for legislative initiatives, if any, of the Board based upon its findings.

(b) CONSIDERATIONS.—In preparing the 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 unauthorized use liability protection for consumers;

(2) the extent to which any voluntary industry rules have 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 provide to further address protection for consumers concerning unauthorized use liability.

**SEC. XX08. STUDY OF BANKRUPTCY IMPACT OF CREDIT EXTENDED TO DEPENDENT STUDENTS.**

(A) STUDY—

(1) IN GENERAL.—The Board, in consultation with such other departments, agencies, or other public or quasi-public entities, as it may deem necessary, may conduct a study regarding the significance of the impact, if any, of the extension of credit described in paragraph (2) on the rate of personal bankruptcy cases filed and closed under title 11, United States Code excluding those cases in which the discharges have been revoked by a court of competent jurisdiction.

(2) EXTENSION OF CREDIT.—The extension of credit referred to in paragraph (1) 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 one year of successfully completing all required secondary education requirements and on a full-time basis in postsecondary educational institutions.

(3) PERSONAL BANKRUPTCY CASES.—Personal bankruptcy cases referred to in paragraph (1) are those cases filed and resolved and not overturned by a court of competent jurisdiction within the 5-year period ending on the date of enactment of this Act.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Board shall submit to the Congress a report summarizing the results of the study conducted under subsection (a), if conducted.

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## REED AMENDMENT NO. 2650

(Ordered to lie on the table.)

Mr. REED submitted an amendment intended to be proposed by him to the bill, S. 625, supra; as follows:

Strike section 204 and insert the following:

**SEC. 204. DISCOURAGING ABUSE OF REAFFIRMATION PRACTICES.**

(a) REAFFIRMATIONS.—Section 524 of title 11, United States Code, is amended—

(1) in subsection (c)—

(A) in paragraph (3)—

(i) in subparagraph (B), by striking ''and'' at the end:

(ii) in subparagraph (C), by adding ''and'' at the end; and

(iii) by adding at the end the following: ''(D) such agreement is not an agreement that the debtor entered into as a result of a threat by the creditor to take an action that the creditor could not legally take;'';

(B) in paragraph (6)(A)—

(i) in the matter preceding clause (i), by inserting after ''an agreement under this subsection,'' the following: ''and the consideration for such agreement is not based on a wholly unsecured consumer debt or on a consumer debt secured in whole or in part by an item (or items generally sold as a unit) of personalty, with respect to which, at point of purchase, the cost of the item or unit was $500 or less,'';

(ii) in clause (i), by striking ''and'' at the end;

(iii) in clause (ii), by striking the period and inserting ''; and''; and

(iv) by adding at the end the following:

''(iii) not an agreement that the debtor entered into as a result of a threat by a creditor to take an action that the creditor could not legally take.''; and

(C) by adding at the end the following:

''(7)(A)(i) In the case of an agreement that is based on a wholly unsecured consumer debt or on a consumer debt secured in whole or in part by an item (or items generally sold as a unit) of personalty with respect to which, at point of purchase, the cost of the item or unit was $500 or less, the parties shall execute a statement accompanying each such agreement under an appropriate form prescribed by the Judicial Conference of the United States that—

''(I) fully discloses the financial terms of the reaffirmed debt, including—

''(aa) the amount reaffirmed (including, if practicable, an itemization of the portions of such debt that constitute principal and interest);

''(bb) any attorney's fees or other fees for costs associated with the collection of the debt;

''(cc) a schedule of payments;

''(dd) any financial terms that differ from the financial terms in effect at the time of filing of the petition;

''(ee) the extent and nature of any security interest; and

''(ff) if the agreement includes an extension or renewal of a credit line, basic financial information on the credit terms, such as would be required under applicable federal nonbankruptcy law; and

''(II) demonstrates whether the debtor's net monthly income is not less than the monthly payment required by the agreement, or, if the debtor is proposing more than one such agreement, the aggregation of such agreements.

''(ii) For purposes of this subparagraph, the debtor's net monthly income is the debtor's monthly income less monthly expenses and monthly payments on nondischargeable debt and all other reaffirmed debt. Monthly income, expenses, and payments on debts shall be calculated in the same manner as required by section 707(b).

''(iii) This subparagraph shall not apply if the debtor was represented by counsel during the course of negotiating the agreement under this subparagraph and—

''(I) the amount of the debt to be reaffirmed in any single such agreement under clause (i) is less than $500, except that if the debtor is proposing more than 1 such agreement, and the aggregate amount of such debts to be reaffirmed to all creditors is more than $750, this subparagraph shall apply to any such agreement that has not been approved by the court and any such subsequent agreement; or

''(II) if the amount of the debt to be reaffirmed in any single such agreement is secured by more than one item or unit of collateral and over 50 percent of the total value of all said items or units is attributable to items or units which cost more than $500 at point of purchase. For purposes of this subclause, the value of any item or unit of collateral shall be measured as the cost at point of purchase.

''(iv) Any agreement described under subsection (i) of this subparagraph is enforceable only if filed with the court within 50 days after the first date set for the meeting of creditors under section 341(a), or within such additional time as the court fixes, for cause, within such 50-day period. An agreement that has been filed as prescribed may be amended as a matter of course before the case is closed.

''(B) If the debtor was represented by counsel during the course of negotiating the agreement, the attorney must file the declaration or affidavit as required under paragraph (3).

''(C)(i) The court may consider any such agreement, and shall consider any such agreement that is not an agreement under subparagraph (A)(iii). No agreement shall be disapproved without a notice and hearing to the debtor and creditor, and such hearing must be concluded before the entry of the debtor's discharge. Any agreement under subparagraph (A)(i) not disapproved by the court at the time of discharge shall be deemed approved.

''(ii) The court's consideration under clause (i) shall include whether the agreement—

''(I) imposes no undue hardship on the debtor or a dependent of the debtor;

''(II) is in the best interest of the debtor; and

''(III) is not an agreement that the debtor entered into as a result of a threat by the creditor to take an action that the creditor could not legally take.

''(D) If the debtor was not represented by counsel during the course of negotiating the agreement and the debtor's net monthly income as defined in subparagraph (A)(ii) is

less than the monthly payments required by the agreement, or if applicable, aggregation of agreements, there shall be a presumption that the agreement imposes an undue hardship. The court shall hold a hearing at which the debtor may rebut the presumption by demonstrating the existence of financial circumstances that would enable the debtor to undertake the agreement without undue hardship.''; and

(2) in subsection (d), in the third sentence of the matter preceding paragraph (1), by inserting after ''subsection (c) of this section'' the following:

''that is not a debt described in subsection (c)(7)''.

(B) JUDICIAL EDUCATION.—The Director of the Administrative Office of the United States Courts, 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 the amended requirements for reaffirmations, and, in particular, in considering the information contained in the forms required by subparagraph (C).

(C) MODEL FORMS.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Judicial Conference of the United States, in consultation with the Board of Governors of the Federal Reserve System, the Federal Trade Commission, and interested parties, shall issue a model form for use in making the disclosure and calculations required by the amendments made by subsection (a).

(2) REQUIREMENTS FOR MODEL FORM.—Such model form shall—

(A) be easily understandable to the individuals who use the form;

(B) be suitable for use by debtors under chapter 7 of title 11, United States Code, with a range of educational backgrounds;

(C) provide an opportunity for any debtor to provide—

(i) financial information that is sufficient to demonstrate the existence of financial circumstances that would enable the debtor to undertake an agreement described in section 524(c) of title 11, United States Code, without hardship; and

(ii) a statement as to why an agreement referred to in clause (i) is in the debtor's best interest; and

(D) not require parties to supply information that—

(i) is not readily available; or

(ii) cannot be reasonably acquired.

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## GRAIG AMENDMENT NO. 265

(Ordered to lie on the table.)

Mr. GRAIG submitted an amendment intended to be proposed by him to the bil, S. 625, supra, as follows:

At the appropriate place in the bill, insert the following new section:

**SEC. . PROPERTY NO LONGER SUBJECT TO REDEMPTION.**

Section 541(b) of title 11, United States Code, is amended by adding at the end the following—

''(6) Any interest of the debtor in property where the debtor has pledged or sold tangible personal property or other valuable things (other than securities or written or printed evidences of indebtedness of title) as collateral for a loan or advance of money, where—

(i) the debtor has no obligation to repay the money, redeem the collateral, or buy back the property at a stipulated price, and

(ii) 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.''.

## KENNEDY AMENDMENTS NOS. 2652–2653

(Ordered to lie on the table.)

Mr. KENNEDY submitted two amendments intended to be proposed by him to the bill S. 625, supra; as follows:

AMENDMENT NO. 2652

On page 11, line 2, insert before the first semicolon '', but excludes benefits received under the Social Security Act;''.

AMENDMENT NO. 2653

On page 135, strike lines 16 through 18 and insert the following:

''(B)(i) The court may extend the period determined under subparagraph (A) for 120 days, upon motion of the trustee or the 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.''.

On page 139, strike lines 11 through 16 and insert the following:

''(2)(A) The 120-day period specified in paragraph (1) may be extended beyond the date that is 18 months after the date of the order for relief under this chapter if compelling circumstances are demonstrated.

''(B) The 180-day period specified in paragraph (1) may be extended beyond the date that is 20 months after the date of the order for relief under this chapter in conjunction with an extension granted under subparagraph (A).''.

On page 147, line 19, strike ''$4,000,000'' and insert ''$2,000,000''.

On page 155, lines 16, 19, and 24, strike ''90'' each place it appears and insert ''120''.

On page 156, lines 19 and 20, strike ''150'' each place it appears and insert ''175''.

On page 161, line 2, insert ''or'' after the semicolon.

On page 161, line 6, strike ''; or'' and all that follows through line 10 and insert a period.

On page 161, beginning on line 19, strike '', but not a liquidating plan,''.

On page 163, line 1, strike ''(I)''.

On page 163, line 3, strike '', but not'' and all that follows through line 8 and insert a period.

On page 163, line 22, insert ''that poses a risk to the public'' before the semicolon.

On page 164, line 3, insert ''repeated'' before ''failure''.

On page 164, strike lines 13 through 15.

On page 164, line 16, strike ''(J)'' and insert ''(I)''.

On page 164, line 19, strike ''(K)'' and insert ''(J)''.

On page 164, line 21, strike ''(L)'' and insert ''(K)''.

On page 164, line 23, strike ''(M)'' and insert ''(L)''.

On page 165, line 1, strike ''(N)'' and insert ''(M)''.

On page 165, line 3, strike ''(O)'' and insert ''(N)''.

On page 165, between lines 4 and 5, insert the following:

''(5) The court may grant relief under this subsection for cause, as defined in subparagraphs (C), (F), (G), (H), or (J) of paragraph (4), only upon motion of the United States Trustee or bankruptcy administrator, or upon the court's own motion.

On page 165, line 5, strike ''5'' and insert ''6''.

On page 165, line 23, insert ''or an examiner'' after ''trustee''.

On page 263, line 16, insert ''in a case where the debtor is engaged in the business of financial services,'' before ''any''.

On page 264, line 9, strike the period at the end and insert '', and the transaction exceeds $25,000,000.''.

On page 278, line 8, strike the dash at the end and all that follows through line 14 and insert ''by inserting 'who is not a family farmer' after 'debtor' the first place it appears;''.

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## JOHNSON AMENDMENT NO. 2654

(Ordered to lie on the table.)

Mr. JOHNSON submitted an amendment intended to be proposed by him to the bill, S. 625, supra; as follows:

At the appropriate place, insert the following:

**SEC. ___. COMPENSATING TRUSTEES.**

Title 11, United States Code, is amended—

(1) in section 104(b)(1) in the matter preceding subparagraph (A) by—

(A) striking ''and 523(a)(2)(C)''; and

(B) inserting ''523(a)(2)(C), and 1326(b)(3)'' before ''immediately'';

(2) in section 326, by inserting at the end the following:

''(e) Notwithstanding any other provision of this section, if a trustee in a chapter 7 case commences a motion to dismiss or convert under section 707(b) and such motion is granted, the court shall allow reasonable compensation under section 330(a) of this title for the services and expenses of the trustee and the trustee's counsel in preparing and presenting such motion and any related appeals.''; and

(3) in section 1326(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 under section 326(e) in a case converted to this chapter or in a case dismissed under section 707(b) in which the debtor in this case was a debtor—

''(A) the amount of such unpaid compensation which shall be paid monthly by prorating such amount over the remaining duration of the plan, but a monthly payment shall not 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

''(B) notwithstanding any other provision of this title—

''(i) such compensation is payable and may be collected by the trustee under this paragraph even if such amount has been discharged in a prior proceeding under this title; and

''(ii) such compensation is payable in a case under this chapter only to the extent permitted by this paragraph.''.

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## TORRICELLI (AND OTHERS) AMENDMENT NO. 2655

(Ordered to lie on the table.)

Mr. TORRICELLI (for himself, Mr. GRASSLEY, Mr. BIDEN, and Mr. LEAHY) submitted an amendment intended to be proposed by them to the bill, S. 625, supra; as follows:

At the end of the bill, add the following new title:

**TITLE ___—CONSUMER CREDIT DISCLOSURE**

**SEC. ___01. 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, in typeface no smaller than the largest typeface used to make other clear and conspicuous disclosures under this subsection: '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: _____.'.

''(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, in typeface no smaller than the largest typeface used to make other clear and conspicuous disclosures under this subsection: '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: _____.'.

''(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, in typeface no smaller than the largest typeface used to make other clear and conspicuous disclosures under this subsection: '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: _____.' 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 who 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) 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).

''(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 the 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 an outstanding balance—

''(i) is not subject to the requirements of subparagraphs (A) and (B); and

''(ii) 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: _____.'. ''.

(b) REGULATORY IMPLEMENTATION.—The Board of Governors of the Federal Reserve System (hereafter in this Act 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. Section 127(b)(11) of the Truth in Lending Act, as added by subsection (a) of this section, and the regulations issued under this subsection shall not take effect until the later of 18 months after the date of enactment of this Act or 12 months after the publication of such regulations by the Board.

(c) STUDY OF FINANCIAL DISCLOSURES.—

(1) IN GENERAL.—The Board may conduct a study to determine whether consumers have adequate information about borrowing activities that may result in financial problems.

(2) FACTORS FOR CONSIDERATION.—In conducting a study under paragraph (1), the Board shall, 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 minimum payment under open end credit plans;

(D) consumers are aware that making only 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. ___02. 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 ADVISOR.—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 by the Board) of the dwelling, the interest on the portion of the credit extension that is greater than the fair market value (as defined by the Board) 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 (as defined by the Board) 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 may want to consult a tax advisor 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 (as defined by the Board) 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 may want to consult a tax advisor 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 (as defined by the Board) 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 may want to consult a tax advisor for further information regarding the deductibility of interest and charges.''.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective 12 months after the date of enactment of this Act.

**SEC. ___03. DISCLOSURES RELATED TO "INTRODUCTORY RATES".**

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 the following 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)) or, if the first listing is not the most prominent listing, then closely proximate to the most prominent listing of the temporary annual percentage rate, in each document and in no smaller type size than the smaller of the type size in which the proximate temporary annual percentage rate appears or a 12-point type size, 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 the following 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)) or, if the first listing is not the most prominent listing, then closely proximate to the most prominent listing of the temporary annual percentage rate, in each document and in no smaller type size than the smaller of the type size in which the proximate temporary annual percentage rate appears or a 12-point type size, the time period in which the introductory period will end and 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, including representative examples; 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, 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.''.

**SEC. ___04. INTERNET-BASED CREDIT CARD 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 disclosures 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.''.

**SEC. ___05. 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.''.

**SEC. ___06. 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.''.

**SEC. ___07. 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 provide to further address adequate protection for consumers concerning unauthorized use liability.

**SEC. ___08. STUDY OF BANKRUPTCY IMPACT OF CREDIT EXTENDED TO DEPENDENT STUDENTS.**

(a) STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States 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 referred to in paragraph (1) 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 in postsecondary educational institutions.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Senate and the House of Representatives a report summarizing the results of the study conducted under subsection (a).

## TORRICELLI AMENDMENTS NOS. 2656–2657

(Ordered to lie on the table.)

Mr. TORRICELLI submitted two amendments intended to be proposed by him to the bill, S. 625, supra; as follows:

AMENDMENT NO. 2656

On page 124, strike lines 10 through 14, and insert the following:

Section 541(a) of title 11, United States Code, is amended—

(1) in paragraph (6), by inserting ''(other than an individual debtor who, in accordance with section 301, files a petition to commence a voluntary case under chapter 11)'' after ''individual debtor''; and

(2) by adding at the end the following:

''(8) Any interest of the debtor in a lease or a license, whether issued by a governmental unit or a person.''.

On page 250, line 24, strike the quotation marks and the final period.

On page 250, after line 24, insert the following:

''(m) REGULATORY POWERS EXCEPTION.—'Police or regulatory power' excludes any act, action, or proceeding that affects property of or from the estate used in whole or in part to secure or satisfy a debt.''.

AMENDMENT NO. 2657

On page 124, strike lines 10 through 14, and insert the following:

Section 541(a) of title 11, United States Code, is amended—

(1) in paragraph (6), by inserting ''(other than an individual debtor who, in accordance with section 301, files a petition to commence a voluntary case under chapter 11)'' after ''individual debtor''; and

(2) by adding at the end the following:

''(8) Any interest of the debtor in a lease or a license, whether issued by a governmental unit or a person.''.

On page 250, line 24, strike the quotation marks and the final period.

On page 250, after line 24, insert the following:

''(m) REGULATORY POWERS EXCEPTION.—'Police or regulatory power' excludes any act, action, or proceeding that affects property of or from the estate used in whole or in part to secure or satisfy a debt.''.

## LEVIN (AND OTHERS) AMENDMENT NO. 2658

(Ordered to lie on the table.)

Mr. LEVIN (for himself, Mr. DURBIN, Mr. WYDEN, Mr. KENNEDY, Mrs. FEINSTEIN, Mr. LAUTENBERG, and Mr. SCHUMER) submitted an amendment intended to be proposed by them to the bill, S. 625, supra; as follows:

On page 124, between lines 14 and 15, insert the following:

**SEC. ___. CHAPTER 11 NONDISCHARGEABILITY OF DEBTS ARISING FROM FIREARM-RELATED DEBTS.**

(a) IN GENERAL.—Section 1141(d) of title 11, United States Code, as amended by section 708 of 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 that is—

''(A) related to the use or transfer of a firearm (as defined in section 921(3) of title 18 or section 5845(a) of the Internal Revenue Code of 1986); and

''(B) based in whole or in part on fraud, recklessness, misrepresentation, nuisance, negligence, or product liability.''.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by section 901(d) of this Act, is amended—

(1) in paragraph (27), by striking ''or'' at the end;

(2) in paragraph (28), by striking the period at the end and inserting ''; or''; and

(3) by inserting after paragraph (28) the following:

''(29) under subsection (a) of this section, of—

''(A) the commencement or continuation, and conclusion to the entry of final judgment or order, of a judicial, administrative, or other action or proceeding for debts that are nondischargeable under section 1141(d)(6); or

''(B) the perfection or enforcement of a judgment or order referred to in subparagraph (A) against property of the estate or property of the debtor.''.

## DURBIN AMENDMENTS NOS. 2659–2660

(Ordered to lie on the table.)

Mr. DURBIN submitted two amendments intended to be proposed by him to the bill, S. 625, supra; as follows:

AMENDMENT NO. 2659

On page 18, line 5 insert ''(including a briefing conducted by telephone or on the Internet)'' after ''briefing''.

On page 19, line 15, strike ''petition'' and insert ''petition without court approval.''

AMENDMENT NO. 2660

On page 26, strike line 3 and all that follows through page 27, line 24, and insert the following:

''(C) such agreement contains a clear and conspicuous statement that advises the debtor which portion of the debt to be reaffirmed is attributable to—

''(i) principal;

''(ii) interest;

''(iii) late fees;

''(iv) attorney's fees of the creditor; or

''(v) expenses or other costs relating to the collection of the debt;

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

(C) in paragraph (6)—

(i) in subparagraph (A)(ii), by striking the period at the end and inserting ''; except that''; and

(ii) by striking subparagraph (B) and inserting the following:

''(B) to the extent that the debt is a consumer debt secured by real property or is a debt described in paragraph (7), subparagraph (A) shall not apply; and''; and

(D) by adding at the end the following:

''(7) in a case concerning an individual—

''(A)(i) the consideration for such agreement is based, in whole or in part, on—

''(I) an unsecured consumer debt; or

''(II) a debt for an item of personalty with a value of $250 or less at the time of purchase; or

''(ii) the creditor asserts a purchase money security interest; and

''(B) the court approves of such agreement as—

''(i) in the best interest of the debtor, in light of the income and expenses of the debtor;

''(ii) not imposing an undue hardship on the future ability of the debtor to pay for the needs of children and other dependents (including court ordered support);

''(iii) not requiring the debtor to pay the attorney's fees, expenses, or other costs of the creditor relating to the collection of the debt;

''(iv) not executed to protect property that is necessary for the care and maintenance of children or other dependents that would have nominal value on repossession;

''(v) not executed after coercive threats or actions by the creditor in the course of dealings between the creditor and the debtor; and

''(vi) not excessive in amount based upon the value of the collateral.''; and

(2) in subsection (d)(2), by striking ''requirements'' and all that follows through the period and inserting ''applicable requirements of paragraphs (6) and (7).''.

## DURBIN (AND OTHERS) AMENDMENTS NOS. 2661–2662

(Ordered to lie on the table.)

Mr. DURBIN (for himself, Mr. SCHUMER, and Mr. KENNEDY) submitted two amendments intended to be proposed by them to the bill, S. 625, supra; as follows:

AMENDMENT NO. 2661

On page 7, between line 14 and 15, insert the following:

''unless the conditions described in clause (iA) apply with respect to the debtor.

''(iA) the product of the debtor's current monthly income multiplied by 12—

''(I)(aa) exceeds 100 percent, but does not exceed 150 percent of the national or applicable State median household income reported for a household of equal size, whichever is greater; or

''(bb) in the case of a household of 1 person, exceeds 100 percent but does not exceed 150 percent of the national or applicable State median household income reported for 1 earner, whichever is greater; and

''(II) the product of the debtor's current monthly income (reduced by the amounts determined under clause (ii) (except for the amount calculated under the other necessary expenses standard issued by the Internal Revenue Service and clauses (iii) and (iv) multiplied by 60 is less than the greater of—

''(aa) 25 percent of the debtor's nonpriority unsecured claims in the case; or

''(bb) $15,000.

AMENDMENT NO. 2662

On page 7, between line 14 and 15, insert the following:

''unless the conditions described in clause (iA) or (iB) apply with respect to the debtor.

''(iA) The product of the debtor's current monthly income multiplied by 12 does not exceed

''(I) 100 percent of the national or applicable State median household income reported for a household of equal size, whichever is greater; or

''(II) in the case of a household of 1 person, 100 percent of the national or applicable State median household income for 1 earner, whichever is greater.

''(iB) the product of the debtor's current monthly income multiplied by 12—

''(I)(aa) exceeds 100 percent, but does not exceed 150 percent of the national or applicable State median household income reported for a household of equal size, whichever is greater; or

''(bb) in the case of a household of 1 person, exceeds 100 percent but does not exceed 150 percent of the national or applicable State median household income reported for 1 earner, whichever is greater; and

''(II) the product of the debtor's current monthly income (reduced by the amounts determined under clause (ii) (except for the amount calculated under the other necessary expenses standard issued by the Internal Revenue Service and clauses (iii) and (iv) multiplied by 60 is less than the greater of—

''(aa) 25 percent of the debtor's nonpriority unsecured claims in the case;

''(bb) $15,000.

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## MOYNIHAN AMENDMENT NO. 2663

(Ordered to lie on the table.)

Mr. MOYNIHAN submitted an amendment intended to be proposed by him to the bill, S. 625, supra; as follows:

On page 107, line 7, strike ''(C)(i) for purposes of subparagraph (A)—'' and insert the following:

''(C) for purposes of subparagraph (A)—

''(i) if the debtor, and the spouse of the debtor in a joint case, as of the date of the order for relief, have a total current monthly income greater than the national or applicable State median family monthly income calculated on a monthly basis for a family of equal size, or in the case of a household of one person, the national median household income for one earner (except that for a household of more than 4 individuals, the median income shall be that of a household of 4 individuals, plus $583 for each additional member of that household)—''.

On page 107, lines 8 and 14, move the margins 2 ems to the right.

On page 107, line 19, strike ''and'' and all that follows through line 20 and insert the following:

''(ii) if the debtor and the debtor's spouse combined, as of the date of the order for relief, have a total current monthly income that does not satisfy the conditions of clause (i)—

''(I) consumer debts owed to a single creditor and aggregating more than $1,075 for luxury goods or services incurred by an individual debtor on or within 60 days before the order for relief under this title are presumed to be nondischargeable; and

''(II) cash advances aggregating more than $1,075 that are extensions of consumer credit under an open end credit plan obtained by an individual debtor on or within 60 days before the order for relief under this title are presumed to be nondischargeable; and

''(iii) for purposes of this subparagraph—''.

On page 111, line 20, strike ''(14A)(A) incurred to pay a debt that is'' and insert the following:

''(14A) if the debtor, and the spouse of the debtor in a joint case, as of the date of the order for relief, have a total current monthly income greater than the national or applicable State median family monthly income, calculated on a monthly basis for a family of equal size, or in the case of a household of one person, the national median household income for one earner (except that for a household of more than 4 individuals, the median income shall be that of a household of 4 individuals, plus $583 for each additional member of that household)—

''(A) incurred to pay a debt that is''.

On page 112, line 2, insert '', with respect to debtors with income above the amount stated,'' after ''that''.

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## KOHL AMENDMENTS NOS. 2664–2666

(Ordered to lie on the table.)

Mr. KOHL submitted three amendments intended to be proposed by him to the bill, S. 625, supra; as follows:

AMENDMENT NO. 2664

On page 124, insert between lines 14 and 15 the following:

**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, as amended by section 903 of this Act, is amended—

(1) by striking ''or'' at the end of paragraph (5);

(2) by redesignating paragraph (6) as paragraph (7); and

(3) by inserting after paragraph (5) the following:

''(6) 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

''(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

''(ii) a health insurance plan regulated by State law whether or not subject to such title;''.

(b) APPLICATION OF AMENDMENT.—The amendment 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 the enactment of this Act.

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AMENDMENT NO. 2665

On page 124, insert between lines 14 and 15 the following:

**SEC. 322. 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 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;''.

AMENDMENT NO. 2666

On page 96, line 23 strike all through page 97, line 11 and insert the following:

(b) RESTORING THE FOUNDATION FOR SECURED CREDIT.—Section 506 of title 11, United States Code, is amended by adding at the end the following:

''(e) In an individual case under chapter 7, 11, 12, or 13—

''(1) except for the purpose of applying paragraph (3) of this subsection, subsection (a) shall not apply to an allowed claim that is attributable to the purchase price of personal property if—

''(A) the holder of the claim has a security interest in that property; and

''(B) the property was purchased by the debtor within 180 days before the filing of the petition;

''(2) if an allowed claim referred to in paragraph (1) is secured only by the personal property acquired, the value of the personal property described in that paragraph and the amount of the allowed secured claim shall be the sum of—

''(A) the unpaid principal balance of the purchase price; and

''(B) the accrued and unpaid interest and charges at the applicable contract rate attributable to such property;

''(3) if an allowed claim referred to in paragraph (1) is secured by the personal property described in that paragraph and other property, the value of the security may be determined under subsection (a), except that the value of the security and the amount of the allowed secured claim shall not be less than—

''(A) the unpaid principal balance of the purchase price of the personal property described in paragraph (1); and

''(B) any unpaid interest and charges at the contract rate attributable to the property acquired; and

''(4) in any case under this title that is filed subsequently by or against the debtor in the original case, the value of the personal property described in paragraph (1) and the amount of the allowed secured claim with respect to that property shall be deemed to be not less than an amount determined in the same manner as the original under paragraph (2) or (3).''.

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## FEINGOLD AMENDMENT NO. 2667

(Ordered to lie on the table.)

Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill, S. 625, supra; as follows:

At the appropriate place in the bill, insert the following:

**TITLE ___—EAST TIMOR SELF-DETERMINATION ACT OF 1999**

**SEC. ___01. SHORT TITLE.**

This title may be cited as the ''East Timor Self-Determination Act of 1999''.

**SEC. ___02. FINDINGS; PURPOSE; SENSE OF SENATE.**

(a) CONGRESSIONAL FINDINGS.—

(1) On August 30, 1999, in accordance with the May 5, 1999, agreement between Indonesia and Portugal brokered by the United Nations, and subsequent agreements between the United Nations and the governments of Indonesia and Portugal, a popular consultation took place, in which 78.5 percent of East Timorese rejected integration with Indonesia, setting the stage for a transition to independence pursuant to the terms of the May 5, 1999, agreement.

(2) On October 19, 1999, the Indonesian People's Consultative Assembly agreed to ratify the August 30, 1999, vote results, leading the United Nations Security Council, on October 25, 1999, to authorize a United Nations Transitional Administration in East Timor

(UNTAET), which was to include deployment of an international police and military force with up to 1,640 officers and 8,950 troops.

(3) The United Nations Commission on Human Rights, in a special session meeting on September 27, 1999, called on the United Nations Secretary General to establish an international commission of inquiry to investigate violations of human rights in East Timor, and urged the cooperation of the Indonesian government and military.

(4) The Secretary General subsequently directed Mary Robinson, the United Nations High Commissioner on Human Rights, to appoint a United Nations commission on October 15, 1999, which is due to report its conclusion to the Secretary General by December 31, 1999.

(5) The Indonesian People's Consultative Assembly on October 20, 1999, chose Abdurrahman Wahid as President of the Republic of Indonesia and the next day also chose as Vice President, Megawati Soekarnoputri

(6) President Wahid has invited Xanana Gusmao to meet and has written to the United Nations Secretary General officially informing him of the decision to end Indonesia's administration of East Timor, and of East Timor's independence, and expressing his hope ''that East Timor will become an independent state''.

(7) As of late October 1999, according to United Nations officials and other independent observers, more than 200,000 East Timorese remain displaced in camps in West Timor and elsewhere in Indonesia, under constant threat by civilian militia and in some cases denied access to assistance by the United Nations humanitarian agencies.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the United States should congratulate the people of Indonesia on its democratic transition and welcome the efforts of the new Indonesian government to bring a peaceful end to the crisis in East and West Timor;

(2) the results of the August 30, 1999, vote on East Timor's political status, which expressed the will of a majority of the Timorese people, should be fully implemented;

(3) economic recovery in Indonesia is essential to political and economic stability in the region; and

(4) the President, the Secretary of State, the Secretary of the Treasury, and Congress should work with the people of Indonesia to restore Indonesia's economic vitality.

(c) PURPOSE.—The purpose of this Act is to encourage the government of Indonesia and the armed forces of Indonesia to take such additional steps as are necessary to create a peaceful environment in which the United Nations Assistance Mission to East Timor (UNAMET), the International Force for East Timor (INTERFET), and the United Nations Transitional Administration in East Timor (UNTAET) can fulfill their mandates and implement the results of the August 30, 1999, vote on East Timor's political status.

**SEC. ___03. SUSPENSION OF SECURITY ASSISTANCE.**

(a) SUSPENSION AND SUPPORT.—

(1) ASSISTANCE.—None of the funds appropriated or otherwise made available under the following provisions of law (including unexpended balances of prior year appropriations) may be available for Indonesia:

(A) The Foreign Military Financing Program under section 23 of the Arms Export Control Act.

(B) Chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to military assistance).

(C) Chapter 5 of part II of the Foreign Assistance Act of 1961 (relating to international military education and training assistance).

(D) Section 2011 of title 10, United States Code.

(2) LICENSING.—None of the funds appropriated or otherwise made available under any provision of law (including unexpended balances of prior year appropriations) may be available for licensing exports of defense articles or defense services to Indonesia under section 38 of the Arms Export Control Act.

(3) EXPORTATION.—No defense article or defense service may be exported or delivered to Indonesia or East Timor by any United States person (as defined in section 16 of the Export Administration Act of 1979 (50 U.S.C. App. 2415)) or any other person subject to the jurisdiction of the United States except as may be necessary to support the operations of an international peacekeeping force in East Timor or in connection with the provision of humanitarian assistance.

(4) PROHIBITION ON PARTICIPATION IN ASIA-PACIFIC CENTER FOR SECURITY STUDIES.—Programs of the Asia-Pacific Center for Security Studies may not include participants who are members of the armed forces of Indonesia or any representatives of the armed forces of Indonesia.

(5) PROHIBITION ON ASSISTANCE THROUGH MILITARY-TO-MILITARY CONTACTS.—The authority for military-to-military contacts and comparable activities under section 168 of title 10, United States Code, may not be exercised in a manner that provides any assistance to the government or armed forces of Indonesia.

(b) INAPPLICABILITY TO CERTAIN ITEMS AND SERVICES ON THE UNITED STATES MUNITIONS LIST.—Paragraphs (2) and (3) of subsection (a) do not apply to the export, delivery, or servicing of any item or service that, while on the Commerce Control List of dual-use items in the Export Administration Regulations, was licensed by the Department of Commerce for export to Indonesia but is in a category of items or services that, within two years before the date of the enactment of this Act, was transferred by law to the United States Munitions List for control under section 38 of the Arms Export Control Act (22 U.S.C. 2778).

(c) CONDITIONS FOR TERMINATION.—Subject to subsection (b), the measures described in subsection (a) shall apply with respect to the government and armed forces of Indonesia until the President determines and certifies to the appropriate congressional committees that the Indonesian government and the Indonesian armed forces are—

(1) taking effective measures to bring to justice members of the Indonesian armed forces and militia groups against whom there is credible evidence of human rights violations;

(2) demonstrating a commitment to accountability by cooperating with investigations and prosecutions of members of the Indonesian armed forces and militia groups responsible for human rights violations in Indonesia and East Timor;

(3) taking effective measures to bring to justice members of the Indonesian armed forces against whom there is credible evidence of aiding or abetting militia groups;

(4) allowing displaced persons and refugees to return home to East Timor, including providing safe passage for refugees returning from West Timor;

(5) not impeding the activities of the International Force in East Timor (INTERFET) or its successor, the United Nations Transitional Administration in East Timor (UNTAET);

(6) ensuring freedom of movement in West Timor, including by humanitarian organizations; and

(7) demonstrating a commitment to preventing incursions into East Timor by members of militia groups in West Timor.

**SEC. ___04. MULTILATERAL EFFORTS.**

The President should continue to coordinate with other countries, particularly member states of the Asia-Pacific Economic Cooperation (APEC) Forum, to develop a comprehensive, multilateral strategy to further the purposes of this Act, including urging other countries to take measures similar to those described in this title.

**SEC. ___05. REPORT.**

Not later than 30 days after the date of enactment of this Act, and every 6 months thereafter until the end of the UNTAET mandate, the Secretary of State shall submit a report to the appropriate congressional committees on the progress of the Indonesian government toward the meeting the conditions contained in paragraphs (1) through (7) of section ___03(c) and on the progress of East Timor toward becoming an independent nation.

**SEC. ___06. APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.**

In this title, the term ''appropriate congressional committees'' means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives.

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## HUTCHISON (AND BROWNBACK) AMENDMENTS NOS. 2668–2669

(Ordered to lie on the table.)

Mrs. HUTCHISON (for herself and Mr. BROWNBACK) submitted 2 amendments intended to be proposed by them to the bill, S. 625, supra; as follows:

AMENDMENT NO. 2668

At the appropriate place in the bill, add the following:

**SEC. 1. HOMESTEAD EXEMPTION OPT OUT.**

The provisions relating to a Federal homestead exemption shall not apply to debtors if applicable State law provides by statute that such provisions shall not apply to debtors and shall not take effect in any State before the end of the first regular session of the State legislature following the date of enactment of this Act.

**SEC. 2. SENIOR CITIZEN EXEMPTION**

The provisions relating to a Federal homestead exemption shall not apply to debtors who are 65 years of age or older.

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AMENDMENT NO. 2669

At the appropriate place in the bill, add the following:

**SEC. ___. HOMESTEAD EXEMPTION OPT OUT.**

The provisions relating to a Federal homestead exemption shall not apply to debtors if applicable State law provides by statute that such provisions shall not apply to debtors and shall not take effect in any State before the end of the first regular session of the State legislature following the date of enactment of this Act. This paragraph shall not apply to the status of Alabama and Wisconsin.

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## BROWNBACK AMENDMENTS NOS. 2670–2741

(Ordered to lie on the table.)

Mr. BROWNBACK submitted 72 amendments intended to be proposed by him to the bill, S. 625, supra; as follows:

AMENDMENT NO. 2670

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER FARMING INCOME.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''50 percent'' and inserting ''34 percent''.

---

AMENDMENT NO. 2671

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER FARMING INCOME.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''50 percent'' and inserting ''45 percent''.

---

AMENDMENT NO. 2672

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER FARMING INCOME.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''50 percent'' and inserting ''46 percent''.

---

AMENDMENT NO. 2673

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER FARMING INCOME.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''50 percent'' and inserting ''47 percent''.

---

AMENDMENT NO. 2674

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER FARMING INCOME.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''50 percent'' and inserting ''48 percent''.

---

AMENDMENT NO. 2675

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER FARMING INCOME.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''50 percent'' and inserting ''29 percent''.

---

AMENDMENT NO. 2676

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER FARMING INCOME.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''50 percent'' and inserting ''30 percent''.

---

AMENDMENT NO. 2677

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER FARMING INCOME.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''50 percent'' and inserting ''31 percent''.

---

AMENDMENT NO. 2678

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER FARMING INCOME.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''50 percent'' and inserting ''32 percent''.

---

AMENDMENT NO. 2679

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER FARMING INCOME.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''50 percent'' and inserting ''33 percent''.

---

AMENDMENT NO. 2680

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER FARMING INCOME.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''50 percent'' and inserting ''49 percent''.

---

AMENDMENT NO. 2681

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER FARMING INCOME.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''50 percent'' and inserting ''41 percent''.

---

AMENDMENT NO. 2682

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER FARMING INCOME.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''50 percent'' and inserting ''42 percent''.

---

AMENDMENT NO. 2683

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER FARMING INCOME.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''50 percent'' and inserting ''43 percent''.

---

AMENDMENT NO. 2684

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER FARMING INCOME.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''50 percent'' and inserting ''44 percent''.

---

AMENDMENT NO. 2685

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''46 percent''.

---

AMENDMENT NO. 2686

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''79 percent''.

---

AMENDMENT NO. 2687

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''39 percent''.

---

AMENDMENT NO. 2688

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''45 percent''.

---

AMENDMENT NO. 2689

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''44 percent''.

---

AMENDMENT NO. 2690

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''64 percent''.

---

AMENDMENT NO. 2691

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''65 percent''.

---

AMENDMENT NO. 2692

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''66 percent''.

---

AMENDMENT NO. 2693

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''67 percent''.

---

AMENDMENT NO. 2694

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''68 percent''.

---

AMENDMENT NO. 2695

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''69 percent''.

---

AMENDMENT NO. 2696

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''70 percent''.

---

AMENDMENT NO. 2697

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''71 percent''.

---

AMENDMENT NO. 2698

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''72 percent''.

---

AMENDMENT NO. 2699

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''73 percent''.

---

AMENDMENT NO. 2700

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''74 percent''.

---

AMENDMENT NO. 2701

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''75 percent''.

AMENDMENT NO. 2702

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''76 percent''.

---

AMENDMENT NO. 2703

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''77 percent''.

---

AMENDMENT NO. 2704

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''78 percent''.

---

AMENDMENT NO. 2705

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''29 percent''.

---

AMENDMENT NO. 2706

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''30 percent''.

---

AMENDMENT NO. 2707

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''31 percent''.

---

AMENDMENT NO. 2708

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''32 percent''.

---

AMENDMENT NO. 2709

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''33 percent''.

---

AMENDMENT NO. 2710

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''34 percent''.

---

AMENDMENT NO. 2711

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''35 percent''.

---

AMENDMENT NO. 2712

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''36 percent''.

---

AMENDMENT NO. 2713

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''37 percent''.

---

AMENDMENT NO. 2714

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''40 percent''.

---

AMENDMENT NO. 2715

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''41 percent''.

---

AMENDMENT NO. 2716

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''38 percent''.

---

AMENDMENT NO. 2717

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''56 percent''.

---

AMENDMENT NO. 2718

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''57 percent''.

---

AMENDMENT NO. 2719

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''58 percent''.

---

AMENDMENT NO. 2720

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''59 percent''.

---

AMENDMENT NO. 2721

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''60 percent''.

---

AMENDMENT NO. 2722

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''61 percent''.

---

AMENDMENT NO. 2723

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''42 percent''.

---

AMENDMENT NO. 2724

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''43 percent''.

---

AMENDMENT NO. 2725

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''47 percent''.

---

AMENDMENT NO. 2726

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''48 percent''.

---

AMENDMENT NO. 2727

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''49 percent''.

---

AMENDMENT NO. 2728

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''50 percent''.

---

AMENDMENT NO. 2729

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''51 percent''.

---

AMENDMENT NO. 2730

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''52 percent''.

---

AMENDMENT NO. 2731

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''53 percent''.

---

AMENDMENT NO. 2732

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''54 percent''.

---

AMENDMENT NO. 2733

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''55 percent''.

---

AMENDMENT NO. 2734

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''62 percent''.

---

AMENDMENT NO. 2735

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER AGGREGATE DEBT.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''80 percent'' and inserting ''63 percent''.

---

AMENDMENT NO. 2736

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER FARMING INCOME.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''50 percent'' and inserting ''35 percent''.

---

AMENDMENT NO. 2737

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER FARMING INCOME.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''50 percent'' and inserting ''36 percent''.

---

AMENDMENT NO. 2738

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER FARMING INCOME.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''50 percent'' and inserting ''37 percent''.

---

AMENDMENT NO. 2739

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER FARMING INCOME.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''50 percent'' and inserting ''38 percent''.

---

AMENDMENT NO. 2740

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER FARMING INCOME.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''50 percent'' and inserting ''39 percent''.

---

AMENDMENT NO. 2741

On page 268, after line 16, insert the following:

**SEC. 1005. FAMILY FARMER FARMING INCOME.**

Section 101(18)(A) of title 11, United States Code, is amended by striking ''50 percent'' and inserting ''40 percent''.

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## GREGG (AND OTHERS) AMENDMENT NO. 2742

(Ordered to lie on the table.)

Mr. GREGG (for himself, Ms. COLLINS, Mr. ABRAHAM, Mr. COVERDELL, Mr. FRIST, Mr. BROWNBACK, and Mr. HUTCHINSON) submitted an amendment intended to be proposed by them to the bill, S. 625, supra; as follows:

At the appropriate place, insert the following new titles:

**TITLE ___—TEACHER EMPOWERMENT**

**SEC. ___01. SHORT TITLE.**

This title may be cited as the ''Teacher Empowerment Act''.

**SEC. ___02. TEACHER EMPOWERMENT.**

(a) IN GENERAL.—Title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6601 et seq.) is amended—

(1) by striking the heading for title II and inserting the following:

**''TITLE II—TEACHER QUALITY''**;

(2) by repealing sections 2001 through 2003; and

(3) by amending part A to read as follows:

**''PART A—TEACHER EMPOWERMENT**

**''SEC. 2001. PURPOSE.**

''The purpose of this part is to provide grants to States and local educational agencies, in order to assist their efforts to increase student academic achievement through such strategies as improving teacher quality.

**''Subpart 1—Grants to States**

**''SEC. 2011. FORMULA GRANTS TO STATES.**

''(a) IN GENERAL.—In the case of each State that, in accordance with section 2014, submits to the Secretary and obtains approval of an application for a fiscal year, the Secretary shall make a grant for the year to the State for the uses specified in section 2012. The grant shall consist of the allotment determined for the State under subsection (b).

''(b) DETERMINATION OF AMOUNT OF ALLOTMENT.—

''(1) RESERVATION OF FUNDS.—

''(A) IN GENERAL.—From the total amount made available to carry out this subpart for any fiscal year, the Secretary shall reserve—

''(i) ½ of 1 percent for allotments for the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, to be distributed among those outlying areas on the basis of their relative need, as determined by the Secretary in accordance with the purpose of this part; and

''(ii) ½ of 1 percent for the Secretary of the Interior for programs under this part for professional development activities for teachers, other staff, and administrators in schools operated or funded by the Bureau of Indian Affairs.

''(B) LIMITATION.—In reserving an amount for the purposes described in clauses (i) and (ii) of subparagraph (A) for a fiscal year, the Secretary shall not reserve more than the total amount the outlying areas and the schools operated or funded by the Bureau of Indian Affairs received under the authorities described in paragraph (2)(A)(i) for fiscal year 1999.

''(2) STATE ALLOTMENTS.—

''(A) HOLD HARMLESS.—

''(i) IN GENERAL.—Subject to subparagraph (B), from the total amount made available to carry out this subpart for any fiscal year and not reserved under paragraph (1), the Secretary shall allot to each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico an amount equal to the total amount that such State received for fiscal year 1999 under—

''(I) section 2202(b) of this Act (as in effect on the day before the date of enactment of the Teacher Empowerment Act); and

''(II) section 307 of the Department of Education Appropriations Act, 1999.

''(ii) RATABLE REDUCTION.—If the total amount made available to carry out this subpart for any fiscal year and not reserved under paragraph (1) is insufficient to pay the full amounts that all States are eligible to receive under clause (i) for any fiscal year, the Secretary shall ratably reduce such amounts for such fiscal year.

''(B) ALLOTMENT OF ADDITIONAL FUNDS.—

''(i) IN GENERAL.—Subject to clause (ii), for any fiscal year for which the total amount made available to carry out this subpart and not reserved under paragraph (1) exceeds the total amount made available to the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico for fiscal year 1999 under the authorities described in subparagraph (A)(i), the Secretary shall allot to each of those States the sum of—

''(I) an amount that bears the same relationship to 50 percent of the excess amount as the number of individuals age 5 through 17 in the State, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in all such States, as so determined; and

''(II) an amount that bears the same relationship to 50 percent of the excess amount as the number of individuals age 5 through 17 from families with incomes below the poverty line in the State, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in all such States, as so determined.

''(ii) EXCEPTION.—No State receiving an allotment under clause (i) may receive less than ½ of 1 percent of the total excess amount allotted under clause (i) for a fiscal year.

''(3) REALLOTMENT.—If any State does not apply for an allotment under this subsection for any fiscal year, the Secretary shall reallot such amount to the remaining States in accordance with this subsection.

**''SEC. 2012. ALLOCATIONS WITHIN STATES.**

''(a) USE OF FUNDS.—Each State receiving a grant under this subpart shall use the funds provided under the grant in accordance with this section to carry out activities for the improvement of teaching and learning.

''(b) REQUIRED AND AUTHORIZED EXPENDITURES.—

''(1) REQUIRED EXPENDITURES.—The Secretary may make a grant to a State under this subpart only if the State agrees to expend not less than 90 percent of the amount of the funds provided under the grant for the purpose of making subgrants to local educational agencies and eligible partnerships (as defined in section 2021(d)), in accordance with subsection (c).

''(2) AUTHORIZED EXPENDITURES.—A State that receives a grant under this subpart may expend a portion equal to not more than 10 percent of the amount of the funds provided under the grant for 1 or more of the authorized State activities described in section 2013 or to make grants to eligible partnerships to enable the partnerships to carry out subpart 2 (but not more than 5 percent of such portion may be used for planning and administration related to carrying out such purpose).

''(c) DISTRIBUTION OF SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES AND ELIGIBLE PARTNERSHIPS.—

''(1) ALLOCATIONS TO LOCAL EDUCATIONAL AGENCIES.—

''(A) IN GENERAL.—Subject to subparagraph (B), a State receiving a grant under this subpart shall distribute a portion equal to 80 percent of the amount described in subsection (b)(1) by allocating to each eligible local educational agency the sum of—

''(i) an amount that bears the same relationship to 50 percent of the portion as the number of individuals enrolled in public and private nonprofit elementary schools and secondary schools in the geographic area served by the agency bears to the number of those individuals in the geographic areas served by all the local educational agencies in the State; and

''(ii) an amount that bears the same relationship to 50 percent of the portion as the number of individuals age 5 through 17 from families with incomes below the poverty line, in the geographic area served by the agency, as determined by the Secretary on

the basis of the most recent satisfactory data, bears to the number of those individuals in the geographic areas served by all the local educational agencies in the State, as so determined.

''(B) ALTERNATIVE FORMULA.—A State may increase the percentage described in subparagraph (A)(ii) (and commensurately decrease the percentage described in subparagraph (A)(i)).

''(C) USE OF FUNDS.—The State shall make subgrants to local educational agencies from allocations made under this paragraph to enable the agencies to carry out subpart 3.

''(2) COMPETITIVE SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES AND ELIGIBLE PARTNERSHIPS.—

''(A) COMPETITIVE PROCESS.—A State receiving a grant under this subpart shall distribute a portion equal to 20 percent of the amount described in subsection (b)(1) through a competitive process.

''(B) PARTICIPANTS.—The competitive process carried out under subparagraph (A) shall be open to local educational agencies and eligible partnerships (as defined in section 2021(d)). In carrying out the process, the State shall give priority to high-need local educational agencies that focus on math, science, or reading professional development programs.

''(C) SUBGRANTS TO ELIGIBLE PARTNERSHIPS.—A State receiving a grant under this subpart shall distribute at least 3 percent of the portion described in subparagraph (A) to the eligible partnerships through the competitive process.

''(D) USE OF FUNDS.—In distributing funds under this paragraph, the State shall make subgrants—

''(i) to local educational agencies to enable the agencies to carry out subpart 3; and

''(ii) to the eligible partnerships to enable the partnerships to carry out subpart 2 (but not more than 5 percent of the funds made available to the eligible partnerships through the subgrants may be used for planning and administration related to carrying out such purpose).

**''SEC. 2013. STATE USE OF FUNDS.**

''(a) AUTHORIZED STATE ACTIVITIES.—The authorized State activities referred to in section 2012(b)(2) are the following:

''(1) Reforming teacher certification (including recertification) or licensure requirements to ensure that—

''(A) teachers have the necessary teaching skills and academic content knowledge in the academic subjects in which the teachers are assigned to teach;

''(B) the requirements are aligned with the State's challenging State content standards; and

''(C) teachers have the knowledge and skills necessary to help students meet challenging State student performance standards.

''(2) Carrying out programs that—

''(A) include support during the initial teaching experience, such as mentoring programs; and

''(B) establish, expand, or improve alternative routes to State certification of teachers for highly qualified individuals with a baccalaureate degree, including mid-career professionals from other occupations, paraprofessionals, former military personnel, and recent college or university graduates with records of academic distinction who demonstrate the potential to become highly effective teachers.

''(3) Developing and implementing effective mechanisms to assist local educational agencies and schools in effectively recruiting and retaining highly qualified and effective teachers and principals.

''(4) Reforming tenure systems and implementing teacher testing and other procedures to remove expeditiously incompetent and ineffective teachers from the classroom.

''(5) Developing or improving systems of performance measures to evaluate the effectiveness of professional development programs and activities in improving teacher quality, skills, and content knowledge, and increasing student achievement.

''(6) Developing or improving systems to evaluate the impact of teachers on student achievement.

''(7) Providing technical assistance to local educational agencies consistent with this part.

''(8) Funding projects to promote reciprocity of teacher certification or licensure between or among States, except that no reciprocity agreement developed under this paragraph or developed using funds provided under this part may lead to the weakening of any State teaching certification or licensing requirement.

''(9) Developing or assisting local educational agencies or eligible partnerships (as defined in section 2021(d)) in the development and utilization of proven, innovative strategies to deliver intensive professional development programs and activities that are both cost-effective and easily accessible, such as through the use of technology and distance learning.

''(b) COORDINATION.—A State that receives a grant to carry out this subpart and a grant under section 202 of the Higher Education Act of 1965 (20 U.S.C. 1022) shall coordinate the activities carried out under this section and the activities carried out under that section 202.

''(c) PUBLIC ACCOUNTABILITY.—

''(1) IN GENERAL.—A State that receives a grant under this subpart—

''(A) in the event the State provides public State report cards on education, shall include in such report cards information on the State's progress with respect to—

''(i) subject to paragraph (2), improving student academic achievement, as defined by the State;

''(ii) closing academic achievement gaps, as defined by the State, between groups described in paragraph (2)(A)(i); and

''(iii) increasing the percentage of classes in core academic subjects that are taught by highly qualified teachers; or

''(B) in the event the State provides no such report card, shall publicly report the information described in subparagraph (A) through other means.

''(2) DISAGGREGATED DATA.—The information described in clauses (i) and (ii) of paragraph (1)(A) and clauses (i) and (ii) of section 2014(b)(2)(A) shall be—

''(A) disaggregated—

''(i) by minority and non-minority group and by low-income and non-low-income group; and

''(ii) using assessments under section 1111(b)(3); and

''(B) publicly reported in the form of disaggregated data only when such data are statistically sound.

''(3) PUBLIC AVAILABILITY.—Such information shall be made widely available to the public, including parents and students, through major print and broadcast media outlets throughout the State.

**''SEC. 2014. APPLICATIONS BY STATES.**

''(a) IN GENERAL.—To be eligible to receive a grant under this subpart, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

''(b) CONTENTS.—Each application submitted under this section shall include the following:

''(1) A description of how the State will ensure that a local educational agency receiving a subgrant to carry out subpart 3 will comply with the requirements of such subpart.

''(2)(A) A description of the performance indicators that the State will use to measure the annual progress of the local educational agencies and schools in the State with respect to—

''(i) subject to section 2013(c)(2), improving student academic achievement, as defined by the State;

''(ii) closing academic achievement gaps, as defined by the State, between groups described in section 2013(c)(2)(A)(i); and

''(iii) increasing the percentage of classes in core academic subjects that are taught by highly qualified teachers.

''(B) An assurance that the State will require each local educational agency and school in the State receiving funds under this part to publicly report information on the agency's or school's annual progress, as measured by the performance indicators.

''(3) A description of how the State will hold the local educational agencies and schools accountable for making annual gains toward meeting the performance indicators described in paragraph (2).

''(4)(A) A description of how the State will coordinate professional development activities authorized under this part with professional development activities provided under other Federal, State, and local programs, including those authorized under title I, title III, title IV, part A of title VII, and (where applicable) the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) and the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.).

''(B) A description of the comprehensive strategy that the State will use as part of the effort to carry out the coordination, to ensure that teachers are trained in the utilization of technology so that technology and technology applications are effectively used in the classroom to improve teaching and learning in all curriculum areas and academic subjects, as appropriate.

''(5) A description of how the State will encourage the development of proven, innovative strategies to deliver intensive professional development programs that are both cost-effective and easily accessible, such as through the use of technology and distance learning.

''(c) APPLICATION SUBMISSION.—A State application submitted to the Secretary under this section shall be approved by the Secretary unless the Secretary makes a written determination, within 90 days after receiving the application, that the application is in violation of the provisions of this Act.

**''Subpart 2—Subgrants to Eligible Partnerships**

**''SEC. 2021. PARTNERSHIP GRANTS.**

''(a) IN GENERAL.—From the amount described in section 2012(c)(2)(C), the State agency for higher education, working in conjunction with the State educational agency (if such agencies are separate), shall award subgrants on a competitive basis under section 2012(c) to eligible partnerships to enable such partnerships to carry out activities described in subsection (b). Such subgrants shall be equitably distributed by geographic area within the State.

''(b) USE OF FUNDS.—An eligible partnership that receives funds under section 2012 shall use the funds for—

''(1) professional development activities in core academic subjects to ensure that teachers have content knowledge in the academic subjects that the teachers teach; and

''(2) developing and providing assistance to local educational agencies and the teachers, principals, and administrators of public and private schools served by each such agency,

for sustained, high-quality professional development activities that—

''(A) ensure the agencies and individuals are able to use State content standards, performance standards, and assessments to improve instructional practices and improve student achievement; and

''(B) may include intensive programs designed to prepare teachers who will return to a school to provide such instruction to other teachers within such school.

''(c) SPECIAL RULE.—No single participant in an eligible partnership may use more than 50 percent of the funds made available to the partnership under section 2012.

''(d) COORDINATION.—An eligible partnership that receives a grant to carry out this subpart and a grant under section 203 of the Higher Education Act of 1965 (20 U.S.C. 1023) shall coordinate the activities carried out under this section and the activities carried out under that section 203.

''(e) ELIGIBLE PARTNERSHIP.—In this section, the term 'eligible partnership' means an entity that—

''(1) shall include—

''(A) a high-need local educational agency;

''(B) a school of arts and sciences; and

''(C) an institution that prepares teachers; and

''(2) may include other local educational agencies, a public charter school, a public or private elementary school or secondary school, an educational service agency, a public or private nonprofit educational organization, or a business.

**''Subpart 3—Subgrants to Local Educational Agencies**

**''SEC. 2031. LOCAL USE OF FUNDS.**

''(a) REQUIRED ACTIVITIES.—

''(1) IN GENERAL.—Each local educational agency that receives a subgrant to carry out this subpart shall use the subgrant to carry out the activities described in this subsection.

''(2) REQUIRED PROFESSIONAL DEVELOPMENT ACTIVITIES.—

''(A) MATHEMATICS AND SCIENCE.—

''(i) IN GENERAL.—Each local educational agency that receives a subgrant to carry out this subpart shall use a portion of the funds made available through the subgrant for professional development activities in mathematics and science in accordance with section 2032.

''(ii) GRANDFATHER OF OLD WAIVERS.—A waiver provided to a local educational agency under part D of title XIV prior to the date of enactment of the Teacher Empowerment Act shall be deemed to be in effect until such time as the waiver otherwise would have ceased to be effective.

''(B) PROFESSIONAL DEVELOPMENT ACTIVITIES.—Each local educational agency that receives a subgrant to carry out this subpart shall use a portion of the funds made available through the subgrant for professional development activities that give teachers, principals, and administrators the knowledge and skills to provide students with the opportunity to meet challenging State or local content standards and student performance standards. Such activities shall be consistent with section 2032.

''(b) ALLOWABLE ACTIVITIES.—Each local educational agency that receives a subgrant to carry out this subpart may use the funds made available through the subgrant to carry out the following activities:

''(1) Recruiting and hiring certified or licensed teachers, including teachers certified through State and local alternative routes, in order to reduce class size, or hiring special education teachers.

''(2) Initiatives to assist in recruitment of highly qualified teachers who will be assigned teaching positions within their fields, including—

''(A) providing signing bonuses or other financial incentives, such as differential pay, for teachers to teach in academic subjects in which there exists a shortage of such teachers within a school or the area served by the local educational agency;

''(B) establishing programs that—

''(i) recruit professionals from other fields and provide such professionals with alternative routes to teacher certification; and

''(ii) provide increased opportunities for minorities, individuals with disabilities, and other individuals underrepresented in the teaching profession; and

''(C) implementing hiring policies that ensure comprehensive recruitment efforts as a way to expand the applicant pool of teachers, such as identifying teachers certified through alternative routes, and by implementing a system of intensive screening designed to hire the most qualified applicants.

''(3) Initiatives to promote retention of highly qualified teachers and principals, including—

''(A) programs that provide mentoring to newly hired teachers, such as mentoring from master teachers, and to newly hired principals; and

''(B) programs that provide other incentives, including financial incentives, to retain teachers who have a record of success in helping low-achieving students improve their academic success.

''(4) Programs and activities that are designed to improve the quality of the teacher force, such as—

''(A) innovative professional development programs (which may be through partnerships including institutions of higher education), including programs that train teachers to utilize technology to improve teaching and learning, that are consistent with the requirements of section 2032;

''(B) development and utilization of proven, cost-effective strategies for the implementation of professional development activities, such as through the utilization of technology and distance learning;

''(C) professional development programs that provide instruction in how to teach children with different learning styles, particularly children with disabilities and children with special learning needs (including children who are gifted and talented); and

''(D) professional development programs that provide instruction in how best to discipline children in the classroom and identify early and appropriate interventions to help children described in subparagraph (C) to learn.

''(5) Programs and activities related to—

''(A) tenure reform;

''(B) provision of merit pay; and

''(C) testing of elementary school and secondary school teachers in the academic subjects taught by such teachers.

''(6) Activities that provide teacher opportunity payments, consistent with section 2033.

**''SEC. 2032. PROFESSIONAL DEVELOPMENT FOR TEACHERS.**

''(a) LIMITATION RELATING TO CURRICULUM AND ACADEMIC SUBJECTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), funds made available to carry out this subpart may not be provided for a teacher and a professional development activity if the activity is not—

''(A) directly related to the curriculum and academic subjects in which the teacher provides instruction; or

''(B) designed to enhance the ability of the teacher to understand and use State standards for the academic subjects in which the teacher provides instruction.

''(2) EXCEPTION.—Paragraph (1) shall not be construed to prohibit the use of the funds for professional development activities that provide instruction described in subparagraphs (C) and (D) of section 2031(b)(4).

''(b) OTHER REQUIREMENTS.—Professional development activities provided under this subpart—

''(1) shall be measured, in terms of progress, using the specific performance indicators established by the State involved in accordance with section 2014(b)(2);

''(2) shall be tied to challenging State or local content standards and student performance standards;

''(3) shall be tied to scientifically based research demonstrating the effectiveness of the activities in increasing student achievement or substantially increasing the knowledge and teaching skills of the teachers participating in the activities;

''(4) shall be of sufficient intensity and duration to have a positive and lasting impact on the performance of a teacher in the classroom (which shall not include 1-day or short-term workshops and conferences), except that this paragraph shall not apply to an activity if such activity is 1 component described in a long-term comprehensive professional development plan established by the teacher and the teacher's supervisor based upon an assessment of the needs of the teacher, the students of the teacher, and the local educational agency involved; and

''(5) shall be developed with extensive participation of teachers, principals, and administrators of schools to be served under this part.

''(c) ACCOUNTABILITY AND REQUIRED PAYMENTS.—

''(1) IN GENERAL.—A State shall notify a local educational agency that the agency may be subject to the requirement of paragraph (3) if, after any fiscal year, the State determines that the professional development activities funded by the agency under this subpart fail to meet the requirements of subsections (a) and (b).

''(2) TECHNICAL ASSISTANCE.—A local educational agency that has received notification pursuant to paragraph (1) may request technical assistance from the State in order to provide the opportunity for such local educational agency to comply with the requirements of subsections (a) and (b).

''(3) REQUIREMENT TO PROVIDE TEACHER OPPORTUNITY PAYMENTS.—

''(A) IN GENERAL.—A local educational agency that has received notification from the State pursuant to paragraph (1) during any 2 consecutive fiscal years shall expend under section 2033 for the succeeding fiscal year a proportion of the funds made available to the agency to carry out this subpart equal to the proportion of such funds expended by the agency for professional development activities for the second fiscal year in which the agency received the notification.

''(B) REQUESTS.—On request by a group of teachers in schools served by the local educational agency, the agency shall use a portion of the funds provided to the agency to carry out this subpart, to provide payments in accordance with section 2033.

''(d) DEFINITION.—In this section, the term 'professional development activity' means an activity described in subsection (a)(2) or (b)(4) of section 2031.

**''SEC. 2033. TEACHER OPPORTUNITY PAYMENTS.**

''(a) IN GENERAL.—A local educational agency receiving funds to carry out this subpart may (or in the case of section 2032(c)(3), shall) provide payments directly to a teacher or a group of teachers seeking opportunities to participate in a professional development activity of their choice.

''(b) NOTICE TO TEACHERS.—Each local educational agency distributing payments under this section—

''(1) shall establish and implement a timely process through which proper notice of availability of the payments will be given to all teachers in schools served by the agency; and

''(2) shall develop a process through which teachers will be specifically recommended by principals to participate in such opportunities by virtue of—

''(A) the teachers' lack of full certification or licensing to teach the academic subjects in which the teachers teach; or

''(B) the teachers' need for additional assistance to ensure that their students make progress toward meeting challenging State content standards and student performance standards.

''(c) SELECTION OF TEACHERS.—In the event adequate funding is not available to provide payments under this section to all teachers seeking such payments, or recommended under subsection (b)(2), a local educational agency shall establish procedures for selecting teachers for the payments, which shall provide priority for those teachers recommended under subsection (b)(2).

''(d) ELIGIBLE ACTIVITY.—A teacher receiving a payment under this section shall have the choice of attending any professional development activity that meets the criteria set forth in subsections (a) and (b) of section 2032.

**''SEC. 2034. LOCAL APPLICATIONS.**

''(a) IN GENERAL.—A local educational agency seeking to receive a subgrant from a State to carry out this subpart shall submit an application to the State—

''(1) at such time as the State shall require; and

''(2) that is coordinated with other programs carried out under this Act (other than programs carried out under this subpart).

''(b) LOCAL APPLICATION CONTENTS.—The local application described in subsection (a) shall include, at a minimum, the following:

''(1) A description of how the local educational agency intends to use funds provided to carry out this subpart.

''(2) An assurance that the local educational agency will target funds to schools served by the local educational agency that—

''(A) have the lowest proportions of highly qualified teachers; or

''(B) are identified for school improvement under section 1116(c).

''(3) A description of how the local educational agency will coordinate professional development activities authorized under this subpart with professional development activities provided through other Federal, State, and local programs, including those authorized under title I, title III, title IV, part A of title VII, and (where applicable) the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) and the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.).

''(4) A description of how the local educational agency will integrate funds received to carry out this subpart with funds received under title III that are used for professional development to train teachers in how to use technology to improve learning and teaching.

''(5) A description of how the local educational agency has collaborated with teachers, principals, parents, and administrators in the preparation of the application.

''(c) PARENTS' RIGHT-TO-KNOW.—A local educational agency that receives funds to carry out this subpart shall provide, upon request and in an understandable and uniform format, to any parent of a student attending any school receiving funds under this subpart from the agency, information regarding the professional qualifications of the student's classroom teachers, including, at a minimum, whether the teachers are highly qualified.

**''Subpart 4—National Activities**

**''SEC. 2041. ALTERNATIVE ROUTES TO TEACHING.**

''(a) TEACHER EXCELLENCE ACADEMIES.—The Secretary may award grants on a competitive basis to eligible consortia to carry out activities described in this section.

''(b) USE OF FUNDS.—

''(1) IN GENERAL.—An eligible consortium receiving funds under this section shall use the funds to pay the costs associated with the establishment or expansion of a teacher academy, in an elementary school or secondary school facility, that carries out—

''(A) the activities promoting alternative routes to State teacher certification specified in paragraph (2); or

''(B) the model professional development activities specified in paragraph (3).

''(2) PROMOTING ALTERNATIVE ROUTES TO TEACHER CERTIFICATION.—The activities promoting alternative routes to State teacher certification specified in this paragraph are the design and implementation of a course of study and activities providing an alternative route to State teacher certification that—

''(A) provide opportunities to highly qualified individuals with a baccalaureate degree, including mid-career professionals from other occupations, paraprofessionals, former military personnel, and recent college or university graduates with records of academic distinction;

''(B) provide stipends, for not more than 2 years, to permit individuals described in subparagraph (A) to participate as student teachers able to fill teaching needs in academic subjects in which there is a demonstrated shortage of teachers;

''(C) provide for the recruitment and hiring of master teachers to mentor and train student teachers within such academies; and

''(D) include a reasonable service requirement for individuals completing the course of study and alternative certification activities established by the eligible consortium.

''(3) MODEL PROFESSIONAL DEVELOPMENT.—The model professional development activities specified in this paragraph are activities providing ongoing professional development opportunities for teachers, such as—

''(A) innovative programs and model curricula in the area of professional development, which may serve as models to be disseminated to other schools and local educational agencies; and

''(B) the development of innovative techniques for evaluating the effectiveness of professional development programs.

''(c) GRANT FOR SPECIAL CONSORTIUM.—In making grants under this section, the Secretary shall award not less than 1 grant to an eligible consortium that—

''(1) includes a high-need local educational agency located in a rural area; and

''(2) proposes activities that involve the extensive use of distance learning in order to provide the applicable course work to student teachers.

''(d) SPECIAL RULE.—No single participant in an eligible consortium may use more than 50 percent of the funds made available to the consortium under this section.

''(e) APPLICATION.—To be eligible to receive a grant under this section, an eligible consortium shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

''(f) ELIGIBLE CONSORTIUM.—In this section, the term 'eligible consortium' means a consortium for a State that—

''(1) shall include—

''(A) the State agency responsible for certifying or licensing teachers;

''(B) not less than 1 high-need local educational agency;

''(C) a school of arts and sciences; and

''(D) an institution that prepares teachers; and

''(2) may include local educational agencies, public charter schools, public or private elementary schools or secondary schools, educational service agencies, public or private nonprofit educational organizations, museums, or businesses.

**''SEC. 2042. EISENHOWER NATIONAL CLEARINGHOUSE FOR MATHEMATICS AND SCIENCE EDUCATION.**

''The Secretary may award a grant or contract, in consultation with the Director of the National Science Foundation, to an entity to continue the Eisenhower National Clearinghouse for Mathematics and Science Education.

**''Subpart 5—Funding**

**''SEC. 2051. AUTHORIZATION OF APPROPRIATIONS.**

''(a) FISCAL YEAR 2000.—There are authorized to be appropriated to carry out this part $1,558,000,000 for fiscal year 2000, of which $15,000,000 shall be available to carry out subpart 4.

''(b) OTHER FISCAL YEARS.—There are authorized to be appropriated to carry out this part such sums as may be necessary for fiscal years 2001 through 2004.

**''Subpart 6—General Provisions**

**''SEC. 2061. DEFINITIONS.**

''In this part:

''(1) ARTS AND SCIENCES.—The term 'arts and sciences' has the meaning given the term in section 201(b) of the Higher Education Act of 1965 (20 U.S.C. 1021(b)).

''(2) HIGHLY QUALIFIED.—The term 'highly qualified' means—

''(A) with respect to an elementary school teacher, a teacher—

''(i) with an academic major in the arts and sciences; or

''(ii) who can demonstrate competence through a high level of performance in core academic subjects; and

''(B) with respect to a secondary school teacher, a teacher—

''(i) with an academic major in the academic subject in which the teacher teaches or in a related field;

''(ii) who can demonstrate a high level of competence through rigorous academic subject tests; or

''(iii) who can demonstrate competence through a high level of performance in relevant content areas.

''(3) HIGH-NEED LOCAL EDUCATIONAL AGENCY.—The term 'high-need local educational agency' means a local educational agency that serves an elementary school or secondary school located in an area in which there is—

''(A) a high percentage of individuals from families with incomes below the poverty line;

''(B) a high percentage of secondary school teachers not teaching in the academic subject in which the teachers were trained to teach; or

''(C) a high teacher turnover rate.

''(4) OUT-OF-FIELD TEACHER.—The term 'out-of-field teacher' means a teacher—

''(A) teaching an academic subject for which the teacher is not highly qualified, as determined by the State involved; or

''(B) who did not receive a degree from an institution of higher education with a major or minor in the field in which the teacher teaches.

''(5) POVERTY LINE.—The term 'poverty line' means the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block

Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved.

''(6) SCIENTIFICALLY BASED RESEARCH.—The term 'scientifically based research'—

''(A) means the application of rigorous, systematic, and objective procedures to obtain valid knowledge relevant to professional development of teachers; and

''(B) includes research that—

''(i) employs systematic, empirical methods that draw on observation or experiment;

''(ii) involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;

''(iii) relies on measurements or observational methods that provide valid data across evaluators and observers and across multiple measurements and observations; and

''(iv) has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.''.

(b) CONFORMING AMENDMENT.—Section 13302(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8672(1)) is amended by striking ''2102(b)'' and inserting ''2042''.

**SEC. ___03. GENERAL PROVISIONS.**

(a) IN GENERAL.—Title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6601 et seq.) is amended—

(1) by repealing part D;

(2) by redesignating part E as part C; and

(3) by repealing sections 2401 and 2402 and inserting the following:

**''SEC. 2401. PROHIBITION ON MANDATORY NATIONAL CERTIFICATION OR LICENSING OF TEACHERS.**

''(a) PROHIBITION ON MANDATORY TESTING, CERTIFICATION, OR LICENSING.—Notwithstanding any other provision of law, the Secretary may not use Federal funds to plan, develop, implement, or administer any mandatory national teacher test or method of certification or licensing.

''(b) PROHIBITION ON WITHHOLDING FUNDS.—The Secretary may not withhold funds from any State or local educational agency if such State or local educational agency fails to adopt a specific method of teacher certification or licensing.

**''SEC. 2402. PROVISIONS RELATED TO PRIVATE SCHOOLS.**

''The provisions of sections 14503 through 14506 apply to programs carried out under this title.

**''SEC. 2403. HOME SCHOOLS.**

''Nothing in this title shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home school, whether a home school is treated as a private school or home school under the law of the State involved, except that the Secretary may require that funds provided to a school under this title be used for the purposes described in this title. This section shall not be construed to bar private, religious, or home schools from participating in or receiving programs or services under this title.''.

(b) CONFORMING AMENDMENTS.—

(1) COORDINATION.—Section 1202(c)(2)(C) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6362(c)(2)(C)) is amended, in the subparagraph heading, by striking ''PART C'' and inserting ''PART B''.

(2) DEFINITION OF COVERED PROGRAM.—Section 14101(10)(C) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801(10)(C)) is amended by striking ''(other than section 2103 and part D)''.

(3) PRIVATE SCHOOL PARTICIPATION.—Section 14503(b)(1)(B) (20 U.S.C. 8893(b)(1)(B)) of such Act is amended by striking ''(other than section 2103 and part D of such title)''.

**TITLE ___—TEACHER LIABILITY PROTECTION**

**SEC. ___01. SHORT TITLE.**

This title may be cited as the ''Teacher Liability Protection Act of 1999''.

**SEC. ___02. FINDINGS AND PURPOSE.**

(a) FINDINGS.—Congress makes the following findings:

(1) The ability of teachers, principals and other school professionals to teach, inspire and shape the intellect of our Nation's elementary and secondary school students is deterred and hindered by frivolous lawsuits and litigation.

(2) Each year more and more teachers, principals and other school professionals face lawsuits for actions undertaken as part of their duties to provide millions of school children quality educational opportunities.

(3) Too many teachers, principals and other school professionals face increasingly severe and random acts of violence in the classroom and in schools.

(4) Providing teachers, principals and other school professionals a safe and secure environment is an important part of the effort to improve and expand educational opportunities.

(5) Clarifying and limiting the liability of teachers, principals and other school professionals who undertake reasonable actions to maintain order, discipline and an appropriate educational environment is an appropriate subject of Federal legislation because—

(A) the national scope of the problems created by the legitimate fears of teachers, principals and other school professionals about frivolous, arbitrary or capricious lawsuits against teachers; and

(B) millions of children and their families across the Nation depend on teachers, principals and other school professionals for the intellectual development of the children.

(b) PURPOSE.—The purpose of this title is to provide teachers, principals and other school professionals the tools they need to undertake reasonable actions to maintain order, discipline and an appropriate educational environment.

**SEC. ___03. PREEMPTION AND ELECTION OF STATE NONAPPLICABILITY.**

(a) PREEMPTION.—This title preempts the laws of any State to the extent that such laws are inconsistent with this title, except that this title shall not preempt any State law that provides additional protection from liability relating to teachers.

(b) ELECTION OF STATE REGARDING NONAPPLICABILITY.—This title shall not apply to any civil action in a State court against a teacher in which all parties are citizens of the State if such State enacts a statute in accordance with State requirements for enacting legislation—

(1) citing the authority of this subsection;

(2) declaring the election of such State that this title shall not apply, as of a date certain, to such civil action in the State; and

(3) containing no other provisions.

**SEC. ___04. LIMITATION ON LIABILITY FOR TEACHERS.**

(a) LIABILITY PROTECTION FOR TEACHERS.—Except as provided in subsections (b) and (c), no teacher in a school shall be liable for harm caused by an act or omission of the teacher on behalf of the school if—

(1) the teacher was acting within the scope of the teacher's employment or responsibilities related to providing educational services;

(2) the actions of the teacher were carried out in conformity with State or Federal laws rules or regulations in furtherance of efforts to control, discipline, expel, or suspend a student or maintain order or control in the classroom or school;

(3) if appropriate or required, the teacher was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice in the State in which the harm occurred, where the activities were or practice was undertaken within the scope of the teacher's responsibilities;

(4) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the teacher; and

(5) the harm was not caused by the teacher operating a motor vehicle, vessel, aircraft, or other vehicle for which the State requires the operator or the owner of the vehicle, craft, or vessel to—

(A) possess an operator's license; or

(B) maintain insurance.

(b) CONCERNING RESPONSIBILITY OF TEACHERS TO SCHOOLS AND GOVERNMENTAL ENTITIES.—Nothing in this section shall be construed to affect any civil action brought by any school or any governmental entity against any teacher of such school.

(c) EXCEPTIONS TO TEACHER LIABILITY PROTECTION.—If the laws of a State limit teacher liability subject to one or more of the following conditions, such conditions shall not be construed as inconsistent with this section:

(1) A State law that requires a school or governmental entity to adhere to risk management procedures, including mandatory training of teachers.

(2) A State law that makes the school or governmental entity liable for the acts or omissions of its teachers to the same extent as an employer is liable for the acts or omissions of its employees.

(3) A State law that makes a limitation of liability inapplicable if the civil action was brought by an officer of a State or local government pursuant to State or local law.

(d) LIMITATION ON PUNITIVE DAMAGES BASED ON THE ACTIONS OF TEACHERS.—

(1) GENERAL RULE.—Punitive damages may not be awarded against a teacher in an action brought for harm based on the action of a teacher acting within the scope of the teacher's responsibilities to a school or governmental entity unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an action of such teacher which constitutes willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.

(2) CONSTRUCTION.—Paragraph (1) does not create a cause of action for punitive damages and does not preempt or supersede any Federal or State law to the extent that such law would further limit the award of punitive damages.

(e) EXCEPTIONS TO LIMITATIONS ON LIABILITY.—

(1) IN GENERAL.—The limitations on the liability of a teacher under this title shall not apply to any misconduct that—

(A) constitutes a crime of violence (as that term is defined in section 16 of title 18, United States Code) or act of international terrorism (as that term is defined in section 2331 of title 18, United States Code) for which the defendant has been convicted in any court;

(B) involves a sexual offense as defined by applicable State law, for which the defendant had been convicted in any court;

(C) involves misconduct for which the defendant has been found to have violated a Federal or State Civil rights law; or

(D) where the defendant was under the influence (as determined pursuant to applicable State law) of intoxicating alcohol or any drug at the time of the misconduct.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to affect subsection (a)(3) or (d).

**SEC. ___05. LIABILITY FOR NONECONOMIC LOSS.**

(a) GENERAL RULE.—In any civil action against a teacher, based on an action of a teacher acting within the scope of the teacher's responsibilities to a school or governmental entity, the liability of the teacher for noneconomic loss shall be determined in accordance with subsection (b).

(b) AMOUNT OF LIABILITY.—

(1) IN GENERAL.—Each defendant who is a teacher, shall be liable only for the amount of noneconomic loss allocated to that defendant in direct proportion to the percentage of responsibility of that defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which that defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

(2) PERCENTAGE OF RESPONSIBILITY.—For purposes of determining the amount of noneconomic loss allocated to a defendant who is a teacher under this section, the trier of fact shall determine the percentage of responsibility of that defendant for the claimant's harm.

**SEC. ___06. DEFINITIONS.**

For purposes of this title:

(1) ECONOMIC LOSS.—The term ''economic loss'' means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

(2) HARM.—The term ''harm'' includes physical, nonphysical, economic, and noneconomic losses.

(3) NONECONOMIC LOSSES.—The term ''noneconomic losses'' means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation and all other nonpecuniary losses of any kind or nature.

(4) SCHOOL.—The term ''school'' means a public or private kindergarten, a public or private elementary school or secondary school (as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)), or a home school.

(5) STATE.—The term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

(6) TEACHER.—The term ''teacher'' means a teacher, instructor, principal, administrator, or other educational professional, that works in a school.

**SEC. ___07. EFFECTIVE DATE.**

(a) IN GENERAL.—This title shall take effect 90 days after the date of enactment of this Act.

(b) APPLICATION.—This title applies to any claim for harm caused by an act or omission of a teacher where that claim is filed on or after the effective date of this Act, without regard to whether the harm that is the subject of the claim or the conduct that caused the harm occurred before such effective date.

**TITLE ___—FULL TAX DEDUCTION FOR CERTAIN PROFESSIONAL EXPENSES**

**SEC. ___01. 2-PERCENT FLOOR ON MISCELLANEOUS ITEMIZED DEDUCTIONS NOT TO APPLY TO QUALIFIED PROFESSIONAL DEVELOPMENT EXPENSES AND QUALIFIED INCIDENTAL EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.**

(a) QUALIFIED PROFESSIONAL DEVELOPMENT EXPENSES DEDUCTION.—

(1) IN GENERAL.—Section 67(b) of the Internal Revenue Code of 1986 (defining miscellaneous itemized deductions) is amended by striking ''and'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting '', and'', and by adding at the end the following new paragraph:

''(13) any deduction allowable for the qualified professional development expenses of an eligible teacher.''.

(2) DEFINITIONS.—Section 67 of such Code (relating to 2-percent floor on miscellaneous itemized deductions) is amended by adding at the end the following new subsection:

''(g) QUALIFIED PROFESSIONAL DEVELOPMENT EXPENSES OF ELIGIBLE TEACHERS.—For purposes of subsection (b)(13)—

''(1) QUALIFIED PROFESSIONAL DEVELOPMENT EXPENSES.—

''(A) IN GENERAL.—The term 'qualified professional development expenses' means expenses—

''(i) for tuition, fees, books, supplies, equipment, and transportation required for the enrollment or attendance of an individual in a qualified course of instruction, and

''(ii) with respect to which a deduction is allowable under section 162 (determined without regard to this section).

''(B) QUALIFIED COURSE OF INSTRUCTION.—The term 'qualified course of instruction' means a course of instruction which—

''(i) is—

''(I) at an institution of higher education (as defined in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this subsection), or

''(II) a professional conference, and

''(ii) is part of a program of professional development which is approved and certified by the appropriate local educational agency as furthering the individual's teaching skills.

''(C) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' has the meaning given such term by section 14101 of the Elementary and Secondary Education Act of 1965, as so in effect.

''(2) ELIGIBLE TEACHER.—

''(A) IN GENERAL.—The term 'eligible teacher' means an individual who is a kindergarten through grade 12 classroom teacher, instructor, counselor, aide, or principal in an elementary or secondary school.

''(B) ELEMENTARY OR SECONDARY SCHOOL.—The terms 'elementary school' and 'secondary school' have the meanings given such terms by section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801), as so in effect.''.

(3) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

(b) QUALIFIED INCIDENTAL EXPENSES.—

(1) IN GENERAL.—Section 67(g)(1)(A) of the Internal Revenue Code of 1986, as added by subsection (a)(2), is amended by striking ''and'' at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

''(ii) for qualified incidental expenses, and''.

(2) DEFINITION.—Section 67(g) of such Code, as added by subsection (a)(2), is amended by adding at the end the following new paragraph:

''(3) QUALIFIED INCIDENTAL EXPENSES.—

''(A) IN GENERAL.—The term 'qualified incidental expenses' means expenses paid or incurred by an eligible teacher in an amount not to exceed $125 for any taxable year for books, supplies, and equipment related to instruction, teaching, or other educational job-related activities of such eligible teacher.

''(B) SPECIAL RULE FOR HOMESCHOOLING.—Such term shall include expenses described in subparagraph (A) in connection with education provided by homeschooling if the requirements of any applicable State or local law are met with respect to such education.''.

(3) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

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## FEINGOLD (AND SPECTER) AMENDMENTS NOS. 2743–2744

(Ordered to lie on the table.)

Mr. FEINGOLD (for himself and Mr. SPECTER) submitted two amendments intended to be proposed by them to the bill, S. 625, supra; as follows:

AMENDMENT NO. 2743

On page 12, strike line 22 and insert ''frivolous.''.

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AMENDMENT NO. 2744

On page 145, between lines 15 and 16, insert the following:

**SEC. 420. 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 parties'' and inserting ''Subject to subsection (f), the parties''; and

(2) by adding at the end the following:

''(f)(1) The Judicial Conference of the United States shall prescribe procedures for waiving fees under this subsection.

''(2) Under the procedures described in paragraph (1), the district court or the bankruptcy court may waive a filing fee described in paragraph (3) for a case commenced under chapter 7 of title 11 if the court determines that an individual debtor whose income is less than 125 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 is unable to pay that fee in installments.

''(3) A filing fee referred to in paragraph (2) is—

''(A) a filing fee under subsection (a)(1); or

''(B) any other fee prescribed by the Judicial Conference of the United States under subsection (b) that is payable to the clerk of the district court or the clerk of the bankruptcy court upon the commencement of a case under chapter 7 of title 11.

''(4) In addition to waiving a fee under paragraph (2), the district court or the bankruptcy court may waive any other fee prescribed under subsection (b) or (c) if the court determines that the individual with an income at a level described in paragraph (2) is unable to pay that fee in installments.''.

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## FEINGOLD AMENDMENTS NOS. 2745–2750

(Ordered to lie on the table.)

Mr. FEINGOLD submitted six amendments intended to be proposed by him to the bill, S. 625, supra; as follows:

AMENDMENT NO. 2745

At the end of title X, insert the following:

**SEC. ___. 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.''.

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AMENDMENT NO. 2746

At the appropriate place in the bill, insert the following:

**SEC. ___. DEFINITION OF FAMILY FARMER.**

Section 101(18) of title 11, United States Code, is amended—

(1) in subparagraph (A) by—

(A) striking ''$1,500,000'' and inserting ''$3,000,000''; and

(B) striking ''80'' and inserting ''50''; and

(2) in subparagraph (B)(ii) by—

(A) striking ''$1,500,000'' and inserting ''$3,000,000''; and

(B) striking ''80'' and inserting ''50''.

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AMENDMENT NO. 2747

At the appropriate place in title XI, insert the following:

**SEC. 11___. CONSUMER CREDIT TRANSACTIONS.**

(a) DEFINITION.—Section 1 of title 9, United States Code, is amended—

(1) in the section heading, by striking ''**and 'commerce' defined**'' and inserting ''**, 'commerce', 'consumer credit transaction', and 'consumer credit contract' defined**''; and

(2) by inserting before the period at the end the following: ''; 'consumer credit transaction', as herein defined, means the right granted to a natural person to incur debt and defer its payment, where the credit is intended primarily for personal, family, or household purposes; and 'consumer credit contract', as herein defined, means any contract between the parties to a consumer credit transaction.''.

(b) AGREEMENTS TO ARBITRATE.—Section 2 of title 9, United States Code, is amended by adding at the end the following: ''Notwithstanding the preceding sentence, a written provision in any consumer credit contract evidencing a transaction involving commerce to settle by arbitration a controversy thereafter arising out of the contract, or the refusal to perform the whole or any part thereof, shall not be valid or enforceable. Nothing in this section shall prohibit the enforcement of any written agreement to settle by arbitration a controversy arising out of a consumer credit contract, if such written agreement has been entered into by the parties to the consumer credit contract after the controversy has arisen.''.

AMENDMENT NO. 2748

On page 108, line 15, strike ''; and'' and insert a semicolon.

Beginning on page 108, strike line 18 and all that follows through page 109, line 7, and insert 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 involving residential real property—

''(A) on which the debtor resides as a tenant under a rental agreement; and

''(B) with respect to which—

''(i) the debtor fails to make a rent payment that initially becomes due under the rental agreement or applicable State law after 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 to the debtor; or

''(ii) the debtor's lease has expired according to its terms and the lessor intends to personally occupy that property, if the lessor files with the court a certification of such facts and serves a copy of the certification to 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 involving residential real property, if during the 1-year period preceding the filing of the petition, the debtor—

''(A) commenced another case under this title; and

''(B) failed to make a rent payment that initially became due under an applicable rental agreement or State law after the date of filing of the petition for that other case; or

''(25) under subsection (a)(3), of an eviction action based on endangerment of property or the use of an illegal drug, if the lessor files with the court a certification that the debtor has endangered property or used an illegal drug and serves a copy of the certification to the debtor.''; and

(4) 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 that paragraph, the exception to the automatic stay shall become effective on the 15th day after the lessor meets the filing and notification requirements under that paragraph, unless the debtor takes such action as may be necessary to address the subject of the certification or the court orders that the exception to the automatic stay shall not become effective or provides for a later date of applicability.''.

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AMENDMENT NO. 2749

At the appropriate place, insert the following:

**SEC. ___. NO BANKRUPTCY FOR INSOLVENT POLITICAL COMMITTEES.**

Section 105 of title 11, United States Code, is amended by inserting 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.''.

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AMENDMENT NO. 2750

At the appropriate place, insert the following:

**SEC. ___. 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) the following:

''(14B) fines or penalties imposed under Federal election law;''.

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## KENNEDY AMENDMENT NO. 2751

(Ordered to lie on the table.)

Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill, S. 625, supra; as follows:

On page 294 of the bill, line 24, strike ''Act.'' and insert the following: ''Act.

**TITLE ____—INCREASE IN THE FEDERAL MINIMUM WAGE**

**SEC. ___01. FAIR MINIMUM WAGE.**

(a) SHORT TITLE.—This section may be cited as the ''Fair Minimum Wage Act of 1999''.

(b) MINIMUM WAGE INCREASE.—

(1) WAGE.—Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

''(1) except as otherwise provided in this section, not less than—

''(A) $5.65 an hour during the year beginning on January 1, 2000; and

''(B) $6.15 an hour beginning on January 1, 2001;''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) takes effect on January 1, 2000.

(c) APPLICABILITY OF MINIMUM WAGE TO THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.—The provisions of section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) shall apply to the Commonwealth of the Northern Mariana Islands.

**SEC. ___02. LIMITATION ON LOCATION OF PROVISION OF SERVICES.**

(a) IN GENERAL.—Section 1861(ff)(2) of the Social Security Act (42 U.S.C. 1395x(ff)(2)) is amended in the matter following subparagraph (I)—

(1) by striking ''and furnished'' and inserting ''furnished''; and

(2) by inserting before the period the following: '', and furnished other than in a skilled nursing facility, residential treatment facility or other residential setting (as determined by the Secretary)''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply with respect to partial hospitalization services furnished on or after the first day of the third month beginning after the date of the enactment of this Act.

**SEC. ___03. QUALIFICATIONS FOR COMMUNITY MENTAL HEALTH CENTERS.**

(a) IN GENERAL.—Section 1861(ff)(3)(B) of the Social Security Act (42 U.S.C. 1395x(ff)(3)(B)) is amended by striking ''entity'' and all that follows and inserting the following: ''entity that—

''(i)(I) provides the mental health services described in section 1913(c)(1) of the Public Health Service Act; or

''(II) in the case of an entity operating in a State that by law precludes the entity from providing a service described in such section itself, provides for such service by contract with an approved organization or entity (as determined by the Secretary);

''(ii) meets applicable licensing or certification requirements for community mental health centers in the State in which it is located; and

''(iii) meets such additional conditions as the Secretary shall specify to ensure (I) the health and safety of individuals being furnished such services, (II) the effective and efficient furnishing of such services, and (III) the compliance of such entity with the criteria described in such section.''.

(b) CLARIFICATION OF CRITERIA FOR COMMUNITY MENTAL HEALTH CENTERS.—Section

1913(c)(1)(E) of the Public Health Service Act (42 U.S.C. 300x–3(c)(1)(E)) is amended to read as follows:

''(E) Determining the clinical appropriateness of admissions to inpatient psychiatric hospitals by engaging a full-time mental health professional who is licensed or certified to make such a determination by the State involved.''.

(c) EFFECTIVE DATE.—The amendments made by this section apply with respect to community mental health centers furnishing services under the medicare program on or after the first day of the third month beginning after the date of the enactment of this Act.

**SEC. ___04. GUIDELINES FOR ITEMS AND SERVICES COMPRISING PARTIAL HOSPITALIZATION SERVICES.**

Not later than 180 days after the date of the enactment of this Act, the Secretary shall first adopt national coverage and administrative policies for partial hospitalization services furnished under title XVIII of the Social Security Act, using a negotiated rulemaking process under subchapter III of chapter 5 of title 5, United States Code.

**SEC. ___05. REFINEMENT OF PERIODICITY OF REVIEW OF PLAN FOR PARTIAL HOSPITALIZATION SERVICES.**

(a) IN GENERAL.—Section 1835(a)(2)(F)(ii) of the Social Security Act (42 U.S.C. 1395n(a)(2)(F)(ii)) is amended by inserting ''at a reasonable rate (as determined by the Secretary)'' after ''is reviewed periodically''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to plans for furnishing partial hospitalization services established on or after the first day of the third month beginning after the date of the enactment of this Act.

**SEC. ___06. RECERTIFICATION OF PROVIDERS OF PARTIAL HOSPITALIZATION SERVICES.**

(a) IN GENERAL.—With respect to each community mental health center that furnishes partial hospitalization services for which payment is made under title XVIII of the Social Security Act, the Secretary of Health and Human Services shall provide for periodic recertification to ensure that the provision of such services complies with applicable requirements of such title.

(b) DEADLINE FOR FIRST RECERTIFICATION.—The first recertification under subsection (a) shall be completed not later than one year after the date of the enactment of this Act.

**SEC. ___07. CIVIL MONETARY PENALTIES FOR FALSE CERTIFICATION OF ELIGIBILITY FOR HOSPICE CARE OR PARTIAL HOSPITALIZATION SERVICES.**

(a) IN GENERAL.—Section 1128A(b)(3) of the Social Security Act (42 U.S.C. 1320a–7a(b)(3)) is amended—

(1) in subparagraph (A)(ii), by inserting '', hospice care, or partial hospitalization services'' after ''home health services''; and

(2) in subparagraph (B), by inserting '', section 1814(a)(7) in the case of hospice care, or section 1835(a)(2)(F) in the case of partial hospitalization services'' after ''in the case of home health services''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply with respect to certifications of eligibility for hospice care or partial hospitalization services under the medicare program made on or after the first day of the third month beginning after the date of the enactment of this Act.

## TITLE ___—SMALL BUSINESS TAX PROVISIONS

**SEC. ___00. SHORT TITLE; ETC.**

(a) SHORT TITLE.—This title may be cited as the ''Small Business Tax Reduction Act of 1999''.

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

### Subtitle A—Enabling Small Business to Provide Child Care, Health, and Retirement Benefits

**SEC. ___01. FULL DEDUCTION OF HEALTH INSURANCE COSTS FOR SELF-EMPLOYED INDIVIDUALS.**

(a) IN GENERAL.—Section 162(l)(1) (relating to allowance of deductions) is amended to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer and the taxpayer's spouse and dependents.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

**SEC. ___02. ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES FOR CHILD CARE ASSISTANCE.**

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following:

**''SEC. 45D. EMPLOYER-PROVIDED CHILD CARE CREDIT.**

''(a) IN GENERAL.—For purposes of section 38, the employer-provided child care credit determined under this section for the taxable year is an amount equal to 25 percent of the qualified child care expenditures of the taxpayer for such taxable year.

''(b) DOLLAR LIMITATION.—The credit allowable under subsection (a) for any taxable year shall not exceed $90,000.

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

''(1) QUALIFIED CHILD CARE EXPENDITURE.—The term 'qualified child care expenditure' means any amount paid or incurred—

''(A) to acquire, construct, rehabilitate, or expand property—

''(i) which is to be used as part of a qualified child care facility of the taxpayer,

''(ii) with respect to which a deduction for depreciation (or amortization in lieu of depreciation) is allowable, and

''(iii) which does not constitute part of the principal residence (within the meaning of section 121) of the taxpayer or any employee of the taxpayer,

''(B) for the operating costs of a qualified child care facility of the taxpayer, including costs related to the training of employees, to scholarship programs, and to the providing of increased compensation to employees with higher levels of child care training, or

''(C) under a contract with a qualified child care facility to provide child care services to employees of the taxpayer.

''(2) QUALIFIED CHILD CARE FACILITY.—

''(A) IN GENERAL.—The term 'qualified child care facility' means a facility—

''(i) the principal use of which is to provide child care assistance, and

''(ii) which meets the requirements of all applicable laws and regulations of the State or local government in which it is located, including, but not limited to, the licensing of the facility as a child care facility.

Clause (i) shall not apply to a facility which is the principal residence (within the meaning of section 121) of the operator of the facility.

''(B) SPECIAL RULES WITH RESPECT TO A TAXPAYER.—A facility shall not be treated as a qualified child care facility with respect to a taxpayer unless—

''(i) enrollment in the facility is open to employees of the taxpayer during the taxable year,

''(ii) the facility is not the principal trade or business of the taxpayer unless at least 30 percent of the enrollees of such facility are dependents of employees of the taxpayer, and

''(iii) the use of such facility (or the eligibility to use such facility) does not discriminate in favor of employees of the taxpayer who are highly compensated employees (within the meaning of section 414(q)).

''(d) RECAPTURE OF ACQUISITION AND CONSTRUCTION CREDIT.—

''(1) IN GENERAL.—If, as of the close of any taxable year, there is a recapture event with respect to any qualified child care facility of the taxpayer, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

''(A) the applicable recapture percentage, and

''(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the qualified child care expenditures of the taxpayer described in subsection (c)(1)(A) with respect to such facility had been zero.

''(2) APPLICABLE RECAPTURE PERCENTAGE.—

''(A) IN GENERAL.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

| **''If the recapture event occurs in:** | **The applicable recapture percentage is:** |
|---|---|
| Years 1–3 | 100 |
| Year 4 | 85 |
| Year 5 | 70 |
| Year 6 | 55 |
| Year 7 | 40 |
| Year 8 | 25 |
| Years 9 and 10 | 10 |
| Years 11 and thereafter | 0. |

''(B) YEARS.—For purposes of subparagraph (A), year 1 shall begin on the first day of the taxable year in which the qualified child care facility is placed in service by the taxpayer.

''(3) RECAPTURE EVENT DEFINED.—For purposes of this subsection, the term 'recapture event' means—

''(A) CESSATION OF OPERATION.—The cessation of the operation of the facility as a qualified child care facility.

''(B) CHANGE IN OWNERSHIP.—

''(i) IN GENERAL.—Except as provided in clause (ii), the disposition of a taxpayer's interest in a qualified child care facility with respect to which the credit described in subsection (a) was allowable.

''(ii) AGREEMENT TO ASSUME RECAPTURE LIABILITY.—Clause (i) shall not apply if the person acquiring such interest in the facility agrees in writing to assume the recapture liability of the person disposing of such interest in effect immediately before such disposition. In the event of such an assumption, the person acquiring the interest in the facility shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

''(4) SPECIAL RULES.—

''(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

''(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of

any credit under subpart A, B, or D of this part.

''(C) NO RECAPTURE BY REASON OF CASUALTY LOSS.—The increase in tax under this subsection shall not apply to a cessation of operation of the facility as a qualified child care facility by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

''(e) SPECIAL RULES.—For purposes of this section—

''(1) AGGREGATION RULES.—All persons which are treated as a single employer under subsections (a) and (b) of section 52 shall be treated as a single taxpayer.

''(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(3) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

''(f) NO DOUBLE BENEFIT.—

''(1) REDUCTION IN BASIS.—For purposes of this subtitle—

''(A) IN GENERAL.—If a credit is determined under this section with respect to any property by reason of expenditures described in subsection (c)(1)(A), the basis of such property shall be reduced by the amount of the credit so determined.

''(B) CERTAIN DISPOSITIONS.—If during any taxable year there is a recapture amount determined with respect to any property the basis of which was reduced under subparagraph (A), the basis of such property (immediately before the event resulting in such recapture) shall be increased by an amount equal to such recapture amount. For purposes of the preceding sentence, the term 'recapture amount' means any increase in tax (or adjustment in carrybacks or carryovers) determined under subsection (d).

''(2) OTHER DEDUCTIONS AND CREDITS.—No deduction or credit shall be allowed under any other provision of this chapter with respect to the amount of the credit determined under this section.''

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b) is amended—

(A) by striking ''plus'' at the end of paragraph (11),

(B) by striking the period at the end of paragraph (12), and inserting a comma and ''plus'', and

(C) by adding at the end the following:

''(13) the employer-provided child care credit determined under section 45D.''

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following:

''Sec. 45D. Employer-provided child care credit.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

**SEC. ___03. PLAN LOANS FOR SUBCHAPTER S OWNERS, PARTNERS, AND SOLE PROPRIETORS.**

(a) AMENDMENT TO 1986 CODE.—Subparagraph (B) of section 4975(f)(6) (relating to exemptions not to apply to certain transactions) is amended by adding at the end the following new clause:

''(iii) LOAN EXCEPTION.—Solely for purposes of subparagraph (A)(i), in determining whether an individual is—

''(I) an owner-employee under section 401(c)(3), subparagraph (B) thereof shall be applied by substituting '25 percent' for '10 percent', and

''(II) a shareholder-employee under subparagraph (C), such subparagraph shall be applied by substituting '25 percent' for '5 percent'.''

(b) AMENDMENT TO ERISA.—Section 408(d)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(d)(2)) is amended by adding at the end the following new subparagraph:

''(C) Solely for purposes of paragraph (1)(A), in determining whether an individual is—

''(i) an owner-employee under section 401(c)(3) of the Internal Revenue Code of 1986, subparagraph (B) thereof shall be applied by substituting '25 percent' for '10 percent', and

''(ii) a shareholder-employee under paragraph (3), such paragraph shall be applied by substituting '25 percent' for '5 percent'.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to loans made after December 31, 2000.

**SEC. ___04. CONTRIBUTIONS TO IRAS THROUGH PAYROLL DEDUCTIONS.**

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

(1) CONTRIBUTION CERTIFICATE.—The term ''contribution certificate'' means a certificate submitted by an employee to the employee's employer which—

(A) identifies the employee by name, address, and social security number,

(B) identifies the individual retirement plan to which the employee wishes to make contributions through payroll deductions, and

(C) identifies the amount of such contributions, not to exceed the amount allowed under section 408 of the Internal Revenue Code of 1986 to an individual retirement plan for such year.

(2) EMPLOYEE.—The term ''employee'' does not include an employee as defined in section 401(c)(1) of such Code.

(3) INDIVIDUAL RETIREMENT PLANS.—The term ''individual retirement plan'' has the meaning given the term by section 7701(a)(37) of the Internal Revenue Code of 1986.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(b) ESTABLISHMENT OF PAYROLL DEDUCTION SYSTEM.—An employer may establish a system under which employees, through employer payroll deductions, may make contributions to individual retirement plans. An employer shall not incur any liability under title I of the Employee Retirement Income Security Act of 1974 in providing for such a system.

(c) CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS.—

(1) IN GENERAL.—The system established under subsection (b) shall provide that contributions made to an individual retirement plan for any taxable year are—

(A) contributions through employer payroll deductions, and

(B) if the employer so elects, additional contributions by the employee which, when added to contributions under subparagraph (A), do not exceed the amount allowed under section 408 of the Internal Revenue Code of 1986 for the taxable year.

(2) EMPLOYER PAYROLL DEDUCTIONS.—

(A) IN GENERAL.—The system established under subsection (b) shall provide that an employee may establish and maintain an individual retirement plan simply by—

(i) completing a contribution certificate, and

(ii) submitting such certificate to the employee's employer in the manner provided under subparagraph (D).

(B) CHANGE OF AMOUNTS.—An employee establishing and maintaining an individual retirement plan under subparagraph (A) may change the amount of an employer payroll deduction in the same manner as under subparagraph (A).

(C) SIMPLIFIED FORMS.—

(i) CONTRIBUTION CERTIFICATE.—The Secretary shall develop a model contribution certificate for purposes of this paragraph—

(I) which is written in a clear and easily understandable manner, and

(II) the completion of which by an employee will constitute the establishment of an individual retirement plan and the request for employer payroll deductions or changes in such deductions.

(ii) AVAILABILITY.—The Secretary shall make available to all employees and employers the forms developed under this subparagraph, and shall include with such forms easy to understand explanatory materials.

(D) USE OF CERTIFICATE.—Each employer electing to adopt a system under subsection (b) shall, upon receipt of a contribution certificate from an employee, deduct the appropriate contribution as determined by such certificate from the employee's wages in equal amounts during the remaining payroll periods for the taxable year and shall remit such amounts for investment in the employee's individual retirement plan not later than the close of the 30-day period following the last day of the month in which such payroll period occurs.

(E) FAILURE TO REMIT PAYROLL DEDUCTIONS.—For purposes of the Internal Revenue Code of 1986, any amount which an employer fails to remit on behalf of an employee pursuant to a contribution certificate of such employee shall not be allowed as a deduction to the employer under such Code.

(d) ADDITIONAL INFORMATION.—

(1) IN GENERAL.—The system established under subsection (b) shall provide for the furnishing of information to employees of the opportunity of establishing individual retirement plans and of transferring amounts to such plans.

(2) INVESTMENT INFORMATION.—The employer shall also make available to employees information on how to make informed investment decisions and how to achieve retirement objectives.

(3) INFORMATION NOT INVESTMENT ADVICE.—Information provided under this subsection shall not be treated as investment advice for purposes of any Federal or State law.

**SEC. ___05. MODIFICATION OF TOP-HEAVY RULES.**

(a) SIMPLIFICATION OF DEFINITION OF KEY EMPLOYEE.—

(1) IN GENERAL.—Section 416(i)(1)(A) (defining key employee) is amended—

(A) by striking ''or any of the 4 preceding plan years'' in the matter preceding clause (i),

(B) by striking clause (i) and inserting the following:

''(i) an officer of the employer having an annual compensation greater than $80,000,'',

(C) by striking clause (ii) and redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively, and

(D) by striking the second sentence in the matter following clause (iii), as redesignated by subparagraph (C).

(2) CONFORMING AMENDMENT.—Section 416(i)(1)(B)(iii) is amended by striking ''and subparagraph (A)(ii)''.

(b) DISTRIBUTIONS DURING LAST YEAR BEFORE DETERMINATION DATE TAKEN INTO ACCOUNT.—Section 416(g) is amended—

(1) in paragraph (3)—

(A) by striking ''LAST 5 YEARS'' in the heading and inserting ''LAST YEAR BEFORE DETERMINATION DATE'', and

(B) in the matter following subparagraph (B), by striking ''5-year period'' and inserting ''1-year period'', and

(2) in paragraph (4)(E)—

(A) by striking ''LAST 5 YEARS'' in the heading and inserting ''LAST YEAR BEFORE DETERMINATION DATE'', and

(B) by striking ''5-year period'' and inserting ''1-year period''.

(c) REQUIREMENTS FOR QUALIFICATIONS.—Clause (ii) of section 401(a)(10)(B) (relating to requirements for qualifications for top-heavy plans) is amended by adding at the end the following new flush sentence:

''The preceding sentence shall not apply to a plan if the plan is not top-heavy and if it is not reasonable to expect that the plan will become a top-heavy plan.''.

(d) FROZEN PLAN EXEMPT FROM MINIMUM BENEFIT REQUIREMENT.—

(1) IN GENERAL.—Subparagraph (C) of section 416(c)(1) (relating to defined benefit plans) is amended—

(A) in clause (i), by striking ''clause (ii)'' and inserting ''clause (ii) or (iii)'', and

(B) by adding at the end the following:

''(iii) EXCEPTION FOR FROZEN PLAN.—For purposes of determining an employee's years of service with the employer, any service with the employer shall be disregarded to the extent that such service occurs during a plan year when the plan benefits (within the meaning of section 410(b)) no employee or former employee.''.

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 415(b)(5) is amended by adding at the end the following: ''An employee shall not be credited with a year of participation in a defined benefit plan for any year in which the plan does not benefit (within the meaning of section 410(b)) such employee.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1999.

**SEC. ___06. CREDIT FOR SMALL EMPLOYER PENSION PLAN CONTRIBUTIONS AND START-UP COSTS.**

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by section ___02, is amended by adding at the end the following new section:

**''SEC. 45E. SMALL EMPLOYER PENSION PLAN CREDIT.**

''(a) GENERAL RULE.—For purposes of section 38, in the case of an eligible employer, the small employer pension plan credit determined under this section for any taxable year is an amount equal to the sum of—

''(1) 50 percent of the qualified employer contributions of the taxpayer for the taxable year, and

''(2) 50 percent of the qualified start-up costs paid or incurred by the taxpayer during the taxable year.

''(b) LIMITATIONS.—

''(1) LIMITS ON CONTRIBUTIONS.—For purposes of subsection (a)(1)—

''(A) qualified employer contributions may only be taken into account for each of the first 5 taxable years ending after the date the employer establishes the qualified employer plan to which the contribution is made, and

''(B) the amount of the qualified employer contributions taken into account with respect to any qualified employee for any such taxable year shall not exceed 3 percent of the compensation (as defined in section 414(s)) of the qualified employee for such taxable year.

''(2) LIMITS ON START-UP COSTS.—The amount of the credit determined under subsection (a)(2) for any taxable year shall not exceed—

''(A) $2,000 for the first taxable year ending after the date the employer established the qualified employer plan to which such costs relate,

''(B) $1,000 for each of the second and third such taxable years, and

''(C) zero for each taxable year thereafter.

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

''(1) ELIGIBLE EMPLOYER.—

''(A) IN GENERAL.—The term 'eligible employer' means, with respect to any year, an employer which has no more than—

''(i) for purposes of subsection (a)(1), 25 employees, and

''(ii) for purposes of subsection (a)(2), 100 employees,

who received at least $5,000 of compensation from the employer for the preceding year.

''(B) 2-YEAR GRACE PERIOD.—An eligible employer who establishes and maintains a qualified employer plan for 1 or more years and who fails to be an eligible employer for any subsequent year shall be treated as an eligible employer for the 2 years following the last year the employer was an eligible employer.

''(C) REQUIREMENT FOR NEW QUALIFIED EMPLOYER PLANS.—Such term shall not include an employer if, during the 3-taxable year period immediately preceding the 1st taxable year for which the credit under this section is otherwise allowable for a qualified employer plan of the employer, the employer and each member of any controlled group including the employer (or any predecessor of either) established or maintained a qualified employer plan with respect to which contributions were made, or benefits were accrued, for substantially the same employees as are in the qualified employer plan.

''(2) QUALIFIED EMPLOYER CONTRIBUTIONS.—

''(A) IN GENERAL.—The term 'qualified employer contributions' means, with respect to any taxable year, any employer contributions made on behalf of a qualified employee to a qualified employer plan for a plan year ending with or within the taxable year.

''(B) EMPLOYER CONTRIBUTIONS.—The term 'employer contributions' shall not include any elective deferral (within the meaning of section 402(g)(3)).

''(3) QUALIFIED EMPLOYEE.—The term 'qualified employee' means an individual who—

''(A) is eligible to participate in the qualified employer plan to which the employer contributions are made, and

''(B) is not a highly compensated employee (within the meaning of section 414(q)) for the year for which the contribution is made.

''(4) QUALIFIED START-UP COSTS.—The term 'qualified start-up costs' means any ordinary and necessary expenses of an eligible employer which are paid or incurred in connection with—

''(A) the establishment or maintenance of a qualified employer plan in which qualified employees are eligible to participate, and

''(B) providing educational information to employees regarding participation in such plan and the benefits of establishing an investment plan.

''(5) QUALIFIED EMPLOYER PLAN.—The term 'qualified employer plan' has the meaning given such term in section 4972(d).

''(d) SPECIAL RULES.—

''(1) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52, or subsection (n) or (o) of section 414, shall be treated as one person. All qualified employer plans of an employer shall be treated as a single qualified employer plan.

''(2) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowable under this chapter for any qualified start-up costs or qualified contributions for which a credit is determined under subsection (a).

''(3) ELECTION NOT TO CLAIM CREDIT.—This section shall not apply to a taxpayer for any taxable year if such taxpayer elects to have this section not apply for such taxable year.''.

(b) CREDIT ALLOWED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (defining current year business credit), as amended by section ___02, is amended by striking ''plus'' at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting '', plus'', and by adding at the end the following new paragraph:

''(14) in the case of an eligible employer (as defined in section 45E(c)), the small employer pension plan credit determined under section 45E(a).''.

(c) PORTION OF CREDIT REFUNDABLE.—Section 38(c) (relating to limitation based on amount of tax) is amended by adding at the end the following new paragraph:

''(4) PORTION OF SMALL EMPLOYER PENSION PLAN CREDIT REFUNDABLE.—

''(A) IN GENERAL.—In the case of the small employer pension plan credit under subsection (b)(14), the aggregate credits allowed under subpart C shall be increased by the lesser of—

''(i) the credit which would be allowed without regard to this paragraph and the limitation under paragraph (1), or

''(ii) the amount by which the aggregate amount of credits allowed by this section (without regard to this paragraph) would increase if the limitation under paragraph (1) were increased by the taxpayer's applicable payroll taxes for the taxable year.

''(B) TREATMENT OF CREDIT.—The amount of the credit allowed under this paragraph shall not be treated as a credit allowed under this subpart and shall reduce the amount of the credit allowed under this section for the taxable year.

''(C) APPLICABLE PAYROLL TAXES.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'applicable payroll taxes' means, with respect to any taxpayer for any taxable year—

''(I) the amount of the taxes imposed by sections 3111 and 3221(a) on compensation paid by the taxpayer during the taxable year,

''(II) 50 percent of the taxes imposed by section 1401 on the self-employment income of the taxpayer during the taxable year, and

''(III) 50 percent of the taxes imposed by section 3211(a)(1) on amounts received by the taxpayer during the calendar year in which the taxable year begins.

''(ii) AGREEMENTS REGARDING FOREIGN AFFILIATES.—Section 24(d)(5)(C) shall apply for purposes of clause (i).''.

(d) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section ___02, is amended by adding at the end the following new item:

''Sec. 45E. Small employer pension plan credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred or contributions made in connection with qualified employer plans established after December 31, 2000.

**SEC. ___07. ELECTIVE DEFERRALS NOT TAKEN INTO ACCOUNT FOR PURPOSES OF DEDUCTION LIMITS.**

(a) IN GENERAL.—Section 404 (relating to deduction for contributions of an employer to an employees' trust or annuity plan and compensation under a deferred payment plan) is amended by adding at the end the following new subsection:

''(n) ELECTIVE DEFERRALS NOT TAKEN INTO ACCOUNT FOR PURPOSES OF DEDUCTION LIMITS.—Elective deferrals (as defined in section 402(g)(3)) shall not be subject to any limitation contained in paragraph (3), (7), or (9) of subsection (a), and such elective deferrals shall not be taken into account in applying any such limitation to any other contributions.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 2000.

**SEC. ___08. FASTER VESTING OF CERTAIN EMPLOYER MATCHING CONTRIBUTIONS.**

(a) AMENDMENTS TO 1986 CODE.—Section 411(a) (relating to minimum vesting standards) is amended—

(1) in paragraph (2), by striking ''A plan'' and inserting ''Except as provided in paragraph (12), a plan'', and

(2) by adding at the end the following:

''(12) FASTER VESTING FOR MATCHING CONTRIBUTIONS.—In the case of matching contributions (as defined in section 401(m)(4)(A)), paragraph (2) shall be applied—

''(A) by substituting '3 years' for '5 years' in subparagraph (A), and

''(B) by substituting the following table for the table contained in subparagraph (B):

| ''Years of service: | The nonforfeitable percentage is: |
|---|---|
| 2 | 20 |
| 3 | 40 |
| 4 | 60 |
| 5 | 80 |
| 6 | 100.''. |

(b) AMENDMENTS TO ERISA.—Section 203(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)) is amended—

(1) in paragraph (2), by striking ''A plan'' and inserting ''Except as provided in paragraph (4), a plan'', and

(2) by adding at the end the following:

''(4) FASTER VESTING FOR MATCHING CONTRIBUTIONS.—In the case of matching contributions (as defined in section 401(m)(4)(A) of the Internal Revenue Code of 1986), paragraph (2) shall be applied—

''(A) by substituting '3 years' for '5 years' in subparagraph (A), and

''(B) by substituting the following table for the table contained in subparagraph (B):

| ''Years of service: | The nonforfeitable percentage is: |
|---|---|
| 2 | 20 |
| 3 | 40 |
| 4 | 60 |
| 5 | 80 |
| 6 | 100.''. |

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to contributions for plan years beginning after December 31, 1999.

(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified by the date of enactment of this Act, the amendments made by this section shall not apply to contributions on behalf of employees covered by any such agreement for plan years beginning before the earlier of—

(A) the later of—

(i) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof on or after such date of enactment), or

(ii) January 1, 2000, or

(B) January 1, 2004.

(3) SERVICE REQUIRED.—With respect to any plan, the amendments made by this section shall not apply to any employee before the date that such employee has 1 hour of service under such plan in any plan year to which the amendments made by this section apply.

**SEC. ___09. REDUCED PBGC PREMIUM FOR NEW PLANS OF SMALL EMPLOYERS.**

(a) IN GENERAL.—Subparagraph (A) of section 4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)) is amended—

(1) in clause (i), by inserting ''other than a new single-employer plan (as defined in subparagraph (F)),'' after ''single-employer plan,'',

(2) in clause (iii), by striking the period at the end and inserting '', and'', and

(3) by adding at the end the following new clause:

''(iv) in the case of a new single-employer plan (as defined in subparagraph (F)) maintained by a small employer (as so defined) for the plan year, $5 for each individual who is a participant in such plan during the plan year.''.

(b) DEFINITION OF NEW SINGLE-EMPLOYER PLAN.—Section 4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)) is amended by adding at the end the following new subparagraph:

''(F)(i) For purposes of this paragraph, a single-employer plan maintained by an employer shall be treated as a new single-employer plan for each of its first 5 plan years if, during the 36-month period ending on the date of the adoption of such plan, the employer or any member of such employer's controlled group (or any predecessor of either) had not established or maintained a plan to which this title applies with respect to which contributions were made, or benefits were accrued, for substantially the same employees as are in the new single-employer plan.

''(ii)(I) For purposes of this paragraph, the term 'small employer' means an employer which on the first day of any plan year has, in aggregation with all members of the controlled group of such employer, 100 or fewer employees.

''(II) In the case of a plan maintained by 2 or more contributing sponsors that are not part of the same controlled group, the employees of all contributing sponsors and controlled groups of such sponsor shall be aggregated for purposes of determining whether the sponsor is a small employer.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1999.

**SEC. ___10. PHASE-IN OF ADDITIONAL PBGC PREMIUM FOR NEW PLANS.**

(a) AMENDMENTS TO ERISA.—Subparagraph (E) of section 4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(E)) is amended by adding at the end the following new clause:

''(v) In the case of a new defined benefit plan, the amount determined under clause (ii) for any plan year shall be an amount equal to the product derived by multiplying the amount determined under clause (ii) by the applicable percentage. For purposes of this clause, the term 'applicable percentage' means—

''(I) 0 percent, for the first plan year.

''(II) 20 percent, for the second plan year.

''(III) 40 percent, for the third plan year.

''(IV) 60 percent, for the fourth plan year.

''(V) 80 percent, for the fifth plan year.

''(VI) 100 percent, for the sixth plan year, and for each succeeding plan year.

For purposes of this clause, a defined benefit plan (as defined in section 3(35)) maintained by an employer shall be treated as a new defined benefit plan if, during the 36-month period ending on the date of the adoption of the plan, the employer and each member of any controlled group including the employer (or any predecessor of either) did not establish or maintain a plan to which this title applies with respect to which contributions were made, or benefits were accrued, for substantially the same employees as are in the new plan.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1999.

**SEC. ___11. ELIMINATION OF USER FEE FOR REQUESTS TO IRS REGARDING NEW PENSION PLANS.**

(a) ELIMINATION OF CERTAIN USER FEES.—The Secretary of the Treasury or the Secretary's delegate shall not require payment of user fees under the program established under section 10511 of the Revenue Act of 1987 for requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters or similar requests with respect to the qualified status of a new pension benefit plan or any trust which is part of the plan.

(b) NEW PENSION BENEFIT PLAN.—For purposes of this section—

(1) IN GENERAL.—The term ''new pension benefit plan'' means a pension, profit-sharing, stock bonus, annuity, or employee stock ownership plan which is maintained by one or more eligible employers if such employer (or any predecessor employer) has not made a prior request described in subsection (a) for such plan (or any predecessor plan).

(2) ELIGIBLE EMPLOYER.—The term ''eligible employer'' means an employer (or any predecessor employer) which has not established or maintained a qualified employer plan with respect to which contributions were made, or benefits were accrued for service, in the 3 most recent taxable years ending prior to the first taxable year in which the request is made.

(c) EFFECTIVE DATE.—The provisions of this section shall apply with respect to requests made after December 31, 1999.

**SEC. ___12. DEDUCTION LIMITS.**

(a) IN GENERAL.—Section 404(a) (relating to general rule) is amended by adding at the end the following:

''(12) DEFINITION OF COMPENSATION.—For purposes of paragraphs (3), (7), (8), and (9), the term 'compensation' shall include amounts treated as participant's compensation under subparagraph (C) or (D) of section 415(c)(3).''.

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 404(a)(3) is amended by striking the last sentence thereof.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2000.

**SEC. ___13. TREATMENT OF MULTIEMPLOYER PLANS UNDER SECTION 415.**

(a) COMPENSATION LIMIT.—Paragraph (11) of section 415(b) (relating to limitation for defined benefit plans) is amended to read as follows:

''(11) SPECIAL LIMITATION RULE FOR GOVERNMENTAL AND MULTIEMPLOYER PLANS.—In the case of a governmental plan (as defined in section 414(d)) or a multiemployer plan (as defined in section 414(f)), subparagraph (B) of paragraph (1) shall not apply.''.

(b) COMBINING AND AGGREGATION OF PLANS.—

(1) COMBINING OF PLANS.—Subsection (f) of section 415 (relating to combining of plans) is amended by adding at the end the following:

''(3) EXCEPTION FOR MULTIEMPLOYER PLANS.—Notwithstanding paragraph (1) and subsection (g), a multiemployer plan (as defined in section 414(f)) shall not be combined or aggregated with any other plan maintained by an employer for purposes of applying the limitations established in this section, except that such plan shall be combined or aggregated with another plan solely for purposes of determining whether such other plan meets the requirements of subsection (b)(1)(A).''.

(2) CONFORMING AMENDMENT FOR AGGREGATION OF PLANS.—Subsection (g) of section 415 (relating to aggregation of plans) is amended by striking ''The Secretary'' and inserting ''Except as provided in subsection (f)(3), the Secretary''.

(c) EARLY RETIREMENT LIMITS FOR CERTAIN PLANS.—Section 415(b)(2)(F) is amended to read as follows:

''(F) MULTIEMPLOYER PLANS AND PLANS MAINTAINED BY GOVERNMENTS AND TAX EXEMPT ORGANIZATIONS.—In the case of a governmental plan (within the meaning of section 414(d)), a plan maintained by an organization (other than a governmental unit) exempt from tax under this subtitle, a multiemployer plan (as defined in section 414(f)), or a qualified merchant marine plan—

''(i) subparagraph (C) shall be applied—

''(I) by substituting 'age 62' for 'social security retirement age' each place it appears, and

''(II) as if the last sentence thereof read as follows: 'The reduction under this subparagraph shall not reduce the ,imitation of paragraph (1)(A) below (i) 80 percent of such limitation as in effect for the year, or (ii) if the benefit begins before age 55, the equivalent for such 80 percent amount for age 55.'', and

''(ii) subparagraph (D) shall be applied by substituting 'age 65' for 'social security retirement age' each place it appears.

For purposes of this subparagraph, the term 'qualified merchant marine plan' means a plan in existence on January 1, 1986, the participants in which are merchant marine officers holding licenses issued by the Secretary of Transportation under title 46, United States Code.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1999.

**SEC. ___14. PENSION REDUCTION DISCLOSURE.**

(a) NOTICE REQUIRED FOR CERTAIN PLAN AMENDMENTS REDUCING FUTURE BENEFIT ACCRUALS.—

(1) GENERAL NOTICE REQUIREMENTS.—Section 204(h) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(h)) is amended to read as follows:

''(h) NOTICE REQUIREMENTS FOR PENSION PLAN AMENDMENTS REDUCING ACCRUALS.—

''(1) IN GENERAL.—If an applicable pension plan is amended so as to provide for a significant reduction in the rate of future benefit accrual of 1 or more applicable individuals, the plan administrator shall—

''(A) not later than the 45th day before the effective date of the amendment, provide the written notice described in paragraph (2) to each applicable individual (and to each employee organization representing applicable individuals), and

''(B) in the case of a large applicable pension plan—

''(i) include in the notice under paragraph (2) the additional information described in paragraph (3),

''(ii) make available the information described in paragraph (4) in accordance with such paragraph, and

''(iii) provide individual benefit statements in accordance with section 105(e).

''(2) BASIC WRITTEN NOTICE.—The notice under paragraph (1) shall include a summary of the important terms of the amendment, including—

''(A) the effective date of the amendment,

''(B) a statement that the amendment is expected to significantly reduce the rate of future benefit accrual,

''(C) a description of the classes of applicable individuals to whom the amendment applies, and

''(D) a description of how the amendment significantly reduces the rate of future benefit accrual.

''(3) ADDITIONAL INFORMATION TO BE PROVIDED BY LARGE APPLICABLE PENSION PLANS.—

''(A) IN GENERAL.—The information described in this paragraph is—

''(i) a description of the plan's benefit formulas (including formulas for determining early retirement benefits) both before and after the amendment and an explanation of the effect of the different formulas on applicable individuals,

''(ii) an explanation of the circumstances (if any) under which (for appropriate categories of applicable individuals) the amendment is reasonably expected to result in a temporary period after the effective date of the amendment during which there are no or minimal accruals,

''(iii) illustrative examples of normal or early retirement benefits meeting the requirements of subparagraph (B), and

''(iv) notice of each applicable individual's right to request, and of the procedures for requesting, the information required to be provided under paragraph (4) and under section 105(e).

''(B) ILLUSTRATIVE EXAMPLES.—Illustrative examples meet the requirements of this subparagraph if such examples illustrate the adverse effects of the plan amendment. Such examples shall be prepared by the plan administrator in accordance with regulations prescribed by the Secretary of the Treasury, and such regulations shall require that the examples—

''(i) reflect fairly the different categories of applicable individuals who are similarly affected by the plan amendment after consideration of all relevant factors,

''(ii) show a comparison of benefits for each such category of applicable individuals under the plan (as in effect before and after the effective date) at appropriate future dates, and

''(iii) illustrate any temporary period described in subparagraph (A)(ii).

Such comparison shall be based on benefits in the form of a life annuity and on actuarial assumptions each of which is reasonable (and is so certified by an enrolled actuary) when applied to all participants in the plan.

''(4) SUPPORTING INFORMATION RELATING TO CALCULATION OF BENEFITS.—

''(A) IN GENERAL.—Each individual who receives or who is entitled to receive the information described in paragraph (3) may (after so receiving or becoming so entitled) request the plan administrator to provide the information described in subparagraph (B).

''(B) INFORMATION.—The plan administrator shall, within 15 days after the date on which a request under subparagraph (A) is made, provide to the individual information (including benefit formulas and actuarial factors) which is sufficient—

''(i) to confirm the benefit comparisons in the illustrative examples described in paragraph (3)(B), and

''(ii) to enable the individual to use the individual's own personal information to make calculations of the individual's own benefits which are similar to the calculations made in such examples.

Nothing in this subsection shall be construed to require the plan administrator to provide to an individual such individual's personal information for purposes of clause (ii).

''(C) TIME LIMITATION ON REQUESTS.—This paragraph shall apply only to requests made during the 12-month period that begins on the later of the effective date of the amendment to which it relates or the date the notice described in paragraph (2) is provided.

''(5) SANCTIONS.—

''(A) IN GENERAL.—In the case of any egregious failure to meet any requirement of this subsection with respect to any plan amendment, the provisions of the applicable pension plan shall be applied as if such plan amendment entitled all applicable individuals to the greater of—

''(i) the benefits to which they would have been entitled without regard to such amendment, or

''(ii) the benefits under the plan with regard to such amendment.

''(B) EGREGIOUS FAILURE.—For purposes of subparagraph (A), there is an egregious failure to meet the requirements of this subsection if such failure is—

''(i) an intentional failure (including any failure to promptly provide the required notice or information after the plan administrator discovers an unintentional failure to meet the requirements of this subsection),

''(ii) a failure to provide most of the individuals with most of the information they are entitled to receive under this subsection, or

''(iii) a failure which is determined to be egregious under regulations prescribed by the Secretary of the Treasury.

''(C) EXCISE TAX.—For excise tax on failure to meet requirements, see section 4980F of the Internal Revenue Code of 1986.

''(6) SPECIAL RULES.—

''(A) PLAIN LANGUAGE.—The notice required under paragraph (1) shall be written in a manner calculated to be understood by the average plan participant who is an applicable individual.

''(B) NOTICE TO DESIGNEES.—The notice and information required to be provided under this subsection may be provided to a person designated, in writing, by the person to which it would otherwise be provided.

''(7) ALTERNATIVE METHODS OF COMPLIANCE WITH ENHANCED DISCLOSURE REQUIREMENTS IN CERTAIN CASES.—The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out this subsection. The Secretary of the Treasury may—

''(A) prescribe alternative or simplified methods of complying with paragraphs (3) and (4) in situations where—

''(i) there is no fundamental change in the manner in which the accrued benefit of an applicable individual is determined under the plan, and

''(ii) such other methods are adequate to reasonably inform plan participants who are applicable individuals of the impact of the reductions,

''(B) reduce the advance notice period in paragraph (1)(A) from 45 days to 15 days before the effective date of the amendment for cases in which compliance with the 45-day advance notice requirement would be unduly burdensome because the amendment is contingent on a merger, acquisition, disposition, or other similar transaction involving plan participants who are applicable individuals or because 45 days advance notice is otherwise impracticable,

''(C) permit the comparison of benefits under paragraph (3)(B)(i) to be based on a form of payment other than a life annuity, or

''(D) specify actuarial assumptions that are deemed to be reasonable for purposes of the benefit comparisons under paragraph (3)(B)(i).

''(8) APPLICABLE INDIVIDUAL.—For purposes of this subsection, the term 'applicable individual' means, with respect to any plan amendment—

''(A) each participant in the plan, and

''(B) each beneficiary who is an alternate payee (within the meaning of section 206(d)(3)(K)) under a qualified domestic relations order (within the meaning of section 206(d)(3)(B)(i)),

whose future benefit accruals under the plan may reasonably be expected to be reduced by such plan amendment.

''(9) TERMS RELATING TO PLANS.—For purposes of this subsection—

''(A) APPLICABLE PENSION PLAN.—The term 'applicable pension plan' means—

''(i) a defined benefit plan, or

''(ii) an individual account plan which is subject to the funding standards of section 302.

''(B) LARGE APPLICABLE PENSION PLAN.—The term 'large applicable pension plan' means an applicable pension plan which had 100 or more active participants as of the last day of the plan year preceding the plan year in which the plan amendment becomes effective.''

(2) INDIVIDUAL STATEMENTS.—Section 105 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025) is amended by adding at the end the following new subsection:

''(e)(1) The plan administrator of a large applicable pension plan shall furnish an individual statement described in paragraph (2) to each individual—

''(A) who receives, or is entitled to receive, under section 204(h) the information described in paragraph (3) thereof from such administrator, and

''(B) who requests in writing such a statement from such administrator.

''(2) The statement described in this paragraph is a statement which provides information which is substantially the same as the information in the illustrative examples described in section 204(h)(3)(B) but which is based on data specific to the requesting individual and, if the individual so requests, information as of 1 other future date not included in such examples.

''(3) Paragraph (1) shall apply only to requests made during the 12-month period that begins on the later of the effective date of the amendment to which it relates or the date the notice described in section 204(h)(2) is provided. In no case shall an individual be entitled under this subsection to receive more than one such statement with respect to an amendment.

''(4) Notwithstanding section 502(c)(1), the statement required by paragraph (1) shall be treated as timely furnished if furnished on or before—

''(A) the date which is 90 days after the effective date of the plan amendment to which is relates, or

''(B) such later date as may be permitted by the Secretary of Labor.

''(5) Any term used in this subsection which is used in section 204(h) shall have the meaning given such term by such section.

''(6) A statement under this subsection shall not be taken into account for purposes of subsection (b).''

(b) EXCISE TAX ON FAILURE TO PROVIDE NOTICE BY DEFINED BENEFIT PLANS SIGNIFICANTLY REDUCING FUTURE BENEFIT ACCRUALS.—

(1) IN GENERAL.—Chapter 43 (relating to qualified pension, etc., plans) is amended by adding at the end the following new section:

**''SEC. 4980F. FAILURE OF DEFINED BENEFIT PLANS REDUCING BENEFIT ACCRUALS TO SATISFY NOTICE REQUIREMENTS.**

''(a) IMPOSITION OF TAX.—There is hereby imposed a tax on the failure of a plan administrator of an applicable pension plan to meet the requirements of subsection (e) with respect to any applicable individual.

''(b) AMOUNT OF TAX.—

''(1) IN GENERAL.—The amount of the tax imposed by subsection (a) on any failure with respect to any applicable individual shall be $100 for each day in the noncompliance period with respect to such failure.

''(2) NONCOMPLIANCE PERIOD.—For purposes of this section, the term 'noncompliance period' means, with respect to any failure, the period beginning on the date the failure first occurs and ending on the date the failure is corrected.

''(c) LIMITATIONS ON AMOUNT OF TAX.—

''(1) OVERALL LIMITATION FOR UNINTENTIONAL FAILURES.—

''(A) IN GENERAL.—In the case of failures that are due to reasonable cause and not to willful neglect, the tax imposed by subsection (a) for failures during the taxable year of the employer (or, in the case of a multiemployer plan, the taxable year of the trust forming part of the plan) shall not exceed $500,000 ($1,000,000 in the case of a large applicable pension plan).

''(B) TAXABLE YEARS IN THE CASE OF CERTAIN CONTROLLED GROUPS.—For purposes of this paragraph, if all persons who are treated as a single employer for purposes of this section do not have the same taxable year, the taxable years taken into account shall be determined under principles similar to the principles of section 1561.

''(2) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

''(d) LIABILITY FOR TAX.—The following shall be liable for the tax imposed by subsection (a):

''(1) In the case of a plan other than a multiemployer plan, the employer.

''(2) In the case of a multiemployer plan, the plan.

''(e) NOTICE REQUIREMENTS FOR PENSION PLAN AMENDMENTS REDUCING ACCRUALS.—

''(1) IN GENERAL.—If an applicable pension plan is amended so as to provide for a significant reduction in the rate of future benefit accrual of 1 or more applicable individuals, the plan administrator shall—

''(A) not later than the 45th day before the effective date of the amendment, provide the written notice described in paragraph (2) to each applicable individual (and to each employee organization (as defined in section 3(4) of the Employee Retirement Income Security Act of 1974) representing applicable individuals), and

''(B) in the case of a large applicable pension plan—

''(i) include in the notice under paragraph (2) the additional information described in paragraph (3), and

''(ii) make available the information described in paragraph (4) in accordance with such paragraph.

''(2) BASIC WRITTEN NOTICE.—The notice under paragraph (1) shall include a summary of the important terms of the amendment, including—

''(A) the effective date of the amendment,

''(B) a statement that the amendment is expected to significantly reduce the rate of future benefit accrual,

''(C) a description of the classes of applicable individuals to whom the amendment applies, and

''(D) a description of how the amendment significantly reduces the rate of future benefit accrual.

''(3) ADDITIONAL INFORMATION TO BE PROVIDED BY LARGE APPLICABLE PENSION PLANS.—

''(A) IN GENERAL.—The information described in this paragraph is—

''(i) a description of the plan's benefit formulas (including formulas for determining early retirement benefits) both before and after the amendment and an explanation of the effect of the different formulas on applicable individuals,

''(ii) an explanation of the circumstances (if any) under which (for appropriate categories of applicable individuals) the amendment is reasonably expected to result in a temporary period after the effective date of the amendment during which there are no or minimal accruals,

''(iii) illustrative examples of normal or early retirement benefits meeting the requirements of subparagraph (B), and

''(iv) notice of each applicable individual's right to request, and of the procedures for requesting, the information required to be provided under paragraph (4) and under section 105(e) of Employee Retirement Income Security Act of 1974.

''(B) ILLUSTRATIVE EXAMPLES.—Illustrative examples meet the requirements of this subparagraph if such examples illustrate the adverse effects of the plan amendment. Such examples shall be prepared by the plan administrator in accordance with regulations prescribed by the Secretary, and such regulations shall require that the examples—

''(i) reflect fairly the different categories of applicable individuals who are similarly affected by the plan amendment after consideration of all relevant factors,

''(ii) show a comparison of benefits for each such category of applicable individuals under the plan (as in effect before and after the effective date) at appropriate future dates, and

''(iii) illustrate any temporary period described in subparagraph (A)(ii).

Such comparison shall be based on benefits in the form of a life annuity and on actuarial assumptions each of which is reasonable (and is so certified by an enrolled actuary) when applied to all participants in the plan.

''(4) SUPPORTING INFORMATION RELATING TO CALCULATION OF BENEFITS.—

''(A) IN GENERAL.—Each individual who receives or who is entitled to receive the information described in paragraph (3) may (after so receiving or becoming so entitled) request the plan administrator to provide the information described in subparagraph (B).

''(B) INFORMATION.—The plan administrator shall, within 15 days after the date on which a request under subparagraph (A) is made, provide to the individual information (including benefit formulas and actuarial factors) which is sufficient—

''(i) to confirm the benefit comparisons in the illustrative examples described in paragraph (3)(B), and

''(ii) to enable the individual to use the individual's own personal information to make calculations of the individual's own benefits which are similar to the calculations made in such examples.

Nothing in this subsection shall be construed to require the plan administrator to provide to an individual such individual's personal information for purposes of clause (ii).

''(C) TIME LIMITATION ON REQUESTS.—This paragraph shall apply only to requests made during the 12-month period that begins on the later of the effective date of the amendment to which it relates or the date the notice described in paragraph (2) is provided.

''(5) SPECIAL RULES.—

''(A) PLAIN LANGUAGE.—The notice required under paragraph (1) shall be written in a manner calculated to be understood by the average plan participant who is an applicable individual.

''(B) NOTICE TO DESIGNEES.—The notice or information required to be provided under this subsection may be provided to a person designated, in writing, by the person to which it would otherwise be provided.

''(6) ALTERNATIVE METHODS OF COMPLIANCE WITH ENHANCED DISCLOSURE REQUIREMENTS IN CERTAIN CASES.—The Secretary shall prescribe such regulations as may be necessary to carry out this subsection. The Secretary may—

''(A) prescribe alternative or simplified methods of complying with paragraphs (3) and (4) in situations where—

''(i) there is no fundamental change in the manner in which the accrued benefit of an applicable individual is determined under the plan, and

''(ii) such other methods are adequate to reasonably inform plan participants who are

applicable individuals of the impact of the reductions,

''(B) reduce the advance notice period in paragraph (1)(A) from 45 days to 15 days before the effective date of the amendment for cases in which compliance with the 45-day advance notice requirement would be unduly burdensome because the amendment is contingent on a merger, acquisition, disposition, or other similar transaction involving plan participants who are applicable individuals or because 45 days advance notice is otherwise impracticable,

''(C) permit the comparison of benefits under paragraph (3)(B)(i) to be based on a form of payment other than a life annuity, or

''(D) specify actuarial assumptions that are deemed to be reasonable for purposes of the benefit comparisons under paragraph (3)(B)(i).

''(7) APPLICABLE INDIVIDUAL.—For purposes of this subsection, the term 'applicable individual' means, with respect to any plan amendment—

''(A) each participant in the plan, and

''(B) each beneficiary who is an alternate payee (within the meaning of section 414(p)(8)) under a qualified domestic relations order (within the meaning of section 414(p)(1)),

whose future benefit accruals under the plan may reasonably be expected to be reduced by such plan amendment.

''(8) TERMS RELATING TO PLANS.—For purposes of this subsection—

''(A) APPLICABLE PENSION PLAN.—The term 'applicable pension plan' means—

''(i) a defined benefit plan, or

''(ii) an individual account plan which is subject to the funding standards of section 412.

Such term shall not include any governmental plan (within the meaning of section 414(d)) or any church plan (within the meaning of section 414(e)) with respect to which the election provided by section 410(d) has not been made.

''(B) LARGE APPLICABLE PENSION PLAN.—The term 'large applicable pension plan' means an applicable pension plan which had 100 or more active participants as of the last day of the plan year preceding the plan year in which the plan amendment becomes effective.''

(2) CONFORMING AMENDMENT.—The table of sections for chapter 43 is amended by adding at the end the following new item:

''Sec. 4980F. Failure of defined benefit plans reducing benefit accruals to satisfy notice requirements.''

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan amendments taking effect after the date of the enactment of this Act.

(2) SPECIAL RULES.—

(A) IN GENERAL.—The amendments made by this section shall not apply to any plan amendment for which there was written notice before July 12, 1999, which was reasonably expected to notify substantially all of the plan participants or their representatives.

(B) TRANSITION.—Until such time as the Secretary of the Treasury issues regulations under section 4980F(e) (3) and (4) of the Internal Revenue Code of 1986 and section 204(h) (3) and (4) of the Employee Retirement Income Security Act of 1974 (as added by the amendments made by this section), a plan shall be treated as meeting the requirements of such sections if it makes a good faith effort to comply with such requirements.

(C) NOTICE AND INFORMATION NOT REQUIRED TO BE FURNISHED BEFORE 120TH DAY AFTER ENACTMENT.—The period for providing any notice or information required by the amendments made by this section shall not end before the date which is 120 days after the date of the enactment of this Act.

**SEC. ___15. PREVENTION OF WEARING AWAY OF EMPLOYEE'S ACCRUED BENEFIT.**

(a) AMENDMENT TO INTERNAL REVENUE CODE.—Section 411(d)(6) (relating to accrued benefit may not be decreased by amendment) is amended by adding at the end the following new subparagraph:

''(D) TREATMENT OF PLAN AMENDMENTS WEARING AWAY ACCRUED BENEFIT.—

''(i) IN GENERAL.—For purposes of subparagraph (A), a plan amendment adopted by a large defined benefit plan shall be treated as reducing accrued benefits of a participant if, under the terms of the plan after the adoption of the amendment, the accrued benefit of the participant may at any time be less than the sum of—

''(I) the participant's accrued benefit for years of service before the effective date of the amendment, determined under the terms of the plan as in effect immediately before the effective date, plus

''(II) the participant's accrued benefit determined under the formula applicable to benefit accruals under the current plan as applied to years of service after such effective date.

''(ii) LARGE DEFINED BENEFIT PLAN.—For purposes of this subparagraph, the term 'large defined benefit plan' means any defined benefit plan which had 100 or more participants who had accrued a benefit under the plan (whether or not vested) as of the last day of the plan year preceding the plan year in which the plan amendment becomes effective.

''(iii) PROTECTED ACCRUED BENEFIT.—For purposes of this subparagraph, an accrued benefit shall include any early retirement benefit or retirement-type subsidy (within the meaning of subparagraph (B)(i)), but only with respect to a participant who satisfies (either before or after the effective date of the amendment) the conditions for the benefit or subsidy under the terms of the plan as in effect immediately before such date.''

(b) AMENDMENT OF ERISA.—Section 204(g) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new paragraph:

''(4)(A) For purposes of paragraph (1), a plan amendment adopted by a large defined benefit plan shall be treated as reducing accrued benefits of a participant if, under the terms of the plan after the adoption of the amendment, the accrued benefit of the participant may at any time be less than the sum of—

''(i) the participant's accrued benefit for years of service before the effective date of the amendment, determined under the terms of the plan as in effect immediately before the effective date, plus

''(ii) the participant's accrued benefit determined under the formula applicable to benefit accruals under the current plan as applied to years of service after such effective date.

''(B) For purposes of this paragraph, the term 'large defined benefit plan' means any defined benefit plan which had 100 or more participants who had accrued a benefit under the plan (whether or not vested) as of the last day of the plan year preceding the plan year in which the plan amendment becomes effective.

''(C) For purposes of this paragraph, an accrued benefit shall include any early retirement benefit or retirement-type subsidy (within the meaning of paragraph (2)(A)), but only with respect to a participant who satisfies (either before or after the effective date of the amendment) the conditions for the benefit or subsidy under the terms of the plan as in effect immediately before such date.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan amendments adopted after June 29, 1999.

## Subtitle B—Promoting Technological and Economic Development

**SEC. ___21. INCREASE IN EXPENSING LIMITATION TO $25,000.**

(a) IN GENERAL.—Paragraph (1) of section 179(b) of the Internal Revenue Code of 1986 (relating to limitations) is amended to read as follows:

''(1) DOLLAR LIMITATION.—The aggregate cost which may be taken into account under subsection (a) for any taxable year shall not exceed $25,000.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1999.

**SEC. ___22. NEW MARKETS TAX CREDIT.**

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by section ___06, is amended by adding at the end the following new section:

**''SEC. 45F. NEW MARKETS TAX CREDIT.**

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—For purposes of section 38, in the case of a taxpayer who holds a qualified equity investment on a credit allowance date of such investment which occurs during the taxable year, the new markets tax credit determined under this section for such taxable year is an amount equal to 6 percent of the amount paid to the qualified community development entity for such investment at its original issue.

''(2) CREDIT ALLOWANCE DATE.—The term 'credit allowance date' means, with respect to any qualified equity investment—

''(A) the date on which such investment is initially made, and

''(B) each of the 4 anniversary dates of such date thereafter.

''(b) QUALIFIED EQUITY INVESTMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified equity investment' means any equity investment in a qualified community development entity if—

''(A) such investment is acquired by the taxpayer at its original issue (directly or through an underwriter) solely in exchange for cash,

''(B) substantially all of such cash is used by the qualified community development entity to make qualified low-income community investments, and

''(C) such investment is designated for purposes of this section by the qualified community development entity.

Such term shall not include any equity investment issued by a qualified community development entity more than 5 years after the date that such entity receives an allocation under subsection (f). Any allocation not used within such 5-year period may be reallocated by the Secretary under subsection (f).

''(2) LIMITATION.—The maximum amount of equity investments issued by a qualified community development entity which may be designated under paragraph (1)(C) by such entity shall not exceed the portion of the limitation amount allocated under subsection (f) to such entity.

''(3) SAFE HARBOR FOR DETERMINING USE OF CASH.—The requirement of paragraph (1)(B) shall be treated as met if at least 85 percent of the aggregate gross assets of the qualified community development entity are invested in qualified low-income community investments.

''(4) TREATMENT OF SUBSEQUENT PURCHASERS.—The term 'qualified equity investment' includes any equity investment which

would (but for paragraph (1)(A)) be a qualified equity investment in the hands of the taxpayer if such investment was a qualified equity investment in the hands of a prior holder.

''(5) REDEMPTIONS.—A rule similar to the rule of section 1202(c)(3) shall apply for purposes of this subsection.

''(6) EQUITY INVESTMENT.—The term 'equity investment' means—

''(A) any stock in a qualified community development entity which is a corporation, and

''(B) any capital interest in a qualified community development entity which is a partnership.

''(c) QUALIFIED COMMUNITY DEVELOPMENT ENTITY.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified community development entity' means any domestic corporation or partnership if—

''(A) the primary mission of the entity is serving, or providing investment capital for, low-income communities or low-income persons,

''(B) the entity maintains accountability to residents of low-income communities through representation on governing or advisory boards or otherwise, and

''(C) the entity is certified by the Secretary for purposes of this section as being a qualified community development entity.

''(2) SPECIAL RULES FOR CERTAIN ORGANIZATIONS.—The requirements of paragraph (1) shall be treated as met by—

''(A) any specialized small business investment company (as defined in section 1044(c)(3)), and

''(B) any community development financial institution (as defined in section 103 of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4702)).

''(d) QUALIFIED LOW-INCOME COMMUNITY INVESTMENTS.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified low-income community investment' means—

''(A) any equity investment in, or loan to, any qualified active low-income community business,

''(B) the purchase from another community development entity of any loan made by such entity which is a qualified low-income community investment if the amount received by such other entity from such purchase is used by such other entity to make qualified low-income community investments,

''(C) financial counseling and other services specified in regulations prescribed by the Secretary to businesses located in, and residents of, low-income communities, and

''(D) any equity investment in, or loan to, any qualified community development entity if substantially all of the investment or loan is used by such entity to make qualified low-income community investments described in subparagraphs (A), (B), and (C).

''(2) QUALIFIED ACTIVE LOW-INCOME COMMUNITY BUSINESS.—

''(A) IN GENERAL.—For purposes of paragraph (1), the term 'qualified active low-income community business' means, with respect to any taxable year, any corporation or partnership if for such year—

''(i) at least 50 percent of the total gross income of such entity is derived from the active conduct of a qualified business within any low-income community,

''(ii) a substantial portion of the use of the tangible property of such entity (whether owned or leased) is within any low-income community,

''(iii) a substantial portion of the services performed for such entity by its employees are performed in any low-income community,

''(iv) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to collectibles (as defined in section 408(m)(2)) other than collectibles that are held primarily for sale to customers in the ordinary course of such business, and

''(v) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to nonqualified financial property (as defined in section 1397B(e)).

''(B) PROPRIETORSHIP.—Such term shall include any business carried on by an individual as a proprietor if such business would meet the requirements of subparagraph (A) were it incorporated.

''(C) PORTIONS OF BUSINESS MAY BE QUALIFIED ACTIVE LOW-INCOME COMMUNITY BUSINESS.—The term 'qualified active low-income community business' includes any trades or businesses which would qualify as a qualified active low-income community business if such trades or businesses were separately incorporated.

''(3) QUALIFIED BUSINESS.—For purposes of this subsection, the term 'qualified business' has the meaning given to such term by section 1397B(d); except that—

''(A) in lieu of applying paragraph (2)(B) thereof, the rental to others of real property located in any low-income community shall be treated as a qualified business if there are substantial improvements located on such property,

''(B) paragraph (3) thereof shall not apply, and

''(C) such term shall not include any business if a significant portion of the equity interests in such business are held by any person who holds a significant portion of the equity investments in the community development entity.

''(e) LOW-INCOME COMMUNITY.—For purposes of this section—

''(1) IN GENERAL.—The term 'low-income community' means any population census tract if—

''(A) the poverty rate for such tract is at least 20 percent, or

''(B)(i) in the case of a tract not located within a metropolitan area, the median family income for such tract does not exceed 80 percent of statewide median family income, or

''(ii) in the case of a tract located within a metropolitan area, the median family income for such tract does not exceed 80 percent of the greater of statewide median family income or the metropolitan area median family income.

''(2) AREAS NOT WITHIN CENSUS TRACTS.—In the case of an area which is not tracted for population census tracts, the equivalent county divisions (as defined by the Bureau of the Census for purposes of defining poverty areas) shall be used for purposes of determining poverty rates and median family income.

''(3) TARGETED POPULATION.—The Secretary may prescribe regulations under which 1 or more targeted populations (within the meaning of section 3(20) of the Riegle Community Development and Regulatory Improvement Act of 1974 (12 U.S.C. 4702(20))) may be treated as low-income communities. Such regulations shall include procedures for identifying the area covered by any such community for purposes of determining entities which are qualified active low-income community businesses with respect to such community.

''(f) NATIONAL LIMITATION ON AMOUNT OF INVESTMENTS DESIGNATED.—

''(1) IN GENERAL.—There is a new markets tax credit limitation of $750,000,000 for each of calendar years 2001 through 2005 and zero for any succeeding calendar year.

''(2) ALLOCATION OF LIMITATION.—The limitation under paragraph (1) shall be allocated by the Secretary among qualified community development entities selected by the Secretary. In making allocations under the preceding sentence, the Secretary shall give priority to entities with records of having successfully provided capital or technical assistance to disadvantaged businesses or communities.

''(3) CARRYOVER OF UNUSED LIMITATION.—If the new markets tax credit limitation for any calendar year exceeds the aggregate amount allocated under paragraph (2) for such year, such limitation for the succeeding calendar year shall be increased by the amount of such excess.

''(g) RECAPTURE OF CREDIT IN CERTAIN CASES.—

''(1) IN GENERAL.—If, at any time during the 5-year period beginning on the date of the original issue of a qualified equity investment in a qualified community development entity, there is a recapture event with respect to such investment, then the tax imposed by this chapter for the taxable year in which such event occurs shall be increased by the credit recapture amount.

''(2) CREDIT RECAPTURE AMOUNT.—For purposes of paragraph (1), the credit recapture amount is an amount equal to the sum of—

''(A) the aggregate decrease in the credits allowed to the taxpayer under section 38 for all prior taxable years which would have resulted if no credit had been determined under this section with respect to such investment, plus

''(B) interest at the overpayment rate established under section 6621 on the amount determined under subparagraph (A) for each prior taxable year for the period beginning on the due date for filing the return for the prior taxable year involved.

No deduction shall be allowed under this chapter for interest described in subparagraph (B).

''(3) RECAPTURE EVENT.—For purposes of paragraph (1), there is a recapture event with respect to an equity investment in a qualified community development entity if—

''(A) such entity ceases to be a qualified community development entity,

''(B) the proceeds of the investment cease to be used as required of subsection (b)(1)(B), or

''(C) such investment is redeemed by such entity.

''(4) SPECIAL RULES.—

''(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

''(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.

''(h) BASIS REDUCTION.—The basis of any qualified equity investment shall be reduced by the amount of any credit determined under this section with respect to such investment.

''(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this section, including regulations—

''(1) which limit the credit for investments which are directly or indirectly subsidized by other Federal benefits (including the credit under section 42 and the exclusion from gross income under section 103),

''(2) which prevent the abuse of the provisions of this section through the use of related parties,

''(3) which impose appropriate reporting requirements

''(4) which apply the provisions of this section to newly formed entities.''

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—

(1) IN GENERAL.—Subsection (b) of section 38, as amended by section ___06, is amended by striking ''plus'' at the end of paragraph (13), by striking the period at the end of paragraph (14) and inserting '', plus'', and by adding at the end the following new paragraph:

''(15) the new markets tax credit determined under section 45F(a).''

(2) LIMITATION ON CARRYBACK.—Subsection (d) of section 39 is amended by adding at the end the following new paragraph:

''(11) NO CARRYBACK OF NEW MARKETS TAX CREDIT BEFORE JANUARY 1, 2000.—No portion of the unused business credit for any taxable year which is attributable to the credit under section 45E may be carried back to a taxable year ending before January 1, 2000.''

(c) DEDUCTION FOR UNUSED CREDIT.—Subsection (c) of section 196 is amended by striking ''and'' at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting '', and'', and by adding at the end the following new paragraph:

''(9) the new markets tax credit determined under section 45F(a).''

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section ___06, is amended by adding at the end the following new item:

''Sec. 45F. New markets tax credit.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to investments made after December 31, 2000.

**SEC. ___23. WAGE CREDITS FOR ROUND 2 EMPOWERMENT ZONES.**

(a) IN GENERAL.—Section 1396(b)(2) (relating to special rule) is amended by inserting ''or pursuant to section 1391(g)'' after ''section 1391(b)(2)''.

(b) CONFORMING AMENDMENT.—Section 1396 is amended by striking subsection (e).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect of the date of the enactment of this Act.

**SEC. ___24. CREDIT FOR INFORMATION TECHNOLOGY TRAINING PROGRAM EXPENSES.**

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by section ___22, is amended by adding at the end the following:

**''SEC. 45G. INFORMATION TECHNOLOGY TRAINING PROGRAM EXPENSES.**

''(a) GENERAL RULE.—For purposes of section 38, in the case of an employer, the information technology training program credit determined under this section is an amount equal to 20 percent of information technology training program expenses paid or incurred by the taxpayer during the taxable year.

''(b) ADDITIONAL CREDIT PERCENTAGE FOR CERTAIN PROGRAMS.—The percentage under subsection (a) shall be increased by 5 percentage points for information technology training program expenses paid or incurred—

''(1) by the taxpayer with respect to a program operated in—

''(A) an empowerment zone or enterprise community designated under part I of subchapter U,

''(B) a school district in which at least 50 percent of the students attending schools in such district are eligible for free or reduced-cost lunches under the school lunch program established under the National School Lunch Act,

''(C) an area designated as a disaster area by the Secretary of Agriculture or by the President under the Disaster Relief and Emergency Assistance Act in the taxable year or the 4 preceding taxable years,

''(D) a rural enterprise community designated under section 766 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999,

''(E) an area designated by the Secretary of Agriculture as a Rural Economic Area Partnership Zone, or

''(F) an area designated by the Secretary of Agriculture as a Champion Community, or

''(2) by a small employer.

''(c) LIMITATION.—The amount of information technology training program expenses with respect to an individual which may be taken into account under subsection (a) for the taxable year shall not exceed $6,000.

''(d) INFORMATION TECHNOLOGY TRAINING PROGRAM EXPENSES.—For purposes of this section—

''(1) IN GENERAL.—The term 'information technology training program expenses' means expenses paid or incurred by reason of the participation of the employer in any information technology training program.

''(2) INFORMATION TECHNOLOGY TRAINING PROGRAM.—The term 'information technology training program' means a program—

''(A) for the training of—

''(i) computer programmers, systems analysts, and computer scientists or engineers (as such occupations are defined by the Bureau of Labor Statistics), and

''(ii) such other occupations as determined by the Secretary, after consultation with a working group broadly solicited by the Secretary and open to all interested information technology entities and trade and professional associations,

''(B) involving a partnership of—

''(i) employers, and

''(ii) State training programs, school districts, university systems, tribal colleges, or certified commercial information technology training providers, and

''(C) at least 50 percent of the costs of which is paid or incurred by the employers.

''(3) CERTIFIED COMMERCIAL INFORMATION TECHNOLOGY TRAINING PROVIDER.—The term 'certified commercial information technology training providers' means a private sector provider of educational products and services utilized for training in information technology which is certified with respect to—

''(A) the curriculum that is used for the training, or

''(B) the technical knowledge of the instructors of such provider,

by 1 or more software publishers or hardware manufacturers the products of which are a subject of the training.

''(e) SMALL EMPLOYER.—For purposes of this section, the term 'small employer' means, with respect to any calendar year, any employer if such employer employed 200 or fewer employees on each business day in each of 20 or more calendar weeks in such year or the preceding calendar year.

''(f) DENIAL OF DOUBLE BENEFIT.—No deduction or credit under any other provision of this chapter shall be allowed with respect to information technology training program expenses (determined without regard to the limitation under subsection (c)).

''(g) CERTAIN RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of section 45A(e)(2) and subsections (c), (d), and (e) of section 52 shall apply.''

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by section ___22, is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following:

''(16) the information technology training program credit determined under section 45G.''

(c) NO CARRYBACKS.—Subsection (d) of section 39 (relating to carryback and carryforward of unused credits), as amended by section ___22, is amended by adding at the end the following:

''(12) NO CARRYBACK OF SECTION 45G CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the information technology training program credit determined under section 45G may be carried back to a taxable year ending before the date of the enactment of section 45G.''

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section ___22, is amended by adding at the end the following:

''Sec. 45G. Information technology training program expenses.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

**SEC. ___25. RESTORATION OF STANDARDS FOR DETERMINING WHETHER TECHNICAL WORKERS ARE NOT EMPLOYEES.**

(a) REPEAL OF SECTION 530(d) OF THE REVENUE ACT OF 1978.—Section 530(d) of the Revenue Act of 1978 (as added by section 1706 of the Tax Reform Act of 1986) is repealed.

(b) EFFECTIVE DATE.—The amendment made by subsection (c) shall apply to periods ending after the date of enactment of this Act.

**SEC. ___26. CERTAIN POST-SECONDARY EDUCATIONAL BENEFITS PROVIDED BY AN EMPLOYER TO CHILDREN OF EMPLOYEES EXCLUDABLE FROM GROSS INCOME AS A SCHOLARSHIP.**

(a) IN GENERAL.—Section 117 (relating to qualified scholarships) is amended by adding at the end the following:

''(e) EMPLOYER-PROVIDED POST-SECONDARY EDUCATIONAL BENEFITS PROVIDED TO CHILDREN OF EMPLOYEES.—

''(1) IN GENERAL.—In determining whether any amount is a qualified scholarship for purposes of subsection (a), the fact that such amount is provided in connection with an employment relationship shall be disregarded if—

''(A) such amount is provided by the employer to a child (as defined in section 161(c)(3)) of an employee of such employer,

''(B) such amount is provided pursuant to a plan which meets the nondiscrimination requirements of subsection (d)(3), and

''(C) amounts provided under such plan are in addition to any other compensation payable to employees and such plan does not provide employees with a choice between such amounts and any other benefit.

For purposes of subparagraph (C), the business practices of the employer (as well as such plan) shall be taken into account.

''(2) DOLLAR LIMITATIONS.—

''(A) PER CHILD.—The amount excluded from the gross income of the employee by reason of paragraph (1) for a taxable year with respect to amounts provided to each child of such employee shall not exceed $2,000.

''(B) AGGREGATE LIMIT.—The amount excluded from the gross income of the employee by reason of paragraph (1) for a taxable year (after the application of subparagraph (A)) shall not exceed the excess of the

dollar amount contained in section 127(a)(2) over the amount excluded from the employee's gross income under section 127 for such year.

''(3) PRINCIPAL SHAREHOLDERS AND OWNERS.—Paragraph (1) shall not apply to any amount provided to any child of any individual if such individual (or such individual's spouse) owns (on any day of the year) more than 5 percent of the stock or of the capital or profits interest in the employer.

''(4) SPECIAL RULES OF APPLICATION.—In the case of an amount which is treated as a qualified scholarship by reason of this subsection—

''(A) subsection (a) shall be applied without regard to the requirement that the recipient be a candidate for a degree, and

''(B) subsection (b)(2)(A) shall be applied by substituting 'section 529(e)(5)' for 'section 170(b)(1)(A)(ii)'.

''(5) CERTAIN OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (4), (5), and (7) of section 127(c) shall apply for purposes of this subsection.''

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

**SEC. ___27. INCREASE IN STATE CEILING ON LOW-INCOME HOUSING CREDIT.**

(a) IN GENERAL.—Clause (i) of section 42(h)(3)(C) (relating to State housing credit ceiling) is amended to read as follows:

''(i) the applicable amount under subparagraph (H) multiplied by the State population,''.

(b) APPLICABLE AMOUNT.—Paragraph (3) of section 42(h) (relating to housing credit dollar amount for agencies) is amended by adding at the end the following new subparagraph:

''(H) APPLICABLE AMOUNT OF STATE CEILING.—For purposes of subparagraph (C)(i), the applicable amount shall be determined under the following table:

| ''For calendar year— | The applicable amount is— |
|---|---|
| 2000 | $1.30 |
| 2001 | 1.35 |
| 2002 | 1.40 |
| 2003 | 1.45 |
| 2004 | 1.50 |
| 2005 | 1.55 |
| 2006 | 1.60 |
| 2007 | 1.65 |
| 2008 | 1.70 |
| 2009 and thereafter | 1.75.'' |

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years after 1999.

**Subtitle C—Expanding Economic Opportunities**

**SEC. ___31. WORK OPPORTUNITY CREDIT AND WELFARE-TO-WORK CREDIT.**

(a) TEMPORARY EXTENSION.—Sections 51(c)(4)(B) and 51A(f) (relating to termination) are each amended by striking ''December 31, 2000'' and inserting ''December 31, 2004''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after December 31, 2000.

**SEC. ___32. EXTENSION OF CREDIT FOR HOLDERS OF QUALIFIED ZONE ACADEMY BONDS.**

Section 1397E(e)(1) (relating to national limitation) is amended by striking ''and 1999'' and inserting '', 1999, and 2000''.

**Subtitle D—Promoting Family-Owned Farms and Businesses**

**SEC. ___41. INCREASE IN ESTATE TAX DEDUCTION FOR FAMILY-OWNED BUSINESS INTEREST.**

(a) IN GENERAL.—Section 2057(a)(2) (relating to maximum deduction) is amended by striking ''$675,000'' and inserting ''$1,125,000''.

(b) CONFORMING AMENDMENTS.—Section 2057(a)(3)(B) (relating to coordination with unified credit) is amended by striking ''$675,000'' each place it appears in the text and heading and inserting ''$1,125,000''.

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

**SEC. ___42. INCOME AVERAGING FOR FARMERS NOT TO INCREASE ALTERNATIVE MINIMUM TAX LIABILITY.**

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

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

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

**SEC. ___43. NET OPERATING LOSS OF FARMERS.**

(a) INCREASE IN CARRYBACK YEARS.—Paragraph (1) of section 172(b) (relating to net operating loss carrybacks and carryforwards) is amended by adding at the end the following new subparagraph:

''(G) FARMING LOSSES.—Subparagraph (A) shall be applied—

''(i) in the matter preceding clause (i), by substituting 'any taxable year beginning with the 3rd taxable year after the taxable year of such loss' for 'any taxable year', and

''(ii) in clause (i), by substituting '10 years' for '2 years',

with respect to the portion of the net operating loss of an eligible taxpayer (as defined in subsection (i)) for any taxable year beginning after December 31, 2000, and ending before January 1, 2003, which is a farming loss (as so defined) with respect to the taxpayer.''

(b) DEFINITIONS AND RULES RELATING TO FARMING LOSSES.—Section 172 is amended by redesignating subsection (i) as subsection (j) and inserting after subsection (h) the following new subsection:

''(i) DEFINITIONS AND RULES RELATING TO FARMING LOSSES.—For purposes of this section—

''(1) FARMING LOSS.—

''(A) IN GENERAL.—The term 'farming loss' means the lesser of—

''(i) the net operating loss of the taxpayer for the taxable year, or

''(ii) the net operating loss of the taxpayer for the taxable year determined by only taking into account items of income and deduction attributable to 1 or more qualified farming business of the taxpayer.

''(B) DOLLAR LIMITATION.—

''(i) IN GENERAL.—The farming loss of taxpayer for any taxable year shall not exceed $200,000.

''(ii) AGGREGATION RULES.—

''(I) IN GENERAL.—All persons treated as 1 employer under subsections (a) or (b) of section 52 shall be treated as 1 person.

''(II) PASS-THRU ENTITY.—In the case of a partnership, trust, or other pass-thru entity, the limitation shall be applied at both the entity and the owner level.

''(III) OWNER.—The limitation shall be reduced by the amount of farming loss determined for a corporation for which the taxpayer is a 50 percent owner in the taxable year of the corporation ending in the taxable year of the taxpayer owner.

''(2) ELIGIBLE TAXPAYER.—

''(A) IN GENERAL.—The term 'eligible taxpayer' means a taxpayer which derives more than 50 percent of its gross income for the 3-year period beginning 2 years prior to the current taxable year from qualified farming businesses.

''(B) QUALIFIED FARMING BUSINESS.—The term 'qualified farming business' means a trade or business of farming (within the meaning of section 2032A)—

''(i) with respect to which—

''(I) the taxpayer or a member of the family of the taxpayer materially participates (within the meaning of section 2032A(e)(6)), or

''(II) in the case of a taxpayer other than an individual, a 20 percent owner of the taxpayer or a member of the owner's family materially participates (as so defined), and

''(ii) which does not receive in excess of $7,000,000 for sales in a taxable year.

For purposes of clause (i)(II), owners which are members of a single family shall be treated as a single owner.

''(3) OWNER.—

''(A) 20 PERCENT OWNER.—The term '20 percent owner' means any person who would be described in section 416(i)(1)(B)(i) if '20 percent' were substituted for '5 percent' each place it appears in such section.

''(B) 50 PERCENT OWNER.—The term '50 percent owner' means any person who would be described in section 416(i)(1)(B)(i) if '50 percent' were substituted for '5 percent' each place it appears in such section.

''(4) COORDINATION WITH SUBSECTION (b)(2).—For purposes of applying subsection (b)(2), a farming loss for any taxable year shall be treated as a separate net operating loss for such taxable year to be taken into account for the remaining portion of the net operating loss for such taxable year.

''(5) ELECTION.—Any taxpayer entitled to a 10-year carryback under subsection (b)(1)(G) from any loss year may elect to have the carryback period with respect to such loss year, and any portion of the farming loss for such year, determined without regard to subsection (b)(1)(G). Such election shall be made in such manner as may be prescribed by the Secretary and shall be made by the due date (including extensions of time) for filing the taxpayer's return for the taxable year of the net operating loss. Such election, once made for any taxable year, shall be irrevocable for the taxable year.''

**SEC. ___44. SMALL BUSINESSES ALLOWED INCREASED DEDUCTION FOR MEAL EXPENSES.**

(a) IN GENERAL.—Subsection (n) of section 274 (relating to only 50 percent of meal and entertainment expenses allowed as deduction) is amended by adding at the end the following new paragraph:

''(4) SPECIAL RULE FOR SMALL BUSINESSES.—

''(A) IN GENERAL.—In the case of any taxpayer which is a small business, paragraph (1) shall be applied by substituting for '50 percent' with respect to expenses for food or beverages—

''(i) '55 percent' in the case of taxable years beginning in 2001, and

''(ii) '60 percent' in the case of taxable years beginning after 2001.

''(B) SMALL BUSINESS.—For purposes of this paragraph, the term 'small business' means, with respect to expenses paid or incurred during any taxable year—

''(i) any C corporation which meets the requirements of section 55(e)(1) for such year, and

''(ii) any S corporation, partnership, or sole proprietorship which would meet such requirements if it were a C corporation.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2000.

**SEC. ___45. TAX EXCLUSION FOR COST-SHARING PAYMENTS UNDER PARTNERS FOR WILDLIFE PROGRAM.**

(a) IN GENERAL.—Section 126(a) (relating to certain cost-sharing payments) is amended by redesignating paragraph (10) as paragraph (11) and by inserting after paragraph (9) the following:

''(10) The Partners for Wildlife Program authorized by the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

**Subtitle E—Providing Administrative Relief**

**SEC. ___51. DISCLOSURE OF TAX INFORMATION TO FACILITATE COMBINED EMPLOYMENT TAX REPORTING.**

Section 6103(d)(5) is amended to read as follows:

''(5) DISCLOSURE FOR COMBINED EMPLOYMENT TAX REPORTING.—The Secretary may disclose taxpayer identity information and signatures to any agency, body, or commission of any State for the purpose of carrying out with such agency, body, or commission a combined Federal and State employment tax reporting program approved by the Secretary. Subsections (a)(2) and (p)(4) and sections 7213 and 7213A shall not apply with respect to disclosures or inspections made pursuant to this paragraph.''

**SEC. ___52. ENROLLED AGENTS.**

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

**''SEC. 7527. ENROLLED AGENTS.**

''(a) IN GENERAL.—The Secretary may prescribe such regulations as may be necessary to regulate the conduct of enrolled agents in regards to their practice before the Internal Revenue Service.

''(b) USE OF CREDENTIALS.—

''(1) IN GENERAL.—Any enrolled agent properly licensed to practice before the Internal Revenue Service under subsection (a) shall be allowed to use the credentials 'Enrolled Agent', 'EA', or 'E.A.'.

''(2) PROHIBITION ON INTERFERENCE.—No state, municipality or locality, or agency thereof, shall interfere with the right of enrolled agents to use such credentials as described in paragraph (b)(1).''

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

''Sec. 7527. Enrolled agents.''

(c) PRIOR REGULATIONS.—Nothing in the amendments made by this section shall be construed to have any effect on part 10 of title 31, Code of Federal Regulations, or any other Federal rule or regulation issued before the date of the enactment of this Act.

**Subtitle F—Revenue Offsets**

**SEC. ___61. RESTORATION OF PHASE-OUT OF UNIFIED CREDIT.**

(a) IN GENERAL.—Paragraph (2) of section 2001(c) is amended by striking ''$10,000,000'' and all that follows and inserting ''$10,000,000. The amount of the increase under the preceding sentence shall not exceed the sum of the applicable credit amount under section 2010(c) (determined without regard to section 2057(a)(3)) and $359,200.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying after the date of enactment of this Act.

**SEC. ___62. REPEAL OF LOWER-OF-COST-OR-MARKET METHOD OF ACCOUNTING FOR INVENTORIES.**

(a) IN GENERAL.—Section 471 (relating to general rule for inventories) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

''(b) CERTAIN WRITE-DOWNS NOT PERMITTED; USE OF MARK-DOWNS REQUIRED UNDER RETAIL METHOD.—

''(1) IN GENERAL.—A taxpayer—

''(A) may not use the lower-of-cost-or-market method of accounting for inventories, and

''(B) may not write-down items by reason of being unsalable at normal prices or unusable in the normal way because of damage, imperfections, shop wear, changes of style, odd or broken lots, or other similar causes.

Subparagraph (B) shall not apply to a taxpayer using a mark-to-market method of accounting for both gains and losses in inventory values.

''(2) MARK-DOWNS REQUIRED TO BE TAKEN INTO ACCOUNT UNDER RETAIL METHOD.—The retail method of accounting for inventories shall be applied by taking into account mark-downs in determining the approximate cost of the inventories.

''(3) EXCEPTION FOR CERTAIN SMALL BUSINESSES.—Paragraph (1) shall not apply to any taxpayer for any taxable year if, for all prior taxable years ending on or after the date of the enactment of this subsection, the taxpayer (or any predecessor) met the $5,000,000 gross receipts test of section 448(c).

''(4) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this subsection, including regulations relating to wash-sale-type transactions.''

(b) CONFORMING AMENDMENTS.—

(1) Clause (iii) of section 312(n)(4)(C) is amended to read as follows:

''(iii) INVENTORY AMOUNT.—The inventory amount of assets under the first-in, first-out method authorized by section 471 shall be determined using the method authorized to be used by the taxpayer under such section.''

(2) Subparagraph (C) of section 1363(d)(4) is amended to read as follows:

''(C) INVENTORY AMOUNT.—The inventory amount of assets under a method authorized by section 471 shall be determined using the method authorized to be used by the corporation under such section.''

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this subsection.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for its first taxable year beginning after the date of the enactment of this subsection—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary of the Treasury, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 4-taxable year period beginning with the first taxable year beginning after such date.

**SEC. ___63. CONSISTENT AMORTIZATION PERIODS FOR INTANGIBLES.**

(a) START-UP EXPENDITURES.—

(1) ALLOWANCE OF DEDUCTION.—Subsection (b) of section 195 (relating to start-up expenditures) is amended by striking paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting before paragraph (3), as so redesignated, the following new paragraphs:

''(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection with respect to any start-up expenditures—

''(A) the taxpayer shall be allowed a deduction for the taxable year in which the active trade or business begins in an amount equal to the lesser of—

''(i) the amount of start-up expenditures with respect to the active trade or business, or

''(ii) $5,000, reduced (but not below zero) by the amount by which such start-up expenditures exceed $50,000, and

''(B) the remainder of such start-up expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the active trade or business begins.

''(2) AGGREGATION RULE.—For purposes of paragraph (1), all persons which are treated as a single employer under subsections (a) and (b) of section 52 shall be treated as a single person.''

(2) CONFORMING AMENDMENT.—Subsection (b) of section 195 is amended by striking ''AMORTIZE'' and inserting ''DEDUCT'' in the heading.

(b) ORGANIZATIONAL EXPENDITURES.—Subsection (a) of section 248 (relating to organizational expenditures) is amended to read as follows:

''(a) ELECTION TO DEDUCT.—

''(1) IN GENERAL.—If a corporation elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenditures—

''(A) the corporation shall be allowed a deduction for the taxable year in which the corporation begins business in an amount equal to the lesser of—

''(i) the amount of organizational expenditures with respect to the taxpayer, or

''(ii) $5,000, reduced (but not below zero) by the amount by which such organizational expenditures exceed $50,000, and

''(B) the remainder of such organizational expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the corporation begins business.

''(2) AGGREGATION RULE.—For purposes of paragraph (1), all persons which are treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single person.''

(c) TREATMENT OF ORGANIZATIONAL AND SYNDICATION FEES OR PARTNERSHIPS.—Section 709(b) (relating to amortization of organization fees) is amended by redesignating paragraph (2) as paragraph (4) and by amending paragraph (1) to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenses—

''(A) the taxpayer shall be allowed a deduction for the taxable year in which the partnership begins business in an amount equal to the lesser of—

''(i) the amount of organizational expenses with respect to the partnership, or

''(ii) $5,000, reduced (but not below zero) by the amount by which such organizational expenses exceed $50,000, and

''(B) the remainder of such organizational expenses shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the partnership begins business.

''(2) DISPOSITIONS BEFORE CLOSE OF AMORTIZATION PERIOD.—In any case in which a partnership is liquidated before the end of the period to which paragraph (1)(B) applies, any deferred expenses attributable to the partnership which were not allowed as a deduction by reason of this section may be deducted to the extent allowable under section 165.

''(3) AGGREGATION RULE.—For purposes of paragraph (1), all persons which are treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single person.''

(d) CONFORMING AMENDMENT.—Subsection (b) of section 709 is amended by striking ''AMORTIZATION'' and inserting ''DEDUCTION'' in the heading.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts

paid or incurred after the date of the enactment of this Act.

**SEC. ___64. EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND TAXES.**

(a) EXTENSION OF TAXES.—

(1) ENVIRONMENTAL TAX.—Section 59A(e) is amended to read as follows:

''(e) APPLICATION OF TAX.—The tax imposed by this section shall apply to taxable years beginning after December 31, 1986, and before January 1, 1996, and to taxable years beginning after December 31, 1999, and before January 1, 2010.''

(2) EXCISE TAXES.—Section 4611(e) is amended to read as follows:

''(e) APPLICATION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—The Hazardous Substance Superfund Financing rate under this section shall apply after December 31, 1986, and before January 1, 1996, and after the date of the enactment of the Tax Extenders Act of 1999, and before October 1, 2009.''

(b) EFFECTIVE DATES.—

(1) INCOME TAX.—The amendment made by subsection (a)(1) shall apply to taxable years beginning after December 31, 1999.

(2) EXCISE TAX.—The amendment made by subsection (a)(2) shall take effect on the date of the enactment of this Act.

**SEC. ___65. DISALLOWANCE OF NONECONOMIC TAX ATTRIBUTES.**

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) DISALLOWANCE OF NONECONOMIC TAX ATTRIBUTES.—

''(1) IN GENERAL.—In determining liability for any tax under subtitle A, noneconomic tax attributes shall not be allowed.

''(2) NONECONOMIC TAX ATTRIBUTE.—For purposes of this subsection, a noneconomic tax attribute is any deduction, loss, or credit claimed to result from any transaction unless—

''(A) the transaction changes in a meaningful way (apart from Federal income tax consequences) the taxpayer's economic position, and

''(B)(i) the present value of the reasonably expected potential income from the transaction (and the taxpayer's risk of loss from the transaction) are substantial in relationship to the present value of the tax benefits claimed, or

''(ii) in the case of a transaction which is in substance the borrowing of money or the acquisition of financial capital, the deductions claimed with respect to the transaction for any period are not significantly in excess of the economic return for such period realized by the person lending the money or providing the financial capital.

''(3) PRESUMPTION OF NONECONOMIC TAX ATTRIBUTES.—For purposes of paragraph (2), the following factors shall give rise to a presumption that a transaction fails to meet the requirements of paragraph (2):

''(A) The fact that the payments, liabilities, or assets that purport to create a loss (or other benefit) for tax purposes are not reflected to any meaningful extent on the taxpayer's books and records for financial reporting purposes.

''(B) The fact that the transaction results in an allocation of income or gain to a tax-indifferent party which is substantially in excess of such party's economic income or gain from the transaction.

''(4) TREATMENT OF BUILT-IN LOSS.—The determination of whether a transaction results in the realization of a built-in loss shall be made under subtitle A as if this subsection had not been enacted. For purposes of the preceding sentence, the term 'built-in loss' means any loss or deduction to the extent that such loss or deduction had economically been incurred before such transaction is entered into and to the extent that the loss or deduction was economically borne by the taxpayer.

''(5) DEFINITION AND SPECIAL RULES.—For purposes of this subsection—

''(A) TAX-INDIFFERENT PARTY.—The term 'tax-indifferent party' means any person or entity exempt from tax under subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if, by reason of such person's method of accounting, the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

''(B) SERIES OF RELATED TRANSACTION.—A transaction which is part of a series of related transactions shall be treated as meeting the requirements of paragraph (2) only if—

''(i) such transaction meets such requirements without regard to the other transactions, and

''(ii) such transactions, if treated as 1 transaction, would meet such requirements. A similar rule shall apply to a multiple step transaction with each step being treated as a separate related transaction.

''(C) NORMAL BUSINESS TRANSACTIONS.—In the case of a transaction which is an integral part of a taxpayer's trade or business and which is entered into in the normal course of such trade or business, the determination of the potential income from such transaction shall be made by taking into account its relationship to the overall trade or business of the taxpayer.

''(D) TREATMENT OF FEES.—In determining whether there is risk of loss from a transaction (and the amount thereof), potential loss of fees and other transaction expenses shall be disregarded.

''(E) TREATMENT OF ECONOMIC RETURN ENHANCEMENTS.—The following shall be treated as economic returns and not tax benefits:

''(i) The credit under section 29 (relating to credit for producing fuel from a nonconventional source).

''(ii) The credit under section 42 (relating to low-income housing credit).

''(iii) The credit under section 45 (relating to electricity produced from certain renewable resources).

''(iv) The credit under section 1397E (relating to credit to holders of qualified zone academy bonds) or any similar program hereafter enacted.

''(v) Any other tax benefit specified in regulations.

''(F) EXCEPTIONS FOR NONBUSINESS TRANSACTIONS.—

''(i) INDIVIDUALS.—In the case of an individual, this subsection shall only apply to transactions entered into in connection with a trade or business or activity engaged in for profit.

''(ii) CHARITABLE TRANSFERS.—This subsection shall not apply in determining the amount allowable as a deduction under section 170, 545(b)(2), 556(b)(2), or 642(c).

''(6) ECONOMIC SUBSTANCE DOCTRINE, ETC., NOT AFFECTED.—The provisions of this subsection shall not be construed as altering or supplanting any rule of law referred to in section 6662(i)(2)(B) and the requirements of this subsection shall be construed as being in addition to any such rule of law.''

(b) INCREASE IN SUBSTANTIAL UNDERPAYMENT PENALTY WITH RESPECT TO DISALLOWED NONECONOMIC TAX ATTRIBUTES.—Section 6662 (relating to imposition of accuracy-related penalty) is amended by adding at the end the following new subsection:

''(i) INCREASE IN PENALTY IN CASE OF DISALLOWED NONECONOMIC TAX ATTRIBUTES.—

''(1) IN GENERAL.—In the case of the portion of the underpayment to which this subsection applies—

''(A) subsection (a) shall be applied with respect to such portion by substituting '40 percent' for '20 percent', and

''(B) subsection (d)(2)(B) and section 6664(c) shall not apply.

''(2) UNDERPAYMENTS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to an underpayment to which this section applies by reason of paragraph (1) or (2) of subsection (b) to the extent that such underpayment is attributable to—

''(A) the disallowance of any noneconomic tax attribute (determined under section 7701(m)), or

''(B) the disallowance of any other benefit—

''(i) because of a lack of economic substance or business purpose for the transaction giving rise to the claimed benefit,

''(ii) because the form of the transaction did not reflect its substance, or

''(iii) because of any other similar rule of law.

''(3) INCREASE IN PENALTY NOT TO APPLY IF COMPLIANCE WITH DISCLOSURE REQUIREMENTS.—Paragraph (1)(A) shall not apply if the taxpayer—

''(A) discloses to the Secretary within 30 days after the closing of the transaction appropriate documents describing the transaction, and

''(B) files with the taxpayer's return of tax imposed by subtitle A—

''(i) a statement verifying that such disclosure has been made,

''(ii) a detailed description of the facts, assumptions of facts, and factual conclusions with respect to the business or economic purposes or objectives of the transaction that are relied upon to support the manner in which it is reported on the return,

''(iii) a description of the due diligence performed to ascertain the accuracy of such facts, assumptions, and factual conclusions,

''(iv)(I) a statement (signed by the senior financial officer of the corporation under penalty of perjury) that the facts, assumptions, or factual conclusions relied upon in reporting the transaction are true and correct as of the date the return is filed, to the best of such officer's knowledge and belief, and

''(II) if the actual facts varied materially from the facts, assumptions, or factual conclusions relied upon, a statement describing such variances,

''(v) copies of any written material provided in connection with the offer of the transaction to the taxpayer by a third party,

''(vi) a full description of any express or implied agreement or arrangement with any advisor, or with any offeror, that the fee payable to such person would be contingent or subject to possible reimbursement, and

''(vii) a full description of any express or implied warranty from any person with respect to the anticipated tax results from the transaction.''

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

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## WELLSTONE (AND OTHERS) AMENDMENT NO. 2752

(Ordered to lie on the table.)

Mr. WELLSTONE (for himself, Mr. DASCHLE, Mr. DORGAN, and Mr. HARKIN) submitted an amendment intended to be proposed by them to the bill, S. 625, supra; as follows:

At the end insert the following:

**DIVISION 2—AGRIBUSINESS MERGER MORATORIUM AND ANTITRUST REVIEW ACT OF 1999**

**SEC. ___1. SHORT TITLE.**

This division may be cited as the ''Agribusiness Merger Moratorium and Antitrust Review Act of 1999''.

**SEC. ___2. FINDINGS.**

Congress finds the following:

(1) Concentration in the agricultural economy including mergers, acquisitions, and other combinations and alliances among suppliers, producers, packers, other food processors, and distributors has been accelerating at a rapid pace in the 1990's.

(2) The trend toward greater concentration in agriculture has important and far-reaching implications not only for family-based farmers, but also for the food we eat, the communities we live in, and the integrity of the natural environment upon which we all depend.

(3) In the past decade and a half, the top 4 largest pork packers have seized control of some 57 percent of the market, up from 36 percent. Over the same period, the top 4 beef packers have expanded their market share from 32 percent to 80 percent, the top 4 flour millers have increased their market share from 40 percent to 62 percent, and the market share of the top 4 soybean crushers has jumped from 54 percent to 80 percent.

(4) Today the top 4 sheep, poultry, wet corn, and dry corn processors now control 73 percent, 55 percent, 74 percent, and 57 percent of the market, respectively.

(5) A handful of firms dominate the processing of every major commodity. Many of them are vertically integrated, which means that they control successive stages of the food chain, from inputs to production to distribution.

(6) Growing concentration of the agricultural sector has restricted choices for farmers trying to sell their products. As the bargaining power of agribusiness firms over farmers increases, agricultural commodity markets are becoming stacked against the farmer.

(7) The farmer's share of every retail dollar has plummeted from around 50 percent in 1952, to less than 25 percent today, while the profit share for farm input, marketing, and processing companies has risen.

(8) While agribusiness conglomerates are posting record earnings, farmers are facing desperate times. The commodity price index is the lowest since 1987. Hog prices are at their lowest since 1972. Cotton and soybean prices are the lowest they have been since the early 1970's.

(9) The benefits of low commodity prices are not being passed on to American consumers. The gap between what shoppers pay for food and what farmers are paid is growing wider. From 1984 to 1998, prices paid to farmers fell 36 percent, while consumer food prices actually increased by 3 percent.

(10) Concentration, low prices, anticompetitive practices, and other manipulations and abuses of the agricultural economy are driving family-based farmers out of business. Farmers are going bankrupt or giving up, and few are taking their places; more farm families are having to rely on other jobs to stay afloat; and the number of farmers leaving the land will continue to increase unless and until these trends are reversed.

(11) The decline of family-based agriculture undermines the economies of rural communities across America; it has pushed Main Street businesses, from equipment suppliers to insurance sales people, out of business or to the brink of insolvency.

(12) Increased concentration in the agribusiness sector has a harmful effect on the environment; corporate hog farming, for example, threatens the integrity of local water supplies and creates noxious odors in neighboring communities. Concentration also can increase the risks to food safety and limit the biodiversity of plants and animals.

(13) The decline of family-based farming poses a direct threat to American families and family values, by subjecting farm families to turmoil and stress.

(14) The decline of family-based farming causes the demise of rural communities, as stores lose customers, churches lose congregations, schools and clinics become under-used, career opportunities for young people dry up, and local inequalities of wealth and income grow wider.

(15) These developments are not the result of inevitable market forces. They are the consequence of policies made in Washington, including farm, antitrust, and trade policies.

(16) To restore competition in the agricultural economy, and to increase the bargaining power and enhance economic prospects for family-based farmers, the trend toward concentration must be reversed.

**SEC. ___3. DEFINITIONS.**

In this division:

(1) AGRICULTURAL INPUT SUPPLIER.—The term ''agricultural input supplier'' means any person (excluding agricultural cooperatives) engaged in the business of selling, in interstate or foreign commerce, any product to be used as an input (including seed, germ plasm, hormones, antibiotics, fertilizer, and chemicals, but excluding farm machinery) for the production of any agricultural commodity, except that no person shall be considered an agricultural input supplier if sales of such products are for a value less than $10,000,000 per year.

(2) BROKER.—The term ''broker'' means any person (excluding agricultural cooperatives) engaged in the business of negotiating sales and purchases of any agricultural commodity in interstate or foreign commerce for or on behalf of the vendor or the purchaser, except that no person shall be considered a broker if the only sales of such commodities are for a value less than $10,000,000 per year.

(3) COMMISSION MERCHANT.—The term ''commission merchant'' means any person (excluding agricultural cooperatives) engaged in the business of receiving in interstate or foreign commerce any agricultural commodity for sale, on commission, or for or on behalf of another, except that no person shall be considered a commission merchant if the only sales of such commodities are for a value less than $10,000,000 per year.

(4) DEALER.—The term ''dealer'' means any person (excluding agricultural cooperatives) engaged in the business of buying, selling, or marketing agricultural commodities in interstate or foreign commerce, except that—

(A) no person shall be considered a dealer with respect to sales or marketing of any agricultural commodity of that person's own raising; and

(B) no person shall be considered a dealer if the only sales of such commodities are for a value less than $10,000,000 per year.

(5) PROCESSOR.—The term ''processor'' means any person (excluding agricultural cooperatives) engaged in the business of handling, preparing, or manufacturing (including slaughtering) of an agricultural commodity, or the products of such agricultural commodity, for sale or marketing for human consumption, except that no person shall be considered a processor if the only sales of such products are for a value less than $10,000,000 per year.

**TITLE I—MORATORIUM ON LARGE AGRIBUSINESS MERGERS**

**SEC. 101. MORATORIUM ON LARGE AGRIBUSINESS MERGERS.**

(a) IN GENERAL.—

(1) MORATORIUM.—Until the date referred to in paragraph (2) and except as provided in subsection (b)—

(A) no dealer, processor, commission merchant, agricultural input supplier, broker, or operator of a warehouse of agricultural commodities with annual net sales or total assets of more than $100,000,000 shall merge or acquire, directly or indirectly, any voting securities or assets of any other dealer, processor, commission merchant, agricultural input supplier, broker, or operator of a warehouse of agricultural commodities with annual net sales or total assets of more than $10,000,000; and

(B) no dealer, processor, commission merchant, agricultural input supplier, broker, or operator of a warehouse of agricultural commodities with annual net sales or total assets of more than $10,000,000 shall merge or acquire, directly or indirectly, any voting securities or assets of any other dealer, processor, commission merchant, agricultural input supplier, broker, or operator of a warehouse of agricultural commodities with annual net sales or total assets of more than $100,000,000 if the acquiring person would hold—

(i) 15 percent or more of the voting securities or assets of the acquired person; or

(ii) an aggregate total amount of the voting securities and assets of the acquired person in excess of $15,000,000.

(2) DATE.—The date referred to in this paragraph is the earlier of—

(A) the effective date of comprehensive legislation—

(i) addressing the problem of market concentration in the agricultural sector; and

(ii) containing a section stating that the legislation is comprehensive legislation as provided in section 101 of the Agribusiness Merger Moratorium and Antitrust Review Act of 1999; or

(B) the date that is 18 months after the date of enactment of this division.

(3) EXEMPTIONS.—The following classes of transactions are exempt from the requirements of this section—

(1) acquisitions of goods or realty transferred in the ordinary course of business;

(2) acquisitions of bonds, mortgages, deeds of trust, or other obligations which are not voting securities;

(3) acquisitions of voting securities of an issuer at least 50 per centum of the voting securities of which are owned by the acquiring person prior to such acquisition;

(4) transfers to or from a Federal agency or a State or political subdivision thereof; and

(5) acquisitions of voting securities, if, as a result of such acquisition, the voting securities acquired do not increase, directly or indirectly, the acquiring person's per centum share of outstanding voting securities of the issuer.

(b) WAIVER AUTHORITY.—The Attorney General shall have authority to waive the moratorium imposed by subsection (a) only under extraordinary circumstances, such as insolvency or similar financial distress of 1 of the affected parties.

**TITLE II—AGRICULTURE CONCENTRATION AND MARKET POWER REVIEW COMMISSION**

**SEC. 201. ESTABLISHMENT OF COMMISSION.**

(a) ESTABLISHMENT.—There is established a commission to be known as the Agriculture Concentration and Market Power Review Commission (hereafter in this title referred to as the ''Commission'').

(b) PURPOSES.—The purpose of the Commission is to—

(1) study the nature and consequences of concentration in America's agricultural economy; and

(2) make recommendations on how to change underlying antitrust laws and other

Federal laws and regulations to keep a fair and competitive agriculture marketplace for family farmers, other small and medium sized agriculture producers, generally, and the communities of which they are a part.

(c) MEMBERSHIP OF COMMISSION.—

(1) COMPOSITION.—The Commission shall be composed of 12 members as follows:

(A) Three persons, one of whom shall be a person currently engaged in farming or ranching, shall be appointed by the President pro tempore of the Senate upon the recommendation of the Majority Leader of the Senate, after consultation with the Chairman of the Committee on Agriculture, Nutrition, and Forestry.

(B) Three persons, one of whom shall be a person currently engaged in farming or ranching, shall be appointed by the President pro tempore of the Senate upon the recommendation of the Minority Leader of the Senate, after consultation with the ranking minority member of the Committee on Agriculture, Nutrition, and Forestry.

(C) Three persons, one of whom shall be a person currently engaged in farming or ranching, shall be appointed by the Speaker of the House of Representatives, after consultation with the Chairman of the Committee on Agriculture.

(D) Three persons, one of whom shall be a person currently engaged in farming or ranching, shall be appointed by the Minority Leader of the House of Representatives, after consultation with the ranking minority member of the Committee on Agriculture.

(2) QUALIFICATIONS OF MEMBERS.—

(A) APPOINTMENTS.—Persons who are appointed under paragraph (1) shall be persons who—

(i) have experience in farming or ranching, expertise in agricultural economics and antitrust, or have other pertinent qualifications or experience relating to agriculture and agriculture industries; and

(ii) are not officers or employees of the United States.

(B) OTHER CONSIDERATION.—In appointing Commission members, every effort shall be made to ensure that the members—

(i) are representative of a broad cross sector of agriculture and antitrust perspectives within the United States; and

(ii) provide fresh insights to analyzing the causes and impacts of concentration in agriculture industries and sectors.

(d) PERIOD OF APPOINTMENT; VACANCIES.—

(1) IN GENERAL.—Members shall be appointed not later than 60 days after the date of enactment of this division and the appointment shall be for the life of the Commission.

(2) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(e) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(f) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(g) CHAIRPERSON AND VICE CHAIRPERSON.—The members of the Commission shall elect a chairperson and vice chairperson from among the members of the Commission.

(h) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(i) VOTING.—Each member of the Commission shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Commission.

**SEC. 202. DUTIES OF THE COMMISSION.**

(a) IN GENERAL.—The Commission shall be responsible for examining the nature, the causes, and consequences concentration in America's agricultural economy in the broadest possible terms.

(b) ISSUES TO BE ADDRESSED.—The study shall include an examination of the following matters:

(1) The nature and extent of concentration in the agricultural sector, including food production, transportation, processing, distribution and marketing, and farm inputs such as machinery, fertilizer, and seeds.

(2) Current trends in concentration of the agricultural sector and what this sector is likely to look like in the near and longer term future.

(3) The effect of this concentration on farmer income.

(4) The impacts of this concentration upon rural communities, rural economic development, and the natural environment.

(5) The impacts of this concentration upon food shoppers, including the reasons that Depression-level farm prices have not resulted in corresponding drops in supermarket prices.

(6) The productivity of family-based farm units, compared with corporate based agriculture, and whether farming is approaching a scale that is larger than necessary from the standpoint of productivity.

(7) The effect of current laws and administrative practices in supporting and encouraging this concentration.

(8) Whether the existing antitrust laws provide adequate safeguards against, and remedies for, the impacts of concentration upon family-based agriculture, the communities they comprise, and the food shoppers of this Nation.

(9) Accurate and reliable data on the national and international markets shares of multinational agribusinesses, and the portion of their sales attributable to exports.

(10) Barriers that inhibit entry of new competitors into markets for the processing of agricultural commodities, such as the meat packing industry.

(11) The extent to which developments, such as formula pricing, marketing agreements, and forward contracting tend to give processors, agribusinesses, and other buyers of agricultural commodities additional market power over producers and suppliers in local markets.

(12) Such related matters as the Commission determines to be important.

**SEC. 203. FINAL REPORT.**

(a) IN GENERAL.—Not later than 12 months after the date of the initial meeting of the Commission, the Commission shall submit to the President and Congress a final report which contains—

(1) the findings and conclusions of the Commission described in section 202; and

(2) recommendations for addressing the problems identified as part of the Commission's analysis.

(b) SEPARATE VIEWS.—Any member of the Commission may submit additional findings and recommendations as part of the final report.

**SEC. 204. POWERS OF COMMISSION.**

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission may find advisable to fulfill the requirements of this title. The Commission shall hold at least 1 or more hearings in Washington, D.C., and 4 in different agriculture regions of the United States.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this title. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

**SEC. 205. COMMISSION PERSONNEL MATTERS.**

(a) COMPENSATION OF MEMBERS.—Each member of the Commission shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee shall be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

**SEC. 206. SUPPORT SERVICES.**

The Administrator of the General Services Administration shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

**SEC. 207. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated $2,000,000 to the Commission as required by this title to carry out the provisions of this title.

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## DODD AMENDMENT NO. 2753

(Ordered to lie on the table.)

Mr. DODD submitted an amendment intended to be proposed by him to the bill, S. 625, supra; as follows:

At the appropriate place, insert the following:

**SEC. ___. CONSUMER CREDIT.**

(a) ENHANCED DISCLOSURES UNDER AN OPEN END CONSUMER CREDIT PLAN.—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) Repayment information that would apply to the outstanding balance of the consumer under the credit plan, including—

''(i) the required minimum monthly payment on that balance, represented as both a dollar figure and as a percentage of that balance;

''(ii) the number of months (rounded to the nearest month) that it would take to pay the entire amount of that balance, if the consumer pays only the required minimum monthly payments and if no further advances are made;

''(iii) the total cost to the consumer, including interest and principal payments, of paying that balance in full, if the consumer pays only the required minimum monthly payments and if no further advances are made; and

''(iv) the monthly payment amount that would be required for the consumer to eliminate the outstanding balance in 36 months if no further advances are made.

''(B)(i) Subject to clause (ii), in making the disclosures under subparagraph (A) the creditor shall apply the interest rate in effect on the date on which the disclosure is made until the date on which the balance would be paid in full.

''(ii) If the interest rate in effect on the date on which the disclosure is made is a temporary rate that will change under a contractual provision applying an index or formula for subsequent interest rate adjustment, the creditor shall apply the interest rate in effect on the date on which the disclosure is made for as long as that interest rate will apply under that contractual provision, and then apply an interest rate based on the index or formula in effect on the applicable billing date.''.

(b) CIVIL LIABILITY.—Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended, in the undesignated paragraph following paragraph (4), by striking the second sentence and inserting the following: ''In connection with the disclosures referred to in subsections (a) and (b) of section 127, a creditor shall have a liability determined under paragraph (2) only for failing to comply with the requirements of section 125, 127(a), or paragraph (4), (5), (6), (7), (8), (9), (10), or (11) of section 127(b), or for failing to comply with disclosure requirements under State law for any term or item that the Board has determined to be substantially the same in meaning under section 111(a)(2) as any of the terms or items referred to in section 127(a), or paragraph (4), (5), (6), (7), (8), (9), (10), or (11) of section 127(b).''.

## DODD (AND KENNEDY) AMENDMENT NO. 2754

(Ordered to lie on the table.)

Mr. DODD (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by them to the bill, S. 625, supra; as follows:

At the appropriate place, insert the following:

**SEC. ___. EXTENSIONS OF CREDIT TO UNDERAGE CONSUMERS.**

(a) IN GENERAL.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following:

''(5) APPLICATIONS FROM UNDERAGE CONSUMERS.—

''(A) PROHIBITION ON ISSUANCE.—No credit card may be issued to, or open end credit plan established on behalf of, a consumer who has not attained the age of 21 unless the consumer has submitted a written application to the card issuer that meets the requirements of subparagraph (B).

''(B) APPLICATION REQUIREMENTS.—An application to open a credit card account by an individual who has not attained the age of 21 as of the date of submission of the application shall require—

''(i) the signature of the parent, legal guardian, or spouse of the consumer, or any other individual having a means to repay debts incurred by the consumer in connection with the account, indicating joint liability for debts incurred by the consumer in connection with the account before the consumer has attained the age of 21; or

''(ii) submission by the consumer of financial information indicating an independent means of repaying any obligation arising from the proposed extension of credit in connection with the account.''.

(b) REGULATORY AUTHORITY.—The Board of Governors of the Federal Reserve System may issue such rules or publish such model forms as it considers necessary to carry out section 127(c)(5) of the Truth in Lending Act, as amended by this section.

## FEINSTEIN AMENDMENTS NOS. 2755–2756

(Ordered to lie on the table.)

Mrs. FEINSTEIN submitted two amendments intended to be proposed by her to the bill, S. 625, supra; as follows:

AMENDMENT NO. 2755

At the appropriate place, insert the following:

**SEC. ___. 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.

AMENDMENT NO. 2756

At the appropriate place, insert the following:

**SEC. ___. 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.

## BROWNBACK (AND HUTCHISON) AMENDMENT NO. 2757

(Ordered to lie on the table.)

Mr. BROWNBACK (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed by them to the bill, S. 625, supra; as follows:

At the appropriate place in the bill, add the following:

**SEC. ___. HOMESTEAD EXEMPTION OPT OUT AND PERSONS 65 OR OLDER.**

The provisions relating to a Federal homestead exemption shall not apply to debtors if applicable State law provides by statute that such provisions shall not apply to debtors and shall not take effect in any State before the end of the first regular session of the State legislature following the date of enactment of this Act. The federal homestead exemption shall not apply to debtors who are 65 years or older.

## ROTH (AND MOYNIHAN) AMENDMENT NO. 2758

(Ordered to lie on the table.)

Mr. ROTH (for himself and Mr. MOYNIHAN) submitted an amendment intended to be proposed by them to the bill, S. 625, supra; as follows:

Beginning on page 181, strike line 20 and all that follows through page 203, line 17, and insert the following:

**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 ''(2)(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 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 shall be 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)—

(i) by striking ''for a taxable year ending on or before the date of filing of the petition''; and

(ii) by inserting before the semicolon at the end, the following: '', plus any time during which the stay of proceedings was in effect in a prior case under this title or during which collection was precluded by the existence of 1 or more confirmed plans under this title, plus 90 days''; 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:

''(H) 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

''(ii) 90 days.''.

**SEC. 706. PRIORITY PROPERTY TAXES INCURRED.**

Section 507(a)(9)(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 sections 105, 213, and 314 of this Act, is amended by inserting ''(1)(B), (1)(C),'' after ''paragraph''.

**SEC. 708. NO DISCHARGE OF FRAUDULENT TAXES IN CHAPTER 11.**

Section 1141(d) of title 11, United States Code, is amended by adding at the end the following:

''(5) Notwithstanding paragraph (1), the confirmation of a plan does not discharge a debtor that is a corporation from any debt 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 inserting '', with respect to a tax liability for a taxable period ending before the order for relief under this title'' before the semicolon at the end.

**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, over a period not exceeding six years after the date of assessment of such claim,'' 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) with interest thereon calculated at the rate provided in section 6621(a)(2) of the Internal Revenue Code of 1986;

''(iii) 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

''(iv) 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 striking the semicolon at the end and inserting '', 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, 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)—

(i) by inserting ''or given'' after ''filed''; and

(ii) by striking ''or'' at the end; 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 flush sentences:

''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.**

The second sentence of section 505(b) of title 11, United States Code, as amended by section 703 of 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 section 213 of this Act, is amended—

(1) in paragraph (6), by striking ''and'' at the end;

(2) in paragraph (7), by striking the period at the end and inserting ''; and''; and

(3) by inserting after paragraph (7) the following:

''(8) if 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.—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), the debtor shall file with appropriate tax authorities all tax returns for all taxable periods ending during the 6-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 clear and convincing 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 section 6020 (a) or (b) of the Internal Revenue Code of 1986, or a similar State or local law, or a written stipulation to a judgment or a final order entered by a nonbankruptcy tribunal.''.

(2) CONFORMING AMENDMENT.—The table of sections for 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 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; 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, as amended by section 402 of this Act, is amended—

(1) in paragraph (25), by striking ''or'' at the end;

(2) in paragraph (26), by striking the period at the end and inserting ''; or''; and

(3) by inserting after paragraph (26) the following:

''(27) under subsection (a), of the setoff under applicable nonbankruptcy law of an income tax refund, by a governmental unit, with respect to a taxable period that ended before the order for relief against an income tax liability for a taxable period that also ended before the order for relief, except that in any case in which the setoff of an income tax refund is not permitted under applicable nonbankruptcy law because of a pending action to determine the amount or legality of a tax liability, the governmental unit may hold the refund pending the resolution of the

action, unless the court, upon motion of the trustee and after notice and hearing, grants the taxing authority adequate protection (within the meaning of section 361) for the secured claim of that authority in the setoff under section 506(a).''.

**SEC. 719. SPECIAL PROVISIONS RELATED TO THE TREATMENT OF STATE AND LOCAL TAXES.**

(a) IN GENERAL.—Section 346 of title 11, United States Code, is amended to read as follows:

**''SEC. 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 by striking subsections (a) and (b) and by redesignating subsections (c) and (d) as subsections (a) and (b), respectively.

(3) Section 1231 of title 11, United States Code, is amended by striking subsections (a) and (b) and 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.''.

On page 268, line 13, strike ''1231(d)'' and insert ''1231(b)''.

On page 280, strike lines 16 through 19.

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## SCHUMER (AND DURBIN) AMENDMENTS NOS. 2759–2760

(Ordered to lie on the table.)

Mr. SCHUMER (for himself and Mr. DURBIN) submitted two amendments intended to be proposed by them to the bill, S. 625, supra; as follows:

AMENDMENT NO. 2759

On page 7, line 15, strike ''(ii) The debtor's'' and insert the following:

''(ii)(I) Subject to subclause (II), the debtor's''.

On page 7, line 21, strike the period and insert the following: '', until such time as the Director of the Executive Office for the United States Trustees issues standards under section 586(f) of title 28, at which time the debtor's monthly expenses shall be the applicable monthly expenses under standards issued by the Director under section 586(f) of title 28, and the applicable monthly (excluding payments for debts) expenses under standards (excluding the national standards) 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.

''(II) In the case of a debtor who owns the debtor's primary residence, the debtor's monthly expenses shall include reasonably necessary costs of maintaining such primary residence not included in subclause (I) of this clause or clause (iii), including the reasonably necessary costs of utilities, maintenance and repair, homeowners insurance, and property taxes, until such time as the Director of the Executive Office for the United States Trustees issues standards under section 586(f) of title 28.

On page 14, after the matter between lines 18 and 19, insert the following:

(d) STANDARDS FOR ASSESSING CERTAIN EXPENSES.—Section 586 of title 28, United States Code, is amended by adding at the end the following:

''(f)(1) Not later than 1 year after the date of enactment of this subsection, the Director of the Executive Office for the United States Trustees, in consultation with the Secretary of the Treasury, shall issue standards, specific and appropriate to bankruptcy, for assessing the monthly expenses of the debtor under section 707(b)(2) of title 11, for—

''(A) the categories of expenses included under the national standards issued by the Internal Revenue Service; and

''(B) the categories of expenses related to maintaining a primary residence not included in clause (ii)(I) or (iii) of section

707(b)(2)(A) of title 11, including expenses for utilities, maintenance and repair, homeowners insurance, and property taxes, for a debtor who owns the debtor's primary residence.

''(2) In issuing standards under paragraph (1), the Director shall—

''(A) establish set expense amounts at levels that afford debtors adequate and not excessive means to provide for basic living expenses for the categories of expenses described in paragraph (1); and

''(B) ensure that such set expense amounts account for, at a minimum, regional variations in the cost of living and for variations in family size.''.

On page 169, line 11, strike ''(f)'' and insert ''(g)''.

On page 169, line 13, strike ''(f)'' and insert ''(g)''.

On page 172, line 7, strike ''(f)'' and insert ''(g)''.

On page 172, line 13, strike ''(f)'' and insert ''(g)''.

AMENDMENT NO. 2760

On page 7, line 15, strike ''(ii) The debtor's'' and insert the following:

''(ii)(I) Subject to subclause (II), the debtor's''.

On page 7, line 21, strike the period and insert the following: '', until such time as the Director of the Executive Office for the United States Trustees issues standards under section 586(f) of title 28, at which time the debtor's monthly expenses shall be the applicable monthly expenses under standards issued by the Director under section 586(f) of title 28, and the applicable monthly (excluding payments for debts) expenses under standards (excluding the national standards) 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.

''(II) In the case of a debtor who owns the debtor's primary residence, the debtor's monthly expenses shall include reasonably necessary costs of maintaining such primary residence not included in subclause (I) of this clause or clause (iii), including the reasonably necessary costs of utilities, maintenance and repair, homeowners insurance, and property taxes, until such time as the Director of the Executive Office for the United States Trustees issues standards under section 586(f) of title 28.

On page 14, after the matter between lines 18 and 19, insert the following:

(d) STANDARDS FOR ASSESSING CERTAIN EXPENSES.—Section 586 of title 28, United States Code, is amended by adding at the end the following:

''(f)(1) Not later than 1 year after the date of enactment of this subsection, the Director of the Executive Office for the United States Trustees, in consultation with the Secretary of the Treasury, shall issue standards, specific and appropriate to bankruptcy, for assessing the monthly expenses of the debtor under section 707(b)(2) of title 11, for—

''(A) the categories of expenses included under the national standards issued by the Internal Revenue Service; and

''(B) the categories of expenses related to maintaining a primary residence not included in clause (ii)(I) or (iii) of section 707(b)(2)(A) of title 11, including expenses for utilities, maintenance and repair, homeowners insurance, and property taxes, for a debtor who owns the debtor's primary residence.

''(2) In issuing standards under paragraph (1), the Director shall—

''(A) establish set expense amounts at levels that afford debtors adequate and not excessive means to provide for basic living expenses for the categories of expenses described in paragraph (1); and

''(B) ensure that such set expense amounts account for, at a minimum, regional variations in the cost of living and for variations in family size.''.

On page 169, line 11, strike ''(f)'' and insert ''(g)''.

On page 169, line 13, strike ''(f)'' and insert ''(g)''.

On page 172, line 7, strike ''(f)'' and insert ''(g)''.

On page 172, line 13, strike ''(f)'' and insert ''(g)''.

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SCHUMER AMENDMENT NO. 2761

(Ordered to lie on the table.)

Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill, S. 625, supra; as follows:

At the appropriate place, insert the following new section:

**SEC. . TRUTH IN LENDING DISCLOSURES.**

Section 122(c) of the Truth in Lending Act (15 U.S.C. 1632(c)) is amended—

(1) in paragraph (1), by striking the current text and inserting the following:

''(1) IN GENERAL.—The information described in paragraphs (1), (3)(B)(i)(I), (4)(A), and (4)(C)(i)(I) of section 1637(c) of this title and the long-term annual percentage rate for purchases shall—

''(A) subject to paragraphs (2) and (3) of this subsection, be disclosed in the form and manner which the Board shall prescribe by regulations; and

''(B) be placed in a conspicuous and prominent location on or with any written application, solicitation, or other document or paper with respect to which such disclosure is required.''

For purposes of this subsection, the term ''long-term annual percentage rate for purchases'' means the highest nondefault annual percentage rate for purchases applicable to the credit card account offered, solicited or advertised, calculated at the time of mailing (in the case of an application or solicitation described in paragraph (1) of section 1637(c) of this title) or printing (in the case of an application or solicitation described in paragraphs (3)(B) of section 1637(c) of this title), except that in the case of a credit card account to which an introductory or temporary discounted rate applies, the term ''long-term annual percentage rate for purchases'' means the highest nondefault annual percentage rate for purchases applicable to the credit card account to which an introductory or temporary discounted rate applies, the term ''long-term annual percentage rate for purchases'' means the highest nondefeault annual percentage rate for purchases applicable to the credit card account offered, solicited or advertised that will apply after the expiration of the introductory or temporary discounted rate, calculated at the time of mailing (in the case of an application or solicitation described in paragraph (1) of section 1637(c) of this title) or printing (in the case of an application or solicitation described in paragraphs (3)(B) of section 1637(c) of this title).''

(2) in paragraph (2), by striking the current text and inserting the following:

''(2) TABULAR FORMATS FOR CREDIT CARD DISCLOSURES.—

''(A) The long-term annual percentage rate for purchases shall be disclosed on or with a written application or solicitation described in paragraphs (1) or (3)(B) of section 1637(c) of this title in 24-point or larger type and in the form of a table which—

''(i) shall contain a clear and concise heading set forth in the same type size as the long-term annual percentage rate for purchases clearly and concisely;

''(ii) shall state the long-term annual percentage rate for purchases clearly and concisely;

''(iii) where the long-term annual percentage rate for purchases is based on a variable rate, shall use the term 'currently' to describe the long-term annual percentage rate for purchases;

''(iv) where the long-term annual percentage rate for purchases is not the only annual percentage rate applicable to the credit card account offered, solicited or advertised, shall include an asterisk placed immediately following the long-term annual percentage rate for purchases; and

''(v) shall contain no other item of information.

''(B) The information described in paragraphs (1)(A)(ii), (1)(A)(iii), (1)(A)(iv), (1)(B) and (3)(B)(i)(I) of section 1637(c) of this title shall be disclosed on or with a written application or solicitation described in paragraph (1) of section 1637(c) of this title or a written application or solicitation as large as or larger than 8.5 inches in width and 11 inches in length described in paragraph (3)(B) of section 1637(c) of this title in 12-point type and in the form of a table which—

''(i) shall appear separately from and immediately beneath the table described in subparagraph (A) of this paragraph;

''(ii) shall contain clear and concise headings set forth in 12-point type;

''(iii) shall provide a clear and concise form for stating each item of information required to be disclosed under each such heading; and

''(iv) may list the items required to be included in this table in a different order than the order set forth in paragraph (1) of section 1637 of this title, subject to the approval of the Board.''

''(C) The information described in paragraphs (1)(A)(ii), 1(A)(iii), (1)(A)(iv), 1(B) and (3)(B)(i)(I) of section 1637(c) of this title shall be disclosed on or with a written application or solicitation smaller than 8.5 inches in width and 11 inches in length described in paragraph (3)(B) of section 1637(c) of this title in 12-point type and shall—

''(i) be set forth separately from and immediately beneath the table described in subparagraph (A) of this paragraph; and

''(ii) not be disclosed in the form of a table.

''(D) Notwithstanding the inclusion of any of the information described in paragraph (1)(A)(i) of section 1637(c) of this title in the table described in subparagraph (A) of this paragraph, the information described in paragraph (1)(A)(i) of section 1637(c) of this title shall be disclosed on or with a written application or solicitation described in paragraphs (1) or (3)(B) of section 1637(c) of this title and shall—

''(i) be set forth in 12-point boldface type;

''(ii) be set forth separately from and immediately beneath the table described in subparagraph (B) of this paragraph or the information described in subparagraph (C) of this paragraph, whichever is applicable;

''(iii) not be disclosed in the form of a table; and

''(iv) where the long-term annual percentage rate for purchase is not the only annual percentage rate applicable to the credit account offered, solicited or advertised, be preceded by an asterisk set forth in 12-point boldface type.''

(3) by adding at the end the following:

''(3) TABULAR FORMAT FOR CHARGE CARD DISCLOSURES.—

''(A) In the regulations prescribed under paragraph (1)(A) of this subsection, the Board shall require that the disclosure of the information described in paragraphs (4)(A) and (4)(C)(i)(I) of section 1637(c) of this title shall, to the extent the Board determines to

be practicable and appropriate, be in the form of a table which—

''(i) contains clear and concise headings for each item of such information; and

''(ii) provides a clear and concise form for stating each item of information required to be disclosed under each such heading.''

''(B) In prescribing the form of the table under subparagraph (A) of this paragraph, the Board may—

''(i) list the items required to be included in the table in a different order than the order set forth in paragraph (4)(A) of section 1637(c) of this title; and

''(ii) employ terminology which is different than the terminology which is employed in section 1637(c) of this title if such terminology conveys substantially the same meaning.''

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## SCHUMER (AND DURBIN) AMENDMENT NO. 2762

(Ordered to lie on the table.)

Mr. SCHUMER (for himself and Mr. DUNKIN) submitted an amendment intended to be proposed by them to the bill, S. 625, supra; as follows:

On page 9, line 12, strike ''As part'' and insert ''Except as provided under clause (ii), as part''.

On page 9, insert between lines 17 and 18 the following:

''(ii) A debtor against whom a judge, United States trustee, panel trustee, bankruptcy administrator, or other party in interest may not, for the reason specified in subparagraph (D), bring a motion alleging abuse of this chapter based upon the presumption established by this paragraph, shall not be required to include calculations that determine whether a presumption arises under this paragraph as part of the schedule of current income and expenditures required under section 521.

On page 9, line 18, strike ''(ii)'' and insert ''(iii)''.

On page 9, insert between lines 21 and 22 the following:

''(D)(i) No judge, United States trustee, panel trustee, bankruptcy administrator, or other party in interest shall bring a motion alleging abuse of this chapter based upon the presumption established by this paragraph, if the debtor and the debtor's spouse combined, as of the date of the order for relief, have current monthly total income equal to or less than the national or applicable State median household monthly income calculated (subject to clause (ii)) on a semiannual basis for a household of equal size.

''(ii) For a household of more than 4 individuals, the national or applicable State median household monthly income shall be that of a household of 4 individuals, plus $583 for each additional member of that household.

On page 11, line 9, strike ''(A)'' and insert ''(A)(i) except as provided under clause (ii),''.

On page 11, insert between lines 14 and 15 the following:

''(ii) with respect to an individual debtor under this chapter against whom a judge, United States trustee, panel trustee, bankruptcy administrator, or other party in interest may not, for the reason specified in section 707(b)(2)(D), bring a motion alleging abuse of this chapter based upon the presumption established by section 707(b)(2), the United States trustee or bankruptcy administrator shall not be required to file with the court a statement as to whether the debtor's case would be presumed to be an abuse under section 707(b)(2); and

On page 11, line 19, strike ''receiving'' and insert ''filing''.

On page 11, line 20, strike ''filed''.

On page 14, strike lines 8 through 14 and insert the following:

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

''(i) the national or applicable State median household income last reported by the Bureau of the Census for a household of equal size, whichever is greater; or

''(ii) in the case of a household of 1 person, the national or applicable State median household income last reported by the Bureau of the Census for 1 earner, whichever is greater.

''(B) Notwithstanding subparagraph (A), the national or applicable State median household income for a household of more than 4 individuals shall be the national or applicable State median household income last reported by the Bureau of the Census for a household of 4 individuals, whichever is greater, plus $6,996 for each additional member of that household.''.

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## SCHUMER (AND OTHERS) AMENDMENT NO. 2763

(Ordered to lie on the table.)

Mr. SCHUMER (for himself, Mrs. FEINSTEIN, Mr. LEAHY, Mrs. MURRAY, Mr. LAUTENBERG, and Mr. DURBIN) submitted an amendment to be proposed by them to the bill, S. 625, supra; as follows:

On page 124, between lines 14 and 15, insert the following:

**SEC. 322. NONDISCHARGEABILITY OF DEBTS INCURRED THROUGH THE COMMISSION OF VIOLENCE AT CLINICS.**

Section 523(a) of title 11, United States Code, as amended by section 224 of this Act, is amended—

(1) in paragraph (18), by striking ''or'' at the end;

(2) in paragraph (19)(B), by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(20) that results from any judgment, order, consent order, or decree entered in any Federal or State court, or contained in any settlement agreement entered into by the debtor, including any damages, fine, penalty, citation, or attorney fee or cost owed by the debtor, arising from—

''(A) an actual or potential action under section 248 of title 18;

''(B) an actual or potential action under any Federal, State, or local law, the purpose of which is to protect—

''(i) access to a health care facility, including a facility providing reproductive health services, as defined in section 248(e) of title 18 (referred to in this paragraph as a 'health care facility'); or

''(ii) the provision of health services, including reproductive health services (referred to in this paragraph as 'health services');

''(C) an actual or potential action alleging the violation of any Federal, State, or local statutory or common law, including chapter 96 of title 18 and the Federal civil rights laws (including sections 1977 through 1980 of the Revised Statutes) that results from the debtor's actual, attempted, or alleged—

''(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 health services;

''(II) because that person is or has been obtaining health services; or

''(III) to deter that person, any other person, or a class of persons from obtaining or providing health services; or

''(ii) damage or destruction of property of a health care facility; or

''(D) an actual or alleged violation of a court order or injunction that protects access to a health care facility or the provision of health services.''.

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## SCHUMER AMENDMENTS NOS. 2764–2767

(Ordered to lie on the table.)

Mr. SCHUMER submitted four amendments intended to be proposed by him to the bill, S. 625, supra; as follows:

AMENDMENT NO. 2764

On page 7, line 9, after ''reduced by'' insert ''estimated administrative expenses and reasonable attorneys' fees, and''.

On page 7, strike line 24 through page 8, line 3, and insert the following:

''(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 property that serves as collateral for secured debts; divided by

''(II) 60.

On page 9, line 6, after ''reduced by'' insert ''estimated administrative expenses and reasonable attorneys' fees, and''.

On page 10, strike lines 12 and 13 and insert the following:

(1) in section 101—

(A) by inserting after paragraph (10) the following:

On page 11, insert between lines 2 and 3 the following:

(B) by inserting after paragraph (17) the following:

''(17A) 'estimated administrative expenses and reasonable attorneys' fees' means 10 percent of projected payments under a chapter 13 plan;'' and

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AMENDMENT NO. 2765

On page 7, line 15, strike ''(ii)'' and insert ''(ii)(I)''.

On page 7, between lines 21 and 22, insert the following:

''(II) In addition, the debtor's monthly expenses shall include the reasonably necessary monthly expenses incurred by a debtor who is eligible to receive or is receiving payments under State unemployment insurance laws, the Federal dislocated workers assistance programs under title III of the Job Training Partnership Act (29 U.S.C. 1501 et seq.) or the successor Workforce Investment Act of 1998 (20 U.S.C. 9201 et seq.), the trade adjustment assistance programs provided for under title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.), or State assistance programs for displaced or dislocated workers and incurred for the purpose of obtaining and maintaining employment.

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AMENDMENT NO. 2766

At the appropriate place, insert the following:

**SEC. ___. DISCLOSURES RELATED TO ''INTRODUCTORY RATES''.**

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 that offers a temporary annual percentage rate of interest, either for which a disclosure is required

under paragraph (1), or which contains the items described in paragraph (1) and is made available to the public or contained in catalogs, magazines, or other publications, shall, along with all promotional materials accompanying such application or solicitation—

''(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 in the same type size and type style used to state the temporary annual percentage rate;

''(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 the following in a prominent location immediately proximate to the most prominent 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)) on a document and in the same type size and type style used to state the proximate temporary annual percentage rate: the date on 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 the following in a prominent location immediately proximate to the most prominent listing of the temporary annual percentage rate (other than a listing in the tabular format prescribed by section 122(c)) on a document and in the same type size and type style used to state the proximate temporary annual percentage rate: the date on which the introductory period will end and the annual percentage rate that would apply if the introductory period ended on the date on which the application or solicitation was printed.

''(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) any and all circumstances or events 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 annual percentage rate that would apply if the temporary annual percentage rate was revoked on the date on which the application or solicitation was printed.

''(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 the annual percentage rate of interest that will apply if the introductory period ended on the date on which the application was printed; 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 any disclosure required by paragraph (1) or any other provision of this subsection.''.

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AMENDMENT NO. 2767

At the appropriate place, insert the following new section:

**SEC. . TRUTH IN LENDING DISCLOSURES.**

Section 122(c) of the Truth in Lending Act (15 U.S.C. 1632(c)) is amended—

(1) in paragraph (1), by striking the current text and inserting the following:

''(1) IN GENERAL.—The information described in paragraphs (1), (3)(B)(i)(I), (4)(A), and (4)(C)(i)(I) of section 1637(c) of this title and the long-term annual percentage rate for purchases shall—

''(A) subject to paragraph (2) and (3) of this subsection, be disclosed in the form and manner which the Board shall prescribe by regulations; and

''(B) be placed in a conspicuous and prominent location on or with any written application, solicitation, or other document or paper with respect to which such disclosure is required.''

For purposes of this subsection, the term ''long-term annual percentage rate for purchases'' means the highest nondefault annual percentage rate for purchases applicable to the credit card account offered, solicited or advertised, calculated at the time of mailing (in the case of an application or solicitation described in paragraph (1) of section 1637(c) of this title) or printing (in the case of an application or solicitation described in paragraphs (3)(B) of section 1637(c) of this title), except that in the case of a credit card account to which an introductory or temporary discounted rate applies, the term ''long-term annual percentage rate for purchases'' means the highest nondefault annual percentage rate for purchases applicable to the credit card account offered, solicited or advertised that will apply after the expiration of the introductory or temporary discounted rate, calculated at the time of mailing (in the case of an application or solicitation described in paragraph (1) of section 1637(c) of this title) or printing (in the case of an application or solicitation described in paragraphs (3)(B) of section 1637(c) of this title).''

(2) in paragraph (2), by striking the current text and inserting the following:

''(2) TABULAR FORMATS FOR CREDIT CARD DISCLOSURES.—

''(A) The long-term annual percentage rate for purchases shall be disclosed on or with a written application or solitiation described in paragraphs (1) or (3)(B) of section 1637(c) of title in 24-point or larger type and in the form of a table which—

''(i) shall contain a clear and concise heading set forth in the same type size as the long-term annual percentage rate for purchases;

''(i) shall state the long-term annual percentage rate for purchases clearly and concisely;

''(iii) where the long-term annual percentage rate for purchases is based on a variable rate, shall use the term 'currently' to describe the long-term annual percentage rate for purchases;

''(iv) where the long-term annual percentage rate for purchases is not the only annual percentage rate applicable to the credit card account offered, solicited or advertised, shall include an asterisk placed immediately following the long-term annual percentage rate for purchases; and

''(v) shall contain no other item of information.

''(B) The information described in paragraphs (1)(A)(ii), 1(A)(iii), (1)(A)(iv), 1(B) and (3)(B)(i)(I) of section 1637(c) of this title shall be disclosed on or with a written application or solicitation described in paragraphs (1) or (3)(B) of section 1637(c) of this title in 12-point type and in the form of a table which—

''(i) shall appear separately from and immediately beneath the table described in subparagraph (A) of this paragraph;

''(ii) shall contain clear and concise headings set forth in 12-point type;

''(iii) shall provide a clear and concise form for stating each item of information required to be disclosed under each such heading; and

''(iv) may list the items required to be included in this table in a different order than the order set forth in paragraph (1) of section 1637 of this title, subject to the approval of the Board.''

''(C) Notwithstanding the inclusion of any of the information described in paragraph (1)(A)(i) of section 1637(c) of this title in the table described in subparagraph (A) of this paragraph, the information described in paragraph (1)(A)(i) of section 1637(c) of this title shall be disclosed on or with a written application or solicitation described in paragraphs (1) or (3)(B) of section 1637(c) of this title and shall—

''(i) be set forth in 12-point boldface type;

''(ii) be set forth separately from and immediately beneath the table described in subparagraph (B) of this paragraph;

''(iii) not be disclosed in the form of a table; and

''(iv) where the long-term annual percentage rate for purchases is not the only annual percentage rate applicable to the credit card account offered, solicited or advertised, be preceded by an asterisk set forth in 12-point boldface type.''

(3) by adding at the end the following:

''(3) TABULAR FORMAT FOR CHARGE CARD DISCLOSURES.—

''(A) In the regulations prescribed under paragraph (1)(A) of this subsection, the Board shall require that the disclosure of the information described in paragraphs (4)(A) and (4)(C)(i)(I) of section 1637(c) of this title shall, to the extent the Board determines to be practicable and appropriate, be in the form of a table which—

''(i) contains clear and concise headings for each item of such information; and

''(ii) provides a clear and concise form for stating each item of information required to be disclosed under each such heading.''

''(B) In prescribing the form of the table under subparagraph (A) of this paragraph, the Board may—

''(i) list the items required to be included in the table in a different order than the order set forth in paragraph (4)(A) of section 1637(c) of this title; and

''(ii) employ terminology which is different than the terminology which is employed in section 1637(c) of this title if such terminology conveys substantially the same meaning.''

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## LEVIN AMENDMENT NO. 2768

(Ordered to lie on the table.)

Mr. LEVIN submitted an amendment intended to be proposed by him to the bill, S. 625, supra; as follows:

At the appropriate place, insert the following:

**SEC. ___. PROHIBITION ON CERTAIN RETROACTIVE 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 RETROACTIVE FINANCE CHARGES.—

''(1) IN GENERAL.—In the case of any credit card account under an open end credit plan, if the creditor provides a grace period applicable to any new extension of credit under

the account, no finance charge may be imposed subsequent to the grace period with regard to any amount that was paid on or before the end of that grace period.

''(2) DEFINITION.—For purposes of this subsection, the term 'grace period' means a period during which the extension of credit may be repaid, in whole or in part, without incurring a finance charge for the extension of credit.''.

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## DODD AMENDMENT NO. 2769

(Ordered to lie on the table.)

Mr. DODD submitted an amendment intended to be proposed by him to the bill, S. 625, supra; as follows:

On page 83, between lines 4 and 5, insert the following:

**SEC. 2___. PROTECTION OF EDUCATION SAVINGS.**

(a) EXCLUSIONS.—Section 541 of title 11, United States Code, as amended by section 903, is amended—

(1) in subsection (b)—

(A) in paragraph (5), by striking ''or'' at the end;

(B) by redesignating paragraph (6) as paragraph (8); and

(C) by inserting after paragraph (5) the following:

''(6) 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;

''(7) 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; or''; and

(2) by adding at the end the following:

''(f) In determining whether any of the relationships specified in paragraph (6)(A) or (7)(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 sections 105(d), 304(c)(1), 305(2), 315(b), and 316 of this Act, is amended by adding at the end the following:

''(k) 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).''.

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## HARKIN AMENDMENT NO. 2270

(Ordered to lie on the table.)

Mr. HARKIN submitted an amendment intended to be proposed by him to the bill, S. 625, supra; as follows:

At the appropriate place in the bill, add the following section:

**SEC. . (a) INVALIDATING HIDDEN SECURITY INTERESTS AND NEARLY VALUELESS HOUSEHOLD LIENS.**

(1) EXEMPT PROPERTY.—Section 522(f) of title 11, United States Code, is amended by adding at the end the following:

''(4) A lien held by a creditor on an interest of the debtor in any item of household furnishings, household goods, wearing apparel, appliances, books, animals, crops, musical instruments, or jewelry held primarily for the personal, family, or household use of the debtor or a dependent of the debtor shall be void unless—

''(A) the holder of the lien files with the court and serves on the debtor, within 30 days after the meeting of creditors or before the hearing on confirmation of a plan, whichever occurs first, a sworn declaration that the purchase price for the particular item that is subject to such lien exceeded $1,000 or that the item was purchased within 180 days prior to the filing of the bankruptcy petition, and

''(B)(i) the debtor does not timely object to such declaration; or

''(ii)(I) the debtor objects to such declaration; and

''(II) the court finds that the purchase price of the item exceeded $1,000 or that the item was purchased within 180 days prior to the filing of the bankruptcy petition and that such lien is not avoidable under paragraph (f)(1) of this section.''.

(2) CONFORMING AMENDMENT.—Section 104(b)(1) of title 11, United States Code, is amended by inserting ''552(f),'' after ''552(d)''.

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## HATCH (AND OTHERS) AMENDMENT NO. 2771

(Ordered to lie on the table.)

Mr. HATCH (for himself, Mr. ASHCROFT, and Mr. ABRAHAM) submitted an amendment intended to be proposed by them to the bill, S. 625, supra; as follows:

At the appropriate place, insert the following new title:

**TITLE ____—METHAMPHETAMINE AND OTHER CONTROLLED SUBSTANCES**

**SEC. ___01. SHORT TITLE.**

This title may be cited as the ''Methamphetamine Anti-Proliferation Act of 1999''.

**Subtitle A—Methamphetamine Production, Trafficking, and Abuse**

**CHAPTER 1—CRIMINAL PENALTIES**

**SEC. ___11. ENHANCED PUNISHMENT OF AMPHETAMINE LABORATORY OPERATORS.**

(a) AMENDMENT TO FEDERAL SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines in accordance with this section with respect to any offense relating to the manufacture, importation, exportation, or trafficking in amphetamine (including an attempt or conspiracy to do any of the foregoing) in violation of—

(1) the Controlled Substances Act (21 U.S.C. 801 et seq.);

(2) the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.); or

(3) the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.).

(b) GENERAL REQUIREMENT.—In carrying out this section, the United States Sentencing Commission shall, with respect to each offense described in subsection (a) relating to amphetamine—

(1) review and amend its guidelines to provide for increased penalties such that those penalties are comparable to the base offense level for methamphetamine; and

(2) take any other action the Commission considers necessary to carry out this subsection.

(c) ADDITIONAL REQUIREMENTS.—In carrying out this section, the United States Sentencing Commission shall ensure that the sentencing guidelines for offenders convicted of offenses described in subsection (a) reflect the heinous nature of such offenses, the need for aggressive law enforcement action to fight such offenses, and the extreme dangers associated with unlawful activity involving amphetamines, including—

(1) the rapidly growing incidence of amphetamine abuse and the threat to public safety that such abuse poses;

(2) the high risk of amphetamine addiction;

(3) the increased risk of violence associated with amphetamine trafficking and abuse; and

(4) the recent increase in the illegal importation of amphetamine and precursor chemicals.

(d) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The United States Sentencing Commission shall promulgate amendments pursuant to this section as soon as practicable after the date of the enactment of this Act in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987 (Public Law 100–182), as though the authority under that Act had not expired.

**SEC. ___12. ENHANCED PUNISHMENT OF AMPHETAMINE OR METHAMPHETAMINE LABORATORY OPERATORS.**

(a) FEDERAL SENTENCING GUIDELINES.—

(1) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines in accordance with paragraph (2) with respect to any offense relating to the manufacture, attempt to manufacture, or conspiracy to manufacture amphetamine or methamphetamine in violation of—

(A) the Controlled Substances Act (21 U.S.C. 801 et seq.);

(B) the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.); or

(C) the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.).

(2) REQUIREMENTS.—In carrying out this paragraph, the United States Sentencing Commission shall—

(A) if the offense created a substantial risk of harm to human life (other than a life described in subparagraph (B)) or the environment, increase the base offense level for the offense—

(i) by not less than 3 offense levels above the applicable level in effect on the date of the enactment of this Act; or

(ii) if the resulting base offense level after an increase under clause (i) would be less than level 27, to not less than level 27; or

(B) if the offense created a substantial risk of harm to the life of a minor or incompetent, increase the base offense level for the offense—

(i) by not less than 6 offense levels above the applicable level in effect on the date of the enactment of this Act; or

(ii) if the resulting base offense level after an increase under clause (i) would be less than level 30, to not less than level 30.

(3) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The United States Sentencing Commission shall promulgate amendments pursuant to this subsection as soon as practicable after the date of enactment of this Act in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987 (Public Law 100–182), as though the authority under that Act had not expired.

(b) EFFECTIVE DATE.—The amendments made pursuant to this section shall apply with respect to any offense occurring on or after the date that is 60 days after the date of enactment of this Act.

**SEC. ___13. MANDATORY RESTITUTION FOR VIOLATIONS OF CONTROLLED SUBSTANCES ACT AND CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT RELATING TO AMPHETAMINE AND METHAMPHETAMINE.**

(a) MANDATORY RESTITUTION.—Section 413(q) of the Controlled Substances Act (21 U.S.C. 853(q)) is amended—

(1) in the matter preceding paragraph (1), by striking ''may'' and inserting ''shall'';

(2) by inserting ''amphetamine or'' before ''methamphetamine'' each place it appears;

(3) in paragraph (2)—

(A) by inserting '', the State or local government concerned, or both the United States and the State or local government concerned'' after ''United States'' the first place it appears; and

(B) by inserting ''or the State or local government concerned, as the case may be,'' after ''United States'' the second place it appears; and

(4) in paragraph (3), by striking ''section 3663 of title 18, United States Code'' and inserting ''section 3663A of title 18, United States Code''.

(b) DEPOSIT OF AMOUNTS IN DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND.—Section 524(c)(4) of title 28, United States Code, is amended—

(1) by striking ''and'' at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting ''; and''; and

(3) by adding at the end the following:

''(D) all amounts collected—

''(i) by the United States pursuant to a reimbursement order under paragraph (2) of section 413(q) of the Controlled Substances Act (21 U.S.C. 853(q)); and

''(ii) pursuant to a restitution order under paragraph (1) or (3) of section 413(q) of the Controlled Substances Act for injuries to the United States.''.

(c) CLARIFICATION OF CERTAIN ORDERS OF RESTITUTION.—Section 3663(c)(2)(B) of title 18, United States Code, is amended by inserting ''which may be'' after ''the fine''.

(d) EXPANSION OF APPLICABILITY OF MANDATORY RESTITUTION.—Section 3663A(c)(1)(A)(ii) of title 18, United States Code, is amended by inserting ''or under section 416(a) of the Controlled Substances Act (21 U.S.C. 856(a)),'' after ''under this title,''.

(e) TREATMENT OF ILLICIT SUBSTANCE MANUFACTURING OPERATIONS AS CRIMES AGAINST PROPERTY.—Section 416 of the Controlled Substances Act (21 U.S.C. 856) is amended by adding at the end the following new subsection:

''(c) A violation of subsection (a) shall be considered an offense against property for purposes of section 3663A(c)(1)(A)(ii) of title 18, United States Code.''.

**SEC. ___14. METHAMPHETAMINE PARAPHERNALIA.**

Section 422(d) of the Controlled Substances Act (21 U.S.C. 863(d)) is amended in the matter preceding paragraph (1) by inserting ''methamphetamine,'' after ''PCP,''.

## CHAPTER 2—ENHANCED LAW ENFORCEMENT

**SEC. ___21. ENVIRONMENTAL HAZARDS ASSOCIATED WITH ILLEGAL MANUFACTURE OF AMPHETAMINE AND METHAMPHETAMINE.**

(a) USE OF AMOUNTS OR DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND.—Section 524(c)(1)(E) of title 28, United States Code, is amended—

(1) by inserting ''(i) for'' before ''disbursements'';

(2) by inserting ''and'' after the semicolon; and

(3) by adding at the end the following:

''(ii) for payment for—

''(I) costs incurred by or on behalf of the Department of Justice in connection with the removal, for purposes of Federal forfeiture and disposition, of any hazardous substance or pollutant or contaminant associated with the illegal manufacture of amphetamine or methamphetamine; and

''(II) costs incurred by or on behalf of a State or local government in connection with such removal in any case in which such State or local government has assisted in a Federal prosecution relating to amphetamine or methamphetamine, to the extent such costs exceed equitable sharing payments made to such State or local government in such case;''.

(b) GRANTS UNDER DRUG CONTROL AND SYSTEM IMPROVEMENT GRANT PROGRAM.—Section 501(b)(3) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting before the semicolon the following: ''and to remove any hazardous substance or pollutant or contaminant associated with the illegal manufacture of amphetamine or methamphetamine''.

(c) AMOUNTS SUPPLEMENT AND NOT SUPPLANT.—

(1) ASSETS FORFEITURE FUND.—Any amounts made available from the Department of Justice Assets Forfeiture Fund in a fiscal year by reason of the amendment made by subsection (a) shall supplement, and not supplant, any other amounts made available to the Department of Justice in such fiscal year from other sources for payment of costs described in section 524(c)(1)(E)(ii) of title 28, United States Code, as so amended.

(2) GRANT PROGRAM.—Any amounts made available in a fiscal year under the grant program under section 501(b)(3) of the Omnibus Crime Control and Safe Streets Act of 1968 for the removal of hazardous substances or pollutants or contaminants associated with the illegal manufacture of amphetamine or methamphetamine by reason of the amendment made by subsection (b) shall supplement, and not supplant, any other amounts made available in such fiscal year from other sources for such removal.

**SEC. ___22. REDUCTION IN RETAIL SALES TRANSACTION THRESHOLD FOR NON-SAFE HARBOR PRODUCTS CONTAINING PSEUDOEPHEDRINE OR PHENLYPROPANOLAMINE.**

(a) REDUCTION IN TRANSACTION THRESHOLD.—Section 102(39)(A)(iv)(II) of the Controlled Substances Act (21 U.S.C. 802(39)(A)(iv)(II) is amended—

(1) by striking ''24 grams'' both places it appears and inserting ''9 grams''; and

(2) by inserting before the semicolon at the end the following: ''and sold in package sizes of not more than 3 grams of pseudoephedrine base or 3 grams of phenylpropanolamine base''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect one year after the date of the enactment of this Act.

**SEC. ___23. TRAINING FOR DRUG ENFORCEMENT ADMINISTRATION AND STATE AND LOCAL LAW ENFORCEMENT PERSONNEL RELATING TO CLANDESTINE LABORATORIES.**

(a) IN GENERAL.—

(1) REQUIREMENT.—The Administrator of the Drug Enforcement Administration shall carry out the programs described in subsection (b) with respect to the law enforcement personnel of States and localities determined by the Administrator to have significant levels of methamphetamine-related or amphetamine-related crime or projected by the Administrator to have the potential for such levels of crime in the future.

(2) DURATION.—The duration of any program under that subsection may not exceed 3 years.

(b) COVERED PROGRAMS.—The programs described in this subsection are as follows:

(1) ADVANCED MOBILE CLANDESTINE LABORATORY TRAINING TEAMS.—A program of advanced mobile clandestine laboratory training teams, which shall provide information and training to State and local law enforcement personnel in techniques utilized in conducting undercover investigations and conspiracy cases, and other information designed to assist in the investigation of the illegal manufacturing and trafficking of amphetamine and methamphetamine.

(2) BASIC CLANDESTINE LABORATORY CERTIFICATION TRAINING.—A program of basic clandestine laboratory certification training, which shall provide information and training—

(A) to Drug Enforcement Administration personnel and State and local law enforcement personnel for purposes of enabling such personnel to meet any certification requirements under law with respect to the handling of wastes created by illegal amphetamine and methamphetamine laboratories; and

(B) to State and local law enforcement personnel for purposes of enabling such personnel to provide the information and training covered by subparagraph (A) to other State and local law enforcement personnel.

(3) CLANDESTINE LABORATORY RECERTIFICATION AND AWARENESS TRAINING.—A program of clandestine laboratory recertification and awareness training, which shall provide information and training to State and local law enforcement personnel for purposes of enabling such personnel to provide recertification and awareness training relating to clandestine laboratories to additional State and local law enforcement personnel.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2000, 2001, and 2002 amounts as follows:

(1) $1,500,000 to carry out the program described in subsection (b)(1).

(2) $3,000,000 to carry out the program described in subsection (b)(2).

(3) $1,000,000 to carry out the program described in subsection (b)(3).

**SEC. ___24. COMBATING METHAMPHETAMINE AND AMPHETAMINE IN HIGH INTENSITY DRUG TRAFFICKING AREAS.**

(a) IN GENERAL.—

(1) IN GENERAL.—The Director of National Drug Control Policy shall use amounts available under this section to combat the trafficking of methamphetamine and amphetamine in areas designated by the Director as high intensity drug trafficking areas.

(2) ACTIVITIES.—In meeting the requirement in paragraph (1), the Director shall provide funds for—

(A) employing additional Federal law enforcement personnel, or facilitating the employment of additional State and local law enforcement personnel, including agents, investigators, prosecutors, laboratory technicians, chemists, investigative assistants, and drug-prevention specialists; and

(B) such other activities as the Director considers appropriate.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section—

(1) $15,000,000 for fiscal year 2000; and

(2) such sums as may be necessary for each of fiscal years 2001 through 2004.

(c) APPORTIONMENT OF FUNDS.—

(1) FACTORS IN APPORTIONMENT.—The Director shall apportion amounts appropriated for a fiscal year pursuant to the authorization of appropriations in subsection (b) for activities under subsection (a) among and within areas designated by the Director as high intensity drug trafficking areas based on the following factors:

(A) The number of methamphetamine manufacturing facilities and amphetamine manufacturing facilities discovered by Federal, State, or local law enforcement officials in the previous fiscal year.

(B) The number of methamphetamine prosecutions and amphetamine prosecutions in Federal, State, or local courts in the previous fiscal year.

(C) The number of methamphetamine arrests and amphetamine arrests by Federal, State, or local law enforcement officials in the previous fiscal year.

(D) The amounts of methamphetamine, amphetamine, or listed chemicals (as that term is defined in section 102(33) of the Controlled Substances Act (21 U.S.C. 802(33)) seized by Federal, State, or local law enforcement officials in the previous fiscal year.

(E) Intelligence and predictive data from the Drug Enforcement Administration and the Department of Health and Human Services showing patterns and trends in abuse, trafficking, and transportation in methamphetamine, amphetamine, and listed chemicals (as that term is so defined).

(2) CERTIFICATION.—Before the Director apportions any funds under this subsection to a high intensity drug trafficking area, the Director shall certify that the law enforcement entities responsible for clandestine methamphetamine and amphetamine laboratory seizures in that area are providing laboratory seizure data to the national clandestine laboratory database at the El Paso Intelligence Center.

(d) LIMITATION ON ADMINISTRATIVE COSTS.—Not more than 5 percent of the amount appropriated in a fiscal year pursuant to the authorization of appropriations for that fiscal year in subsection (b) may be available in that fiscal year for administrative costs associated with activities under subsection (a).

**SEC. ___25. COMBATING AMPHETAMINE AND METHAMPHETAMINE MANUFACTURING AND TRAFFICKING.**

(a) ACTIVITIES.—In order to combat the illegal manufacturing and trafficking in amphetamine and methamphetamine, the Administrator of the Drug Enforcement Administration may—

(1) assist State and local law enforcement in small and mid-sized communities in all phases of investigations related to such manufacturing and trafficking, including assistance with foreign-language interpretation;

(2) staff additional regional enforcement and mobile enforcement teams related to such manufacturing and trafficking;

(3) establish additional resident offices and posts of duty to assist State and local law enforcement in rural areas in combating such manufacturing and trafficking;

(4) provide the Special Operations Division of the Administration with additional agents and staff to collect, evaluate, interpret, and disseminate critical intelligence targeting the command and control operations of major amphetamine and methamphetamine manufacturing and trafficking organizations;

(5) enhance the investigative and related functions of the Chemical Control Program of the Administration to implement more fully the provisions of the Comprehensive Methamphetamine Control Act of 1996 (Public Law 104–237);

(6) design an effective means of requiring an accurate accounting of the import and export of list I chemicals, and coordinate investigations relating to the diversion of such chemicals;

(7) develop a computer infrastructure sufficient to receive, process, analyze, and redistribute time-sensitive enforcement information from suspicious order reporting to field offices of the Administration and other law enforcement and regulatory agencies, including the continuing development of the Suspicious Order Reporting and Tracking System (SORTS) and the Chemical Transaction Database (CTRANS) of the Administration;

(8) establish an education, training, and communication process in order to alert the industry to current trends and emerging patterns in the illegal manufacturing of amphetamine and methamphetamine; and

(9) carry out such other activities as the Administrator considers appropriate.

(b) ADDITIONAL POSITIONS AND PERSONNEL.—

(1) IN GENERAL.—In carrying out activities under subsection (a), the Administrator may establish in the Administration not more than 50 full-time positions, including not more than 31 special-agent positions, and may appoint personnel to such positions.

(2) PARTICULAR POSITIONS.—In carrying out activities under paragraphs (5) through (8) of subsection (a), the Administrator may establish in the Administration not more than 15 full-time positions, including not more than 10 diversion investigator positions, and may appoint personnel to such positions. Any positions established under this paragraph are in addition to any positions established under paragraph (1).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the Drug Enforcement Administration for each fiscal year after fiscal year 1999, $9,500,000 for purposes of carrying out the activities authorized by subsection (a) and employing personnel in positions established under subsection (b), of which $3,000,000 shall be available for activities under paragraphs (5) through (8) of subsection (a) and employing personnel in positions established under subsection (b)(2).

## CHAPTER 3—ABUSE PREVENTION AND TREATMENT

**SEC. ___31. EXPANSION OF METHAMPHETAMINE RESEARCH.**

Section 464N of the Public Health Service Act (42 U.S.C. 285o–2) is amended by adding at the end the following:

''(c) METHAMPHETAMINE RESEARCH.—

''(1) GRANTS OR COOPERATIVE AGREEMENTS.—The Director of the Institute may make grants or enter into cooperative agreements to expand the current and on-going interdisciplinary research and clinical trials with treatment centers of the National Drug Abuse Treatment Clinical Trials Network relating to methamphetamine abuse and addiction and other biomedical, behavioral, and social issues related to methamphetamine abuse and addiction.

''(2) USE OF FUNDS.—Amounts made available under a grant or cooperative agreement under paragraph (1) for methamphetamine abuse and addiction may be used for research and clinical trials relating to—

''(A) the effects of methamphetamine abuse on the human body, including the brain;

''(B) the addictive nature of methamphetamine and how such effects differ with respect to different individuals;

''(C) the connection between methamphetamine abuse and mental health;

''(D) the identification and evaluation of the most effective methods of prevention of methamphetamine abuse and addiction;

''(E) the identification and development of the most effective methods of treatment of methamphetamine addiction, including pharmacological treatments;

''(F) risk factors for methamphetamine abuse;

''(G) effects of methamphetamine abuse and addiction on pregnant women and their fetuses; and

''(H) cultural, social, behavioral, neurological and psychological reasons that individuals abuse methamphetamine, or refrain from abusing methamphetamine.

''(3) RESEARCH RESULTS.—The Director shall promptly disseminate research results under this subsection to Federal, State and local entities involved in combating methamphetamine abuse and addiction.

''(4) AUTHORIZATION OF APPROPRIATIONS.—

''(A) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out paragraph (1), such sums as may be necessary for each fiscal year.

''(B) SUPPLEMENT NOT SUPPLANT.—Amounts appropriated pursuant to the authorization of appropriations in subparagraph (A) for a fiscal year shall supplement and not supplant any other amounts appropriated in such fiscal year for research on methamphetamine abuse and addiction.''.

**SEC. ___32. METHAMPHETAMINE AND AMPHETAMINE TREATMENT INITIATIVE BY CENTER FOR SUBSTANCE ABUSE TREATMENT.**

Subpart 1 of part B of title V of the Public Health Service Act (42 U.S.C. 290bb et seq.) is amended by adding at the end the following new section:

''METHAMPHETAMINE AND AMPHETAMINE TREATMENT INITIATIVE

''SEC. 514. (a) GRANTS.—

''(1) AUTHORITY TO MAKE GRANTS.—The Director of the Center for Substance Abuse Treatment may make grants to States and Indian tribes recognized by the United States that have a high rate, or have had a rapid increase, in methamphetamine or amphetamine abuse or addiction in order to permit such States and Indian tribes to expand activities in connection with the treatment of methamphetamine or amphetamine abuser or addiction in the specific geographical areas of such States or Indian tribes, as the case may be, where there is such a rate or has been such an increase.

''(2) RECIPIENTS.—Any grants under paragraph (1) shall be directed to the substance abuse directors of the States, and of the appropriate tribal government authorities of

the Indian tribes, selected by the Director to receive such grants.

''(3) NATURE OF ACTIVITIES.—Any activities under a grant under paragraph (1) shall be based on reliable scientific evidence of their efficacy in the treatment of methamphetamine or amphetamine abuse or addiction.

''(b) GEOGRAPHIC DISTRIBUTION.—The Director shall ensure that grants under subsection (a) are distributed equitably among the various regions of the country and among rural, urban, and suburban areas that are affected by methamphetamine or amphetamine abuse or addiction.

''(c) ADDITIONAL ACTIVITIES.—The Director shall—

''(1) evaluate the activities supported by grants under subsection (a);

''(2) disseminate widely such significant information derived from the evaluation as the Director considers appropriate to assist States, Indian tribes, and private providers of treatment services for methamphetamine or amphetamine abuser or addiction in the treatment of methamphetamine or amphetamine abuse or addiction; and

''(3) provide States, Indian tribes, and such providers with technical assistance in connection with the provision of such treatment.

''(d) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 2000 and such sums as may be necessary for each of fiscal years 2001 and 2002.

''(2) USE OF CERTAIN FUNDS.—Of the funds appropriated to carry out this section in any fiscal year, the lesser of 5 percent of such funds or $1,000,000 shall be available to the Director for purposes of carrying out subsection (c).''.

**SEC. ___33. EXPANSION OF METHAMPHETAMINE ABUSE PREVENTION EFFORTS.**

(a) EXPANSION OF EFFORTS.—Section 515 of the Public Health Service Act (42 U.S.C. 290bb–21) is amended by adding at the end the following:

''(e)(1) The Administrator may make grants to and enter into contracts and cooperative agreements with public and nonprofit private entities to enable such entities—

''(A) to carry out school-based programs concerning the dangers of abuse of and addiction to methamphetamine and other illicit drugs, using methods that are effective and science-based, including initiatives that give students the responsibility to create their own anti-drug abuse education programs for their schools; and

''(B) to carry out community-based abuse and addiction prevention programs relating to methamphetamine and other illicit drugs that are effective and science-based.

''(2) Amounts made available under a grant, contract or cooperative agreement under paragraph (1) shall be used for planning, establishing, or administering prevention programs relating to methamphetamine and other illicit drugs in accordance with paragraph (3).

''(3)(A) Amounts provided under this subsection may be used—

''(i) to carry out school-based programs that are focused on those districts with high or increasing rates of methamphetamine abuse and addiction and targeted at populations which are most at risk to start abuse of methamphetamine and other illicit drugs;

''(ii) to carry out community-based prevention programs that are focused on those populations within the community that are most at-risk for abuse of and addiction to methamphetamine and other illicit drugs;

''(iii) to assist local government entities to conduct appropriate prevention activities relating to methamphetamine and other illicit drugs;

''(iv) to train and educate State and local law enforcement officials, prevention and education officials, members of community anti-drug coalitions and parents on the signs of abuse of and addiction to methamphetamine and other illicit drugs, and the options for treatment and prevention;

''(v) for planning, administration, and educational activities related to the prevention of abuse of and addiction to methamphetamine and other illicit drugs;

''(vi) for the monitoring and evaluation of prevention activities relating to methamphetamine and other illicit drugs, and reporting and disseminating resulting information to the public; and

''(vii) for targeted pilot programs with evaluation components to encourage innovation and experimentation with new methodologies.

''(B) The Administrator shall give priority in making grants under this subsection to rural and urban areas that are experiencing a high rate or rapid increases in methamphetamine abuse and addiction.

''(4)(A) Not less than $500,000 of the amount available in each fiscal year to carry out this subsection shall be made available to the Administrator, acting in consultation with other Federal agencies, to support and conduct periodic analyses and evaluations of effective prevention programs for abuse of and addiction to methamphetamine and other illicit drugs and the development of appropriate strategies for disseminating information about and implementing these programs.

''(B) The Administrator shall submit to the committees of Congress referred to in subparagraph (C) an annual report with the results of the analyses and evaluation under subparagraph (A).

''(C) The committees of Congress referred to in this subparagraph are the following:

''(i) The Committees on Health, Education, Labor, and Pensions, the Judiciary, and Appropriations of the Senate.

''(ii) The Committees on Commerce, the Judiciary, and Appropriations of the House of Representatives.''.

(b) AUTHORIZATION OF APPROPRIATIONS FOR EXPANSION OF ABUSE PREVENTION EFFORTS AND PRACTITIONER REGISTRATION REQUIREMENTS.—There is authorized to be appropriated to carry out section 515(e) of the Public Health Service Act (as added by subsection (a)) and section 303(g)(2) of the Controlled Substances Act (as added by section 18(a) of this Act), $15,000,000 for fiscal year 2000, and such sums as may be necessary for each succeeding fiscal year.

**SEC. ___34. STUDY OF METHAMPHETAMINE TREATMENT.**

(a) STUDY.—

(1) REQUIREMENT.—The Secretary of Health and Human Services shall, in consultation with the Institute of Medicine of the National Academy of Sciences, conduct a study on the development of medications for the treatment of addiction to amphetamine and methamphetamine.

(2) REPORT.—Not later than nine months after the date of the enactment of this Act, the Secretary shall submit to the Committees on the Judiciary of the Senate and House of Representatives a report on the results of the study conducted under paragraph (1).

(b) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated for the Department of Health and Human Services for fiscal year 2000 such sums as may be necessary to meet the requirements of subsection (a).

**CHAPTER 4—REPORTS**

**SEC. ___41. REPORTS ON CONSUMPTION OF METHAMPHETAMINE AND OTHER ILLICIT DRUGS IN RURAL AREAS, METROPOLITAN AREAS, AND CONSOLIDATED METROPOLITAN AREAS.**

The Secretary of Health and Human Services shall include in each National Household Survey on Drug Abuse appropriate prevalence data and information on the consumption of methamphetamine and other illicit drugs in rural areas, metropolitan areas, and consolidated metropolitan areas.

**SEC. ___42. REPORT ON DIVERSION OF ORDINARY OVER-THE-COUNTER PSEUDOEPHEDRINE AND PHENYLPROPANOLAMINE PRODUCTS.**

(a) STUDY.—The Attorney General shall conduct a study of the use of ordinary over-the-counter pseudoephedrine and phenylpropanolamine products in the clandestine production of illicit drugs. Sources of data for the study shall include the following:

(1) Information from Federal, State, and local clandestine laboratory seizures and related investigations identifying the source, type, or brand of drug products being utilized and how they were obtained for the illicit production of methamphetamine and amphetamine.

(2) Information submitted voluntarily from the pharmaceutical and retail industries involved in the manufacture, distribution, and sale of drug products containing ephedrine, pseudoephedrine, and phenylpropanolamine, including information on changes in the pattern, volume, or both, of sales of ordinary over-the-counter pseudoephedrine and phenylpropanolamine products.

(b) REPORT.—

(1) REQUIREMENT.—Not later than April 1, 2001, the Attorney General shall submit to Congress a report on the study conducted under subsection (a).

(2) ELEMENTS.—The report shall include—

(A) the findings of the Attorney General as a result of the study; and

(B) such recommendations on the need to establish additional measures to prevent diversion of ordinary over-the-counter pseudoephedrine and phenylpropanolamine (such as a threshold on ordinary over-the-counter pseudoephedrine and phenylpropanolamine products) as the Attorney General considers appropriate.

(3) MATTERS CONSIDERED.—In preparing the report, the Attorney General shall consider the comments and recommendations of State and local law enforcement and regulatory officials and of representatives of the industry described in subsection (a)(2).

**Subtitle B—Controlled Substances Generally**

**CHAPTER 1—CRIMINAL MATTERS**

**SEC. ___51. ENHANCED PUNISHMENT FOR TRAFFICKING IN LIST I CHEMICALS.**

(a) AMENDMENTS TO FEDERAL SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States, the United States Sentencing Commission shall amend the Federal sentencing guidelines in accordance with this section with respect to any violation of paragraph (1) or (2) of section 401(d) of the Controlled Substances Act (21 U.S.C. 841(d)) involving a list I chemical and any violation of paragraph (1) or (3) of section 1010(d) of the Controlled Substance Import and Export Act (21 U.S.C. 960(d)) involving a list I chemical.

(b) EPHEDRINE, PHENYLPROPANOLAMINE, AND PSEUDOEPHEDRINE.—

(1) IN GENERAL.—In carrying this section, the United States Sentencing Commission shall, with respect to each offense described in subsection (a) involving ephedrine, phenylpropanolamine, or pseudoephedrine (including their salts, optical isomers, and salts of optical isomers), review and amend its

guidelines to provide for increased penalties such that those penalties corresponded to the quantity of controlled substance that could reasonably have been manufactured using the quantity of ephedrine, phenylpropanolamine, or pseudoephedrine possessed or distributed.

(2) CONVERSION RATIOS.—For the purposes of the amendments made by this subsection, the quantity of controlled substance that could reasonably have been manufactured shall be determined by using a table of manufacturing conversion ratios for ephedrine, phenylpropanolamine, and pseudoephedrine, which table shall be established by the Sentencing Commission based on scientific, law enforcement, and other data the Sentencing Commission considers appropriate.

(c) OTHER LIST I CHEMICALS.—In carrying this section, the United States Sentencing Commission shall, with respect to each offense described in subsection (a) involving any list I chemical other than ephedrine, phenylpropanolamine, or pseudoephedrine, review and amend its guidelines to provide for increased penalties such that those penalties reflect the dangerous nature of such offenses, the need for aggressive law enforcement action to fight such offenses, and the extreme dangers associated with unlawful activity involving methamphetamine and amphetamine, including—

(1) the rapidly growing incidence of controlled substance manufacturing;

(2) the extreme danger inherent in manufacturing controlled substances;

(3) the threat to public safety posed by manufacturing controlled substances; and

(4) the recent increase in the importation, possession, and distribution of list I chemicals for the purpose of manufacturing controlled substances.

(d) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The United States Sentencing Commission shall promulgate amendments pursuant to this section as soon as practicable after the date of the enactment of this Act in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987 (Public Law 100–182), as though the authority under that Act had not expired.

**SEC. ___52. MAIL ORDER REQUIREMENTS.**

Section 310(b)(3) of the Controlled Substances Act (21 U.S.C. 830(b)(3)) is amended—

(1) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively;

(2) by inserting before subparagraph (B), as so redesignated, the following new subparagraph (A):

''(A) As used in this paragraph:

''(i) The term 'drug product' means an active ingredient in dosage form that has been approved or otherwise may be lawfully marketed under the Food, Drug, and Cosmetic Act for distribution in the United States.

''(ii) The term 'valid prescription' means a prescription which is issued for a legitimate medical purpose by an individual practitioner licensed by law to administer and prescribe the drugs concerned and acting in the usual course of the practitioner's professional practice.'';

(3) in subparagraph (B), as so redesignated, by inserting ''or who engages in an export transaction'' after ''nonregulated person''; and

(4) adding at the end the following:

''(D) Except as provided in subparagraph (E), the following distributions to a nonregulated person, and the following export transactions, shall not be subject to the reporting requirement in subparagraph (B):

''(i) Distributions of sample packages of drug products when such packages contain not more than 2 solid dosage units or the equivalent of 2 dosage units in liquid form, not to exceed 10 milliliters of liquid per package, and not more than one package is distributed to an individual or residential address in any 30-day period.

''(ii) Distributions of drug products by retail distributors that may not include face-to-face transactions to the extent that such distributions are consistent with the activities authorized for a retail distributor as specified in section 102(46).

''(iii) Distributions of drug products to a resident of a long term care facility (as that term is defined in regulations prescribed by the Attorney General) or distributions of drug products to a long term care facility for dispensing to or for use by a resident of that facility.

''(iv) Distributions of drug products pursuant to a valid prescription.

''(v) Exports which have been reported to the Attorney General pursuant to section 1004 or 1018 or which are subject to a waiver granted under section 1018(e)(2).

''(vi) Any quantity, method, or type of distribution or any quantity, method, or type of distribution of a specific listed chemical (including specific formulations or drug products) or of a group of listed chemicals (including specific formulations or drug products) which the Attorney General has excluded by regulation from such reporting requirement on the basis that such reporting is not necessary for the enforcement of this title or title III.

''(E) The Attorney General may revoke any or all of the exemptions listed in subparagraph (D) for an individual regulated person if he finds that drug products distributed by the regulated person are being used in violation of this title or title III. The regulated person shall be notified of the revocation, which will be effective upon receipt by the person of such notice, as provided in section 1018(c)(1), and shall have the right to an expedited hearing as provided in section 1018(c)(2).''.

**SEC. ___53. INCREASED PENALTIES FOR DISTRIBUTING DRUGS TO MINORS.**

Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a), by striking ''one year'' and inserting ''3 years''; and

(2) in subsection (b), by striking ''one year'' and inserting ''5 years''.

**SEC. ___54. INCREASED PENALTY FOR DRUG TRAFFICKING IN OR NEAR A SCHOOL OR OTHER PROTECTED LOCATION.**

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) in subsection (a), by striking ''one year'' and inserting ''3 years''; and

(2) in subsection (b), by striking ''three years'' each place that term appears and inserting ''5 years''.

**SEC. ___55. ADVERTISEMENTS FOR DRUG PARAPHERNALIA AND SCHEDULE I CONTROLLED SUBSTANCES.**

(a) DRUG PARAPHERNALIA.—Subsection (a)(1) of section 422 of the Controlled Substances Act (21 U.S.C. 863) is amended by inserting '', directly or indirectly advertise for sale,'' after ''sell''.

(b) DIRECTLY OR INDIRECTLY ADVERTISE FOR SALE DEFINED.—Such section 422 is further amended by adding at the end the following new subsection:

''(g) In this section, the term 'directly or indirectly advertise for sale' means the use of any communication facility (as that term is defined in section 403(b)) to post, publicize, transmit, publish, link to, broadcast, or otherwise advertise any matter (including a telephone number or electronic or mail address) with the intent to facilitate or promote a transaction in.''.

(c) SCHEDULE I CONTROLLED SUBSTANCES.—Section 403(c) of such Act (21 U.S.C. 843(c)) is amended—

(1) by inserting ''(1)'' after ''(c)''; and

(2) in paragraph (1), as so designated—

(A) in the first sentence, by inserting before the period the following: '', or to directly or indirectly advertise for sale (as that term is defined in section 422(g)) any Schedule I controlled substance''; and

(B) in the second sentence, by striking ''term 'advertisement''' and inserting ''term 'written advertisement'''.

**SEC. ___56. THEFT AND TRANSPORTATION OF ANHYDROUS AMMONIA FOR PURPOSES OF ILLICIT PRODUCTION OF CONTROLLED SUBSTANCES.**

(a) IN GENERAL.—Part D of the Controlled Substances Act (21 U.S.C. 841 et seq.) is amended by adding at the end the following:

''ANHYDROUS AMMONIA

''SEC. 423. (a) It is unlawful for any person—

''(1) to steal anhydrous ammonia, or

''(2) to transport stolen anhydrous ammonia across State lines,

knowing, intending, or having reasonable cause to believe that such anhydrous ammonia will be used to manufacture a controlled substance in violation of this part.

''(b) Any person who violates subsection (a) shall be imprisoned or fined, or both, in accordance with section 403(d) as if such violation were a violation of a provision of section 403.''.

(b) CLERICAL AMENDMENT.—The table of contents for that Act is amended by inserting after the item relating to section 421 the following new items:

''Sec. 422. Drug paraphernalia.
''Sec. 423. Anhydrous ammonia.''.

(c) ASSISTANCE FOR CERTAIN RESEARCH.—

(1) AGREEMENT.—The Administrator of the Drug Enforcement Administration shall seek to enter into an agreement with Iowa State University in order to permit the University to continue and expand its current research into the development of inert agents that, when added to anhydrous ammonia, eliminate the usefulness of anhydrous ammonia as an ingredient in the production of methamphetamine.

(2) REIMBURSABLE PROVISION OF FUNDS.—The agreement under paragraph (1) may provide for the provision to Iowa State University, on a reimbursable basis, of $500,000 for purposes the activities specified in that paragraph.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for the Drug Enforcement Administration for fiscal year 2000, $500,000 for purposes of carrying out the agreement under this subsection.

**SEC. ___57. CRIMINAL PROHIBITION ON DISTRIBUTION OF CERTAIN INFORMATION RELATING TO THE MANUFACTURE OF CONTROLLED SUBSTANCES.**

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 21 the following new chapter:

**''CHAPTER 22—CONTROLLED SUBSTANCES**



**''§ 421. Distribution of information relating to manufacture of controlled substances**

''(a) PROHIBITION ON DISTRIBUTION OF INFORMATION RELATING TO MANUFACTURE OF CONTROLLED SUBSTANCES.—

''(1) CONTROLLED SUBSTANCE DEFINED.—In this subsection, the term 'controlled substance' has the meaning given that term in

section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

''(2) PROHIBITION.—It shall be unlawful for any person—

''(A) to teach or demonstrate the manufacture of a controlled substance, or to distribute by any means information pertaining to, in whole or in part, the manufacture of a controlled substance, with the intent that the teaching, demonstration, or information be used for, or in furtherance of, an activity that constitutes a Federal crime; or

''(B) to teach or demonstrate to any person the manufacture of a controlled substance, or to distribute to any person, by any means, information pertaining to, in whole or in part, the manufacture of a controlled substance, knowing that such person intends to use the teaching, demonstration, or information for, or in furtherance of, an activity that constitutes a Federal crime.

''(b) PENALTY.—Any person who violates subsection (a) shall be fined under this title, imprisoned not more than 10 years, or both.''.

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 21 the following new item:

**''22. Controlled Substances ..... 421''.**

**CHAPTER 2—OTHER MATTERS**

**SEC. ___61. WAIVER AUTHORITY FOR PHYSICIANS WHO DISPENSE OR PRESCRIBE CERTAIN NARCOTIC DRUGS FOR MAINTENANCE TREATMENT OR DETOXIFICATION TREATMENT.**

(a) REQUIREMENTS.—Section 303(g) of the Controlled Substances Act (21 U.S.C. 823(g)) is amended—

(1) in paragraph (2), by striking ''(A) security'' and inserting ''(i) security'', and by striking ''(B) the maintenance'' and inserting ''(ii) the maintenance'';

(2) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(3) by inserting ''(1)'' after ''(g)'';

(4) by striking ''Practitioners who dispense'' and inserting ''Except as provided in paragraph (2), practitioners who dispense and prescribe''; and

(5) by adding at the end the following:

''(2)(A) Subject to subparagraphs (D), the requirements of paragraph (1) are waived in the case of the dispensing or prescribing, by a physician, of narcotic drugs in schedule III, IV, or V, or combinations of such drugs, if the physician meets the conditions specified in subparagraph (B) and the narcotic drugs or combinations of such drugs meet the conditions specified in subparagraph (C).

''(B)(i) For purposes of subparagraph (A), the conditions specified in this subparagraph with respect to a physician are that, before dispensing or prescribing narcotic drugs in schedule III, IV, or V, or combinations of such drugs, to patients for maintenance or detoxification treatment, the physician submit to the Secretary and the Attorney General a notification of the intent of the physician to begin dispensing or prescribing the drugs or combinations for such purpose, and that the notification to the Secretary also contain the following certifications by the physician:

''(I) The physician—

''(aa) is a physician licensed under State law; and

''(bb) has training or experience and the ability to treat and manage opiate-dependent patients.

''(II) With respect to patients to whom the physician will provide such drugs or combinations of drugs, the physician has the capacity to refer the patients for appropriate counseling and other appropriate ancillary services.

''(III) In any case in which the physician is not in a group practice, the total number of such patients of the physician at any one time will not exceed the applicable number. For purposes of this subclause, the applicable number is 20, except that the Secretary may by regulation change such total number.

''(IV) In any case in which the physician is in a group practice, the total number of such patients of the group practice at any one time will not exceed the applicable number. For purposes of this subclause, the applicable number is 20, except that the Secretary may by regulation change such total number, and the Secretary for such purposes may by regulation establish different categories on the basis of the number of physicians in a group practice and establish for the various categories different numerical limitations on the number of such patients that the group practice may have.

''(ii)(I) The Secretary may, in consultation with the Administrator of the Drug Enforcement Administration, the Administrator of the Substance Abuse and Mental Health Services Administration, the Director of the Center for Substance Abuse Treatment, the Director of the National Institute on Drug Abuse, and the Commissioner of Food and Drugs, issue regulations through notice and comment rulemaking or practice guidelines to implement this paragraph. The regulations or practice guidelines shall address the following:

''(aa) Approval of additional credentialing bodies and the responsibilities of credentialing bodies.

''(bb) Additional exemptions from the requirements of this paragraph and any regulations under this paragraph.

''(II) Nothing in the regulations or practice guidelines under this clause may authorize any Federal official or employee to exercise supervision or control over the practice of medicine or the manner in which medical services are provided.

''(III)(aa) The Secretary shall issue a Treatment Improvement Protocol containing best practice guidelines for the treatment and maintenance of opiate-dependent patients. The Secretary shall develop the protocol in consultation with the Director of the National Institute on Drug Abuse, the Director of the Center for Substance Abuse Treatment, the Administrator of the Drug Enforcement Administration, the Commissioner of Food and Drugs, the Administrator of the Substance Abuse and Mental Health Services Administration, and other substance abuse disorder professionals. The protocol shall be guided by science.

''(bb) The protocol shall be issued not later than 120 days after the date of the enactment of the Methamphetamine Anti-Proliferation Act of 1999.

''(IV) For purposes of the regulations or practice guidelines under subclause (I), a physician shall have training or experience under clause (i)(I)(bb) if the physician meets one or more of the following conditions:

''(aa) The physician is certified in addiction treatment by the American Society of Addiction Medicine, the American Board of Medical Specialties, the American Osteopathic Academy of Addiction Medicine, or any other certified body accredited by the Secretary.

''(bb) The physician has been a clinical investigator in a clinical trial conducted for purposes of securing approval under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) or section 351 of the Public Health Service Act (42 U.S.C. 262) of a narcotic drug in schedule III, IV, or V for the treatment of addiction, if such approval was granted.

''(cc) The physician has completed training (through classroom situations, seminars, professional society meetings, electronic communications, or otherwise) provided by the American Society of Addiction Medicine, the American Academy of Addiction Psychiatry, the American Osteopathic Academy of Addiction Medicine, the American Medical Association, the American Osteopathic Association, the American Psychiatric Association, or any other organization that the Secretary determines appropriate for purposes of this item. The curricula may include training in patient need for counseling regarding HIV, Hepatitis C, and other infectious diseases, substance abuse counseling, random drug testing, medical evaluation, annual assessment, prenatal care, diagnosis of addiction, rehabilitation services, confidentiality, and other appropriate topics.

''(dd) The physician has training or experience in the treatment and management of opiate-dependent, which training or experience shall meet such criteria as the Secretary may prescribe. Any such criteria shall be effective for a period of three years after the effective date of such criteria, but the Secretary may extend the effective period of such criteria by additional periods of three years for each extension if the Secretary determines that such extension is appropriate for purposes of this item. Any such extension shall go into effect only if the Secretary publishes a notice of such extension in the Federal Register during the 30-day period ending on the date of the end of the three-year effective period of such criteria to which such extension will apply.

''(ee) The physician is certified in addiction treatment by a State medical licensing board, or an entity accredited by such board, unless the Secretary determines (after an opportunity for a hearing) that the training provided by such board or entity was inadequate for the treatment and management of opiate-dependent patients.

''(C) For purposes of subparagraph (A), the conditions specified in this subparagraph with respect to narcotic drugs in schedule III, IV, or V, or combinations of such drugs, are as follows:

''(i) The drugs or combinations of drugs have, under the Federal Food, Drug and Cosmetic Act or section 351 of the Public Health Service Act, been approved for use in maintenance or detoxification treatment.

''(ii) The drugs or combinations of drugs have not been the subject of an adverse determination. For purposes of this clause, an adverse determination is a determination published in the Federal Register and made by the Secretary, after consultation with the Attorney General, that experience since the approval of the drug or combinations of drugs has shown that the use of the drugs or combinations of drugs for maintenance or detoxification treatment requires additional standards respecting the qualifications of physicians to provide such treatment, or requires standards respecting the quantities of the drugs that may be provided for unsupervised use.

''(D)(i) A waiver under subparagraph (A) with respect to a physician is not in effect unless (in addition to conditions under subparagraphs (B) and (C)) the following conditions are met:

''(I) The notification under subparagraph (B) is in writing and states the name of the physician.

''(II) The notification identifies the registration issued for the physician pursuant to subsection (f).

''(III) If the physician is a member of a group practice, the notification states the names of the other physicians in the practice and identifies the registrations issued for the other physicians pursuant to subsection (f).

''(IV) A period of 45 days has elapsed after the date on which the notification was submitted, and during such period the physician does not receive from the Secretary a written notice that one or more of the conditions specified in subparagraph (B), subparagraph (C), or this subparagraph, have not been met.

''(ii) The Secretary shall provide to the Attorney General such information contained in notifications under subparagraph (B) as the Attorney General may request.

''(E) If in violation of subparagraph (A) a physician dispenses or prescribes narcotic drugs in schedule III, IV, or V, or combinations of such drugs, for maintenance treatment or detoxification treatment, the Attorney General may, for purposes of section 304(a)(4), consider the physician to have committed an act that renders the registration of the physician pursuant to subsection (f) to be inconsistent with the public interest.

''(F)(i) Upon determining that a physician meets the conditions specified in subparagraph (B), the Secretary shall notify the physician and the Attorney General.

''(ii) Upon receiving notice with respect to a physician under clause (i), the Attorney General shall assign the physician an identification number under this paragraph for inclusion with the physician's current registration to prescribe narcotics. An identification number assigned a physician under this clause shall be appropriate to preserve the confidentiality of a patient prescribed narcotic drugs covered by this paragraph by the physician.

''(iii) If the Secretary fails to make a determination described in clause (i) by the end of the 45-day period beginning on the date of the receipt by the Secretary of a notification from a physician under subparagraph (B), the Attorney General shall assign the physician an identification number described in clause (ii) at the end of such period.

''(G) In this paragraph:

''(i) The term 'group practice' has the meaning given such term in section 1877(h)(4) of the Social Security Act.

''(ii) The term 'physician' has the meaning given such term in section 1861(r) of the Social Security Act.

''(H)(i) This paragraph takes effect on the date of the enactment of the Methamphetamine Anti-Proliferation Act of 1999, and remains in effect thereafter except as provided in clause (iii) (relating to a decision by the Secretary or the Attorney General that this paragraph should not remain in effect).

''(ii) For the purposes relating to clause (iii), the Secretary and the Attorney General shall, during the 3-year period beginning on the date of the enactment of the Methamphetamine Anti-Proliferation Act of 1999, make determinations in accordance with the following:

''(I)(aa) The Secretary shall—

''(aaa) make a determination of whether treatments provided under waivers under subparagraph (A) have been effective forms of maintenance treatment and detoxification treatment in clinical settings;

''(bbb) make a determination regarding whether such waivers have significantly increased (relative to the beginning of such period) the availability of maintenance treatment and detoxification treatment; and

''(ccc) make a determination regarding whether such waivers have adverse consequences for the public health.

''(bb) In making determinations under this subclause, the Secretary—

''(aaa) may collect data from the practitioners for whom waivers under subparagraph (A) are in effect;

''(bbb) shall issue appropriate guidelines or regulations (in accordance with procedures for substantive rules under section 553 of title 5, United States Code) specifying the scope of the data that will be required to be provided under this subclause and the means through which the data will be collected; and

''(ccc) shall, with respect to collecting such data, comply with applicable provisions of chapter 6 of title 5, United States Code (relating to a regulatory flexibility analysis), and of chapter 8 of such title (relating to congressional review of agency rulemaking).

''(II) The Attorney General shall—

''(aa) make a determination of the extent to which there have been violations of the numerical limitations established under subparagraph (B) for the number of individuals to whom a practitioner may provide treatment; and

''(bb) make a determination regarding whether waivers under subparagraph (A) have increased (relative to the beginning of such period) the extent to which narcotic drugs in schedule III, IV, or V, or combinations of such drugs, are being dispensed or prescribed, or possessed, in violation of this Act.

''(iii) If, before the expiration of the period specified in clause (ii), the Secretary or the Attorney General publishes in the Federal Register a decision, made on the basis of determinations under such clause, that this paragraph should not remain in effect, this paragraph ceases to be in effect 60 days after the date on which the decision is so published. The Secretary shall, in making any such decision, consult with the Attorney General, and shall, in publishing the decision in the Federal Register, include any comments received from the Attorney General for inclusion in the publication. The Attorney General shall, in making any such decision, consult with the Secretary, and shall, in publishing the decision in the Federal Register, include any comments received from the Secretary for inclusion in the publication.

''(I) During the 3-year period beginning on the date of the enactment of the Methamphetamine Anti-Proliferation Act of 1999, a State may not preclude a practitioner from dispensing or prescribing narcotic drugs in schedule III, IV, or V, or combinations of such drugs, to patients for maintenance or detoxification treatment in accordance with this paragraph, or the other amendments made by section 22 of that Act, unless, before the expiration of that 3-year period, the State enacts a law prohibiting a practitioner from dispensing or prescribing such drugs or combination of drugs.''.

(b) CONFORMING AMENDMENTS.—Section 304 of the Controlled Substances Act (21 U.S.C. 824) is amended—

(1) in subsection (a), in the matter following paragraph (5), by striking ''section 303(g)'' each place the term appears and inserting ''section 303(g)(1)''; and

(2) in subsection (d), by striking ''section 303(g)'' and inserting ''section 303(g)(1)''.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for purposes of activities under section 303(g)(2) of the Controlled Substances Act, as added by subsection (a), amounts as follows:

(1) For fiscal year 2000, $3,000,000.

(2) For each fiscal year after fiscal year 2000, such sums as may be necessary for such fiscal year.

### Subtitle C—Cocaine Powder

**SEC. ___71. SHORT TITLE.**

This subtitle may be cited as the ''Powder Cocaine Sentencing Act of 1999''.

**SEC. ___72. SENTENCING FOR VIOLATIONS INVOLVING COCAINE POWDER.**

(a) AMENDMENT OF CONTROLLED SUBSTANCES ACT.—

(1) LARGE QUANTITIES.—Section 401(b)(1)(A)(ii) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)(ii)) is amended by striking ''5 kilograms'' and inserting ''500 grams''.

(2) SMALL QUANTITIES.—Section 401(b)(1)(B)(ii) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B)(ii)) is amended by striking ''500 grams'' and inserting ''50 grams''.

(b) AMENDMENT OF CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—

(1) LARGE QUANTITIES.—Section 1010(b)(1)(B) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)(B)) is amended by striking ''5 kilograms'' and inserting ''500 grams''.

(2) SMALL QUANTITIES.—Section 1010(b)(2)(B) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)(B)) is amended by striking ''500 grams'' and inserting ''50 grams''.

(c) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to reflect the amendments made by this section.

### Subtitle D—Education Matters

**SEC. ___81. SAFE SCHOOLS.**

(a) AMENDMENTS.—Part F of title XIV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8921 et seq.) is amended as follows:

(1) SHORT TITLE.—Section 14601(a) is amended by replacing ''Gun-Free'' with ''Safe'', and ''1994'' with ''1999''.

(2) REQUIREMENTS.—Section 14601(b)(1) is amended by inserting after ''determined'' the following: ''to be in possession of felonious quantities of an illegal drug, on school property under the jurisdiction of, or in a vehicle operated by an employee or agent of, a local educational agency in that State, or''.

(3) DEFINITIONS.—Section 14601(b)(4) is amended by replacing ''Definition'' with ''Definitions'' in the catchline, by replacing ''section'' in the matter under the catchline with ''part'', by redesignating the matter under the catchline after the comma as subparagraph (A), by replacing the period with a semicolon, and by adding new subparagraphs (B), (C), and (D) as follows:

''(B) the term 'illegal drug' means a controlled substance, as defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), the possession of which is unlawful under the Act (21 U.S.C. 801 et seq.) or under the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), but does not mean a controlled substance used pursuant to a valid prescription or as authorized by law; and

''(C) the term 'illegal drug paraphernalia' means drug paraphernalia, as defined in section 422(d) of the Controlled Substances Act (21 U.S.C. 863(d)), except that the first sentence of that section shall be applied by inserting 'or under the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.)', before the period.

''(D) the term 'felonious quantities of an illegal drug' means any quantity of an illegal drug—

''(i) possession of which quantity would, under Federal, State, or local law, either constitute a felony or indicate an intent to distribute; or

''(ii) that is possessed with an intent to distribute.''.

(4) REPORT TO STATE.—Section 14601(d)(2)(C) is amended by inserting ''illegal drugs or'' before ''weapons''.

(5) REPEALER.—Section 14601 is amended by striking subsection (f).

(6) POLICY REGARDING CRIMINAL JUSTICE SYSTEM REFERRAL.—Section 14602(a) is amended by replacing ''served by'' with ''under the jurisdiction of'', and by inserting

after ''who'' the following: ''is in possession of an illegal drug, or illegal drug paraphernalia, on school property under the jurisdiction of, or in a vehicle operated by an employee or agent of, such agency, or who''.

(7) DATA AND POLICY DISSEMINATION UNDER IDEA.—Section 14603 is amended by inserting ''current'' before ''policy'', by striking ''in effect on October 20, 1994'', by striking all the matter after ''schools'' and inserting a period thereafter, and by inserting before ''engaging'' the following: ''possessing illegal drugs, or illegal drug paraphernalia, on school property, or in vehicles operated by employees or agents of, schools or local educational agencies, or''.

(b) COMPLIANCE DATE; REPORTING.—(1) States shall have 2 years from the date of the enactment of this Act to comply with the requirements established in the amendments made by subsection (a).

(2) Not later than 3 years after the date of the enactment of this Act, the Secretary of Education shall submit to Congress a report on any State that is not in compliance with the requirements of this section.

(3) Not later than 2 years after the date of the enactment of this Act, the Secretary of Education shall submit to Congress a report analyzing the strengths and weaknesses of approaches regarding the disciplining of children with disabilities.

**SEC. ___82. STUDENT SAFETY AND FAMILY SCHOOL CHOICE.**

Subpart 1 of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) is amended by inserting after section 1115A of such Act (20 U.S.C. 6316) the following:

**''SEC. 1115B. STUDENT SAFETY AND FAMILY SCHOOL CHOICE.**

''(a) IN GENERAL.—Notwithstanding any other provision of law, if a student is eligible to be served under section 1115(b), or attends a school eligible for a schoolwide program under section 1114, and becomes a victim of a violent criminal offense, including drug-related violence, while in or on the grounds of a public elementary school or secondary school that the student attends and that receives assistance under this part, then the local educational agency may use funds provided under this part or under any other Federal education program to pay the supplementary costs for such student to attend another school. The agency may use the funds to pay for the supplementary costs of such student to attend any other public or private elementary school or secondary school, including a religious school, in the same State as the school where the criminal offense occurred, that is selected by the student's parent. The State educational agency shall determine what actions constitute a violent criminal offense for purposes of this section.

''(b) SUPPLEMENTARY COSTS.—The supplementary costs referred to in subsection (a) shall not exceed—

''(1) in the case of a student for whom funds under this section are used to enable the student to attend a public elementary school or secondary school served by a local educational agency that also serves the school where the violent criminal offense occurred, the costs of supplementary educational services and activities described in section 1114(b) or 1115(c) that are provided to the student;

''(2) in the case of a student for whom funds under this section are used to enable the student to attend a public elementary school or secondary school served by a local educational agency that does not serve the school where the violent criminal offense occurred but is located in the same State—

''(A) the costs of supplementary educational services and activities described in section 1114(b) or 1115(c) that are provided to the student; and

''(B) the reasonable costs of transportation for the student to attend the school selected by the student's parent; and

''(3) in the case of a student for whom funds under this section are used to enable the student to attend a private elementary school or secondary school, including a religious school, the costs of tuition, required fees, and the reasonable costs of such transportation.

''(c) CONSTRUCTION.—Nothing in this Act or any other Federal law shall be construed to prevent a parent assisted under this section from selecting the public or private, including religious, elementary school or secondary school that a child of the parent will attend within the State.

''(d) CONSIDERATION OF ASSISTANCE.—Subject to subsection (h), assistance made available under this section that is used to pay the costs for a student to attend a private or religious school shall not be considered to be Federal aid to the school, and the Federal Government shall have no authority to influence or regulate the operations of a private or religious school as a result of assistance received under this section.

''(e) CONTINUING ELIGIBILITY.—A student assisted under this section shall remain eligible to continue receiving assistance under this section for at least 3 academic years without regard to whether the student is eligible for assistance under section 1114 or 1115(b).

''(f) TUITION CHARGES.—Assistance under this section may not be used to pay tuition or required fees at a private elementary school or secondary school in an amount that is greater than the tuition and required fees paid by students not assisted under this section at such school.

''(g) SPECIAL RULE.—Any school receiving assistance provided under this section shall comply with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and not discriminate on the basis race, color, or national origin.

''(h) ASSISTANCE; TAXES AND OTHER FEDERAL PROGRAMS.—

''(1) ASSISTANCE TO FAMILIES, NOT SCHOOLS.—Assistance provided under this section shall be considered to be aid to families, not schools. Use of such assistance at a school shall not be construed to be Federal financial aid or assistance to that school.

''(2) TAXES AND DETERMINATIONS OF ELIGIBILITY FOR OTHER FEDERAL PROGRAMS.—Assistance provided under this section to a student shall not be considered to be income of the student or the parent of such student for Federal, State, or local tax purposes or for determining eligibility for any other Federal program.

''(i) PART B OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.—Nothing in this section shall be construed to affect the requirements of part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

''(j) MAXIMUM AMOUNT.—Notwithstanding any other provision of this section, the amount of assistance provided under this part for a student shall not exceed the per pupil expenditure for elementary or secondary education, as appropriate, by the local educational agency that serves the school where the criminal offense occurred for the fiscal year preceding the fiscal year for which the determination is made.''.

**SEC. ___83. TRANSFER OF REVENUES.**

(a) IN GENERAL.—Notwithstanding any other provision of Federal law, a State, a State educational agency, or a local educational agency may transfer any non-Federal public funds associated with the education of a student who is a victim of a violent criminal offense while in or on the grounds of a public elementary school or secondary school served by a local educational agency to another local educational agency or to a private elementary school or secondary school, including a religious school.

(b) DEFINITIONS.—For the purpose of subsection (a), the terms ''elementary school'', ''secondary school'', ''local educational agency'', and ''State educational agency'' have the meanings given such terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

**Subtitle E—Miscellaneous**

**SEC. ___91. NOTICE; CLARIFICATION.**

(a) NOTICE OF ISSUANCE.—Section 3103a of title 18, United States Code, is amended by adding at the end the following new sentence: ''With respect to any issuance under this section or any other provision of law (including section 3117 and any rule), any notice required, or that may be required, to be given may be delayed pursuant to the standards, terms, and conditions set forth in section 2705, unless otherwise expressly provided by statute.''.

(b) CLARIFICATION.—(1) Section 2(e) of Public Law 95–78 (91 Stat. 320) is amended by adding at the end the following:

''Subdivision (d) of such rule, as in effect on this date, is amended by inserting 'tangible' before 'property' each place it occurs.''.

(2) The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

**SEC. ___92. DOMESTIC TERRORISM ASSESSMENT AND RECOVERY.**

(a) IN GENERAL.—The Federal Bureau of Investigation shall prepare a study assessing—

(1) the threat posed by the Fuerzas Armadas de Liberacion Nacional Puertorriquena (FALN) and Los Macheteros terrorist organizations to the United States and its territories as of July 31, 1999; and

(2) what effect the President's offer of clemency to 16 FALN and Los Macheteros members on August 11, 1999, and the subsequent release of 11 of those members, will have on the threat posed by those terrorist organizations to the United States and its territories.

(b) ISSUES EXAMINED.—In conducting and preparing the study under subsection (a), the Federal Bureau of Investigation shall address—

(1) the threat posed by the FALN and Los Macheteros organizations to law enforcement officers, prosecutors, defense attorneys, witnesses, and judges involved in the prosecution of members of the FALN and Los Macheteros, both in the United States and its territories;

(2) the roles played by each the 16 members offered clemency by the President on August 11, 1999, in the FALN and Los Macheteros organizations;

(3) the extent to which the FALN and Los Macheteros organizations are associated with other known terrorist organizations or countries suspected of sponsoring terrorism;

(4) the threat posed to the national security interests of the United States by the FALN and Los Macheteros organizations;

(5) whether the offer of clemency to, or release of, any of the 16 FALN or Los Macheteros members would violate, or be inconsistent with, the United States' obligations under international treaties and agreements governing terrorist activity; and

(6) the effect on law enforcement's ability to solve open cases and apprehend fugitives resulting from the offer of clemency to the 16 FALN and Los Macheteros members, without first requiring each of them to provide the government all truthful information and evidence he or she has concerning open investigations and fugitives associated with

the FALN and Los Macheteros organizations.

(c) REPORT.—Not later than 30 days after the date of the enactment of this Act, the Federal Bureau of Investigation shall submit to Congress a report on the study conducted under subsection (a).

**SEC. ___93. ANTIDRUG MESSAGES ON FEDERAL GOVERNMENT INTERNET WEBSITES.**

Not later than 90 days after the date of the enactment of this Act, the head of each department, agency, and establishment of the Federal Government shall, in consultation with the Director of the Office of National Drug Control Policy, place antidrug messages on appropriate Internet websites controlled by such department, agency, or establishment which messages shall, where appropriate, contain an electronic hyperlink to the Internet website, if any, of the Office.

**SEC. ___94. SEVERABILITY.**

Any provision of this title held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed as to give the maximum effect permitted by law, unless such provision is held to be utterly invalid or unenforceable, in which event such provision shall be severed from this title and shall not affect the applicability of the remainder of this title, or of such provision, to other persons not similarly situated or to other, dissimilar circumstances.

**SEC. . SAFE SCHOOLS.**

(a) AMENDMENTS.—Part F of title XIV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8921 et seq.) is amended as follows:

(1) SHORT TITLE.—Section 14601(a) is amended by replacing ''Gun-Free'' with ''Safe'', and ''1994'' with ''1999''.

(2) REQUIREMENTS.—Section 14601(b)(1) is amended by inserting after ''determined'' the following: ''to be in possession of felonious quantities of an illegal drug, on school property under the jurisdiction of, or in a vehicle operated by an employee or agent of, a local educational agency in that State, or''.

(3) DEFINITIONS.—Section 14601(b)(4) is amended by replacing ''Definition'' with ''Definitions'' in the catchline, by replacing ''section'' in the matter under the catchline with ''part'', by redesignating the matter under the catchline after the comma as subparagraph (A), by replacing the period with a semicolon, and by adding new subparagraphs (B), (C), and (D) as follows:

''(B) the term 'illegal drug' means a controlled substance, as defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), the possession of which is unlawful under the Act (21 U.S.C. 801 et seq.) or under the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), but does not mean a controlled substance used pursuant to a valid prescription or as authorized by law; and

''(C) the term 'illegal drug paraphernalia' means drug paraphernalia, as defined in section 422(d) of the Controlled Substances Act (21 U.S.C. 863(d)), except that the first sentence of that section shall be applied by inserting 'or under the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.)'. before the period.

''(D) the term 'felonious quantities of an illegal drug' means any quantity of an illegal drug—

''(i) possession of which quantity would, under Federal, State, or local law, either constitute a felony or indicate an intent to distribute; or

''(ii) that is possessed with an intent to distribute.''.

(4) REPORT TO STATE.—Section 14601(d)(2)(C) is amended by inserting ''illegal drugs or'' before ''weapons''.

(5) REPEALER.—Section 14601 is amended by striking subsection (f).

(6) POLICY REGARDING CRIMINAL JUSTICE SYSTEM REFERRAL.—Section 14602(a) is amended by replacing ''served by'' with ''under the jurisdiction of'', and by inserting after ''who'' the following: ''is in possession of an illegal drug, or illegal drug paraphernalia, on school property under the jurisdiction of, or in a vehicle operated by an employee or agent of, such agency, or who''.

(7) DATA AND POLICY DISSEMINATION UNDER IDEA.—Section 14603 is amended by inserting ''current'' before ''policy'', by striking ''in effect on October 20, 1994'', by striking all the matter after ''schools'' and inserting a period thereafter, and by inserting before ''engaging'' the following: ''possessing illegal drugs, or illegal drug paraphernalia, on school property, or in vehicles operated by employees or agents of, schools or local educational agencies, or''.

(b) COMPLIANCE DATE; REPORTING.—(1) States shall have 2 years from the date of enactment of this Act to comply with the requirements established in the amendments made by subsection (a).

(2) Not later than 3 years after the date of enactment of this Act, the Secretary of Education shall submit to Congress a report on any State that is not in compliance with the requirements of this part.

(3) Not later than 2 years after the date of enactment of this Act, the Secretary of Education shall submit to Congress a report analyzing the strengths and weaknesses of approaches regarding the disciplining of children with disabilities.

**SEC STUDENT SAFETY AND FAMILY SCHOOL CHOICE.**

(a) IN GENERAL.—Subpart 1 of part A of title I of the Elementary and Secondary Education of 1965 (20 U.S.C. 6311 et seq.) is amended by inserting after section 1115A of such Act (20 U.S.C. 6316) the following:

**''SEC. 1115B. STUDENT SAFETY AND FAMILY SCHOOL CHOICE.**

''(A) IN GENERAL.—Notwithstanding any other provision of law. if a student is eligible to be served under section 1115(b), or attends a school eligible for a schoolwide program under section 1114, and becomes a victim of a violent criminal offense, including drug-related violence, while in or on the grounds of a public elementary school or secondary school that the student attends and that receives assistance under this part, then the local educational agency may use funds provided under this part or under any other Federal education program to pay the supplementary costs for such student to attend another school. The agency may use the funds to pay for the supplementary costs of such student to attend any other public or private elementary school or secondary school, including a religious school. In the same State as the school where the criminal offense occurred, that is selected by the students parent. The State educational agency shall determine what actions constitute a violent criminal offense for purposes of this section.

(b) SUPPLEMENTARY COSTS.—The supplementary costs referred to in subsection (a) shall not exceed—

''(1) in the case of a student for whom funds under this section are used to enable the student to attend a public elementary school or secondary school served by a local educational agency that also serves the school where the violent criminal offense occurred, the costs of supplementary educational services and activities described in section 1114(b) or 1115(c) that are provided to the student;

''(2) in the case of a student for whom funds under this section are used to enable the student to attend a public elementary school or secondary school served by a local educational agency that does not serve the school where the violent criminal offense occurred but is located in the same State—

''(A) the costs of supplementary educational services and activities described in section 1114(b) or 1115(c) that are provided to the student; and

''(B) the reasonable costs of transportation for the student to attend the school selected by the student's parent; and

''(3) in the case of a student for whom funds under this section are used to enable the student to attend a private elementary school or secondary school, including a religious school, the costs of tuition, required fees, and the reasonable costs of such transportation.

''(c) CONSTRUCTION.—Nothing in this Act or any other Federal law shall be construed to prevent a parent assisted under this section from selecting the public or private, including religious, elementary school or secondary school that a child of the parent will attend within the State.

''(d) CONSIDERATION OF ASSISTANCE.—Subject to subsection (h), assistance made available under this section that is used to pay the costs for a student to attend a private or religious school shall not be considered to be Federal aid to the school, and the Federal Government shall have no authority to influence or regulate the operations of a private or religious school as a result of assistance received under this section.

''(e) CONTINUING ELIGIBILITY.—A student assisted under this section shall remain eligible to continue receiving assistance under this section for at least 3 academic years without regard to whether the student is eligible for assistance under section 1114 or 1115(b).

''(f) TUITION CHARGES.—Assistance under this section may not be used to pay tuition or required fees at a private elementary school or secondary school in an amount that is greater than the tuition and required fees paid by students not assisted under this section at such school.

''(g) SPECIAL RULE.—Any school receiving assistance provided under this section shall comply with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and not discriminate on the basis of race, color, or national origin.

''(h) ASSISTANCE: TAXES AND OTHER FEDERAL PROGRAMS.—

''(1) ASSISTANCE TO FAMILIES, NOT SCHOOLS.—Assistance provided under this section shall be considered to be aid to families, not schools. Use of such assistance at a school shall not be construed to be Federal financial aid or assistance to that school.

''(2) TAXES AND DETERMINATIONS OF ELIGIBILITY FOR OTHER FEDERAL PROGRAMS.—Assistance provided under this section to a student shall not be considered to be income of the student or the parent of such student for Federal, State, or local tax purposes or for determining eligibility for any other Federal program.

''(i) PART B OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.—Nothing in this section shall be construed to affect the requirements of part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

''(j) MAXIMUM AMOUNT.—Notwithstanding any other provision of this section, the amount of assistance provided under this part for a student shall not exceed the per pupil expenditure for elementary or secondary education, as appropriate, by the local educational agency that serves the school where the criminal offense occurred for the fiscal year preceding the fiscal year for which the determination is made.''.

**SEC. . TRANSFER OF REVENUES.**

(a) IN GENERAL.—Notwithstanding any other provision of Federal law, a State, a State educational agency, or a local educational agency may transfer any non-Federal public funds associated with the education of a student who is a victim of a violent criminal offense while in or on the grounds of a public elementary school or secondary school served by a local educational agency to another local educational agency or to a private elementary school or secondary school, including a religious school

(b) DEFINITIONS.—For the purpose of subsection (a), the terms ''elementary school'', ''secondary school'', ''local educational agency'', and ''State educational agency'' have the meanings given such terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

**SEC. . INCREASED PENALTIES FOR DISTRIBUTING DRUGS TO MINORS.**

Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a), by striking ''one year'' and inserting ''3 years''; and

(2) in subsection (b), by striking ''one year'' and inserting ''5 years.''

**SEC. . INCREASED PENALTY FOR DRUG TRAFFICKING IN OR NEAR A SCHOOL OR OTHER PROTECTED LOCATION.**

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) in subsection (a), by striking ''one year'' and inserting ''3 years''; and

(2) in subsection (b), by striking ''three years'' each place that term appears and inserting ''5 years''.

## LEVIN AMENDMENT NO. 2772

(Ordered to lie on the table.)

Mr. LEVIN submitted an amendment intended to be proposed by him to the bill, S. 625, supra; as follows:

At the appropriate place, insert the following:

The Federal Trade Commission shall report to the Banking Committee of Congress within 6 months of enactment of this act as to whether and how the location of the resident of an applicant for a credit card is considered by financial institutions in deciding whether an applicant should be granted such credit card.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the committee on Banking, Housing and Urban Affairs be authorized to meet during the session of the Senate on Friday, November 5, 1999, to conduct a hearing on pending nominations.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, November 5, 1999, at 11 a.m. and 1 p.m. to hold two hearings.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Friday, November 5, 1999, at 11:30 a.m. to hold a closed hearing on intelligence matters.

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

## ADDITIONAL STATEMENTS

## RECOGNITION OF DAVID POFFENBERGER, STUDENT AT PUYALLUP HIGH SCHOOL

• Mr. GORTON. Mr. President, during the past several weeks, a community in my state has come together to combat racism in their schools. One person, a student at Puyallup High School, has taken this problem head on and devised a way to bring his fellow students together in their fight against racism.

This student, David Poffenberger, an 18-year-old senior, designed a t-shirt that will be distributed to all of his 1,900 classmates in order to demonstrate Puyallup High School's united front against racism.

In one of his art classes, David created a design for the shirt—two silhouetted groups, one black and one white, united by a single handshake. David completed the shirt by adding the phrase, ''Bridge the Gap.'' With the encouragement from one of his art teachers, Candace Loring, David took a week off from swimming practice and visited with local community groups to turn his plan into reality.

The high school Booster Club, alumni association, the Puyallup Elks, and the Good Samaritan Hospital all contributed to his effort, raising over half of the $5,128 needed to print and distribute the shirts. The Booster Club has also agreed to cover the remaining amount in addition to their own $1,000 contribution.

David's principal, Wanda Berndston, credits him for single-handedly spearheading this effort to improve awareness throughout the school. In the midst of an unfortunate situation, it is often the individuals who are closest to the problem who can best offer solutions.

I commend David for his determination to make his school a better place for all students and am proud to present him with one of my ''Innovation in Education'' Awards.•

## EXTENDED CARE SERVICES FOR VETERANS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Veterans' Affairs Committee be discharged from further consideration of H.R. 2116, and the Senate then proceed to its immediate consideration.

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

The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2116) to amend title 38, United States Code, to establish a program of extended care services for veterans and make other improvements in health care programs in the Department of Veterans Affairs.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2541

(Purpose: To provide a substitute)

Mr. DOMENICI. Senator SPECTER has a substitute amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI), for Mr. SPECTER, proposes an amendment numbered 2541.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. DOMENICI. I ask unanimous consent that the amendment be agreed to, the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

I further ask unanimous consent that the Senate insist on its amendments, request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate.

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

The amendment (No. 2541) was agreed to.

The bill (H.R. 2116), as amended, was read the third time and passed.

The title was amended so as to read: ''An Act To amend title 38, United States Code, to enhance programs providing health care, education, memorial, and other benefits for veterans, to authorize major medical facility projects for the Department of Veterans Affairs, and for other purposes.''.

The PRESIDING OFFICER (Mr. GORTON) appointed Mr. SPECTER, Mr. THURMOND, and Mr. ROCKEFELLER conferees on the part of the Senate.

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION ACT OF 1999

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Senate now proceed to consideration of Calendar No. 208, H.R. 1654.

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

The assistant legislative clerk read as follows:

A bill (H.R. 1654) to authorize appropriations for the National Aeronautics and Space Administration for fiscal years 2000, 2001, and 2002, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2542

(Purpose: To authorize appropriations for the National Aeronautics and Space Administration for fiscal years 2000, 2001, and 2002, and for other purposes)

Mr. DOMENICI. Mr. President, Senator FRIST has a substitute amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI), for Mr. FRIST, proposes an amendment numbered 2542.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. DOMENICI. Mr. President, I ask unanimous consent that the amendment be agreed to, the bill be considered read the third time, passed, as amended, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD. I further ask unanimous consent that the Senate insist on its amendment, request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate.

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

The amendment (No. 2542) was agreed to.

The bill (H.R. 1654), as amended, was read the third time and passed.

The Presiding Officer (Mr. GORTON) appointed Mr. MCCAIN, Mr. STEVENS, Mr. FRIST, Mr. HOLLINGS, and Mr. BREAUX conferees on the part of the Senate.

## AUTHORIZATION OF TESTIMONY AND DOCUMENT PRODUCTION

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of Senate Resolution 221 submitted earlier by Senators LOTT and DASCHLE.

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

The assistant legislative clerk read as follows:

A resolution (S. Res. 221) to authorize testimony and document production in the matter of Pamela A. Carter v. HealthSource Saginaw.

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, this resolution would permit a member of Senator LEVIN's staff to testify and produce documents in an administrative hearing before the Michigan Department of Consumer and Industry Services concerning information she acquired while performing case work on the Senator's behalf.

Mr. DOMENICI. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 221) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 221

Whereas, in the case of *In the Matter of Pamela A. Carter* v. *HealthSource Saginaw*, No. 1199–3828, pending in the Michigan Department of Consumer and Industry Services, testimony has been requested from Mary Washington, an employee in Senator Carl Levin's Saginaw, Michigan office;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate. Now, therefore, be it

*Resolved*, That Mary Washington, and any other employee of the Senate from whom testimony or document production may be required, is authorized to testify and produce documents in the case of *In the Matter of Pamela A. Carter* v. *HealthSource Saginaw*, except concerning matters for which a privilege should be asserted.

## SENATE ETHICS PROCEDURE REFORM RESOLUTION OF 1999

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of Senate Resolution 222, submitted earlier by Senator SMITH of New Hampshire and Senator REID.

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

The assistant legislative clerk read as follows:

A resolution (S. Res. 222) to revise the procedures of the Select Committee on Ethics.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SMITH of New Hampshire. Mr. President, on behalf of Vice Chairman REID and other members of the Ethics Committee, I submit for publication in the CONGRESSIONAL RECORD in accordance with Senate Rule XXVI the Ethics Committee's Supplementary Procedural Rules, as amended November 5, 1999, the date of the Senate's adoption of the Senate Ethics Procedure Reform Resolution of 1999. These amended Rules of Procedure will implement the Ethics Committee process changes effectuated by the Reform Resolution, which was designed to simplify, streamline, and improve the Ethics Committee process as recommended by the Senate Ethics Study Commission in its Report (S. Prt. 103–71) to the Senate Leadership ''Recommending Revisions to the Procedures of the Senate Select Committee on Ethics.'' Pursuant to Senate Rule XXVI, these amended Supplementary Procedural Rules will be effective as of the date of publication in the CONGRESSIONAL RECORD.

I ask unanimous consent to have these amended rules printed in the RECORD.

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

PART II: SUPPLEMENTARY PROCEDURAL RULES

RULE 1. GENERAL PROCEDURES

(a) Officers: In the absence of the Chairman, the duties of the Chair shall be filled by the Vice Chairman or, in the Vice Chairman's absence, a Committee member designated by the Chairman.

(b) Procedural Rules: The basic procedural rules of the Committee are stated as a part of the Standing Orders of the Senate in Senate Resolution 338, 88th Congress, as amended, as well as other resolutions and laws. Supplementary Procedural Rules are stated herein and are hereinafter referred to as the Rules. The Rules shall be published in the Congressional Record not later than thirty days after adoption, and copies shall be made available by the Committee office upon request.

(c) Meetings:

(1) The regular meeting of the Committee shall be the first Thursday of each month while the Congress is in session.

(2) Special meetings may be held at the call of the Chairman or Vice Chairman if at least forty-eight hours notice is furnished to all members. If all members agree, a special meeting may be held on less than forty-eight hours notice.

(3)(A) If any member of the Committee desires that a special meeting of the Committee be called, the member may file in the office of the Committee a written request to the Chairman or Vice Chairman for that special meeting.

(B) Immediately upon the filing of the request the Clerk of the Committee shall notify the Chairman and Vice Chairman of the filing of the request. If, within three calendar days after the filing of the request, the Chairman or the Vice Chairman does not call the requested special meeting, to be held within seven calendar days after the filing of the request, any three of the members of the Committee may file their written notice in the office of the Committee that a special meeting of the Committee will be held at a specified date and hour; such special meeting may not occur until forty-eight hours after the notice is filed. The Clerk shall immediately notify all members of the Committee of the date and hour of the special meeting. The Committee shall meet at the specified date and hour.

(d) Quorum:

(1) A majority of the members of the Select Committee shall constitute a quorum for the transaction of business, involving complaints or allegations of, or information about, misconduct, including resulting preliminary inquiries, adjudicatory reviews, recommendations or reports, and matters relating to Senate Resolution 400, agreed to May 19, 1976.

(2) Three members shall constitute a quorum for the transaction of the routine business of the Select Committee not covered by the first subparagraph of this paragraph, including requests for opinions and interpretations concerning the Code of Official Conduct or any other statute or regulation under the jurisdiction of the Select Committee, if one member of the quorum is a Member of the majority Party and one member of the quorum is a Member of the Minority Party. During the transaction of routine business any member of the Select Committee constituting the quorum shall have the right to postpone further discussion of a pending matter until such time as a majority of the members of the Select Committee are present.

(3) Except for an adjudicatory review hearing under Rule 5 and any deposition taken outside the presence of a Member under Rule 6, one Member shall constitute a quorum for hearing testimony, provided that all Members have been given notice of the hearing and the Chairman has designated a Member of the majority Party and the Vice Chairman has designated a Member of the Minority Party to be in attendance, either of whom in

the absence of the other may constitute the quorum.

(e) Order of Business: Questions as to the order of business and the procedure of the Committee shall in the first instance be decided by the Chairman and Vice Chairman, subject to reversal by a vote by a majority of the Committee.

(f) Hearings Announcements: The Committee shall make public announcement of the date, place and subject matter of any hearing to be conducted by it at least one week before the commencement of that hearing, and shall publish such announcement in the Congressional Record. if the Committee determines that there is good cause to commence a hearing at an earlier date, such notice will be given at the earliest possible time.

(g) Open and Closed Committee Meetings: Meetings of the Committee shall be open to the public or closed to the public (executive session), as determined under the provisions of paragraphs 5 (b) to (d) of Rule XXVI of the Standing Rules of the Senate. Executive session meetings of the Committee shall be closed except to the members and the staff of the Committee. On the motion of any member, and with the approval of a majority of the Committee members present, other individuals may be admitted to an executive session meeting for a specific period or purpose.

(h) Record of Testimony and Committee Action: An accurate stenographic or transcribed electronic record shall be kept of all Committee proceedings, whether in executive or public session. Such record shall include Senators' votes on any question on which a recorded vote is held. The record of a witness' testimony, whether in public or executive session, shall be made available for inspection to the witness or his counsel under Committee supervision; a copy of any testimony given by that witness in public session, or that part of the testimony given by the witness in executive session and subsequently quoted or made part of the record in a public session shall be made available to any witness if he so requests. (See rule 5 on Procedures for Conducting Hearings.)

(i) Secrecy of Executive Testimony and Action and of Complaint Proceedings:

(1) All testimony and action taken in executive session shall be kept secret and shall not be released outside the Committee to any individual or group, whether governmental or private, without the approval of a majority of the Committee.

(2) All testimony and action relating to a complaint or allegation shall be kept secret and shall not be released by the Committee to any individual or group, whether governmental or private, except the respondent, without the approval of a majority of the Committee, until such time as a report to the Senate is required under Senate Resolution 338, 88th Congress, as amended, or unless otherwise permitted under these Rules. (See Rule 8 on Procedures for Handling Committee Sensitive and Classified Materials.)

(j) Release of Reports to Public: No information pertaining to, or copies of any Committee report, study, or other document which purports to express the view, findings, conclusions or recommendations of the Committee in connection with any of its activities or proceedings may be released to any individual or group whether governmental or private, without the authorization of the Committee. Whenever the Chairman or Vice Chairman is authorized to make any determination, then the determination may be released at his or her discretion. Each member of the Committee shall be given a reasonable opportunity to have separate views included as part of any Committee report. (See Rule 8 on Procedures for Handling Committee Sensitive and Classified Materials.)

(k) Ineligibility or Disqualification of Members and Staff:

(1) A member of the Committee shall be ineligible to participate in any Committee proceeding that relates specifically to any of the following:

(A) A preliminary inquiry or adjudicatory review relating to (i) the conduct of (I) such member; (II) any officer or employee the member supervises; or (ii) any complaint filed by the member; and

(B) the determinations and recommendations of the Committee with respect to any preliminary inquiry or adjudicatory review described in subparagraph (A).

For purposes of this paragraph, a member of the committee and an officer of the Senate shall be deemed to supervise any officer or employee consistent with the provision of paragraph 12 of rule XXXVII of the Standing Rules of the Senate.

(2) If any Committee proceeding appears to relate to a member of the Committee in a manner described in subparagraph (1) of this paragraph, the staff shall prepare a report to the Chairman and Vice Chairman. If either the Chairman or the Vice Chairman concludes from the report that it appears that the member may be ineligible, the member shall be notified in writing of the nature of the particular proceeding and the reason that it appears that the member may be ineligible to participate in it. If the member agrees that he or she is ineligible, the member shall so notify the Chairman or Vice Chairman. If the member believes that he or she is not ineligible, he or she may explain the reasons to the Chairman and Vice Chairman, and if they both agree that the member is not ineligible, the member shall continue to serve. But if either the Chairman or Vice Chairman continues to believe that the member is ineligible, while the member believes that he or she is not ineligible, the matter shall be promptly referred to the Committee. The member shall present his or her arguments to the Committee in executive session. Any contested questions concerning a member's eligibility shall be decided by a majority vote of the Committee, meeting in executive session, with the member in question not participating.

(3) A member of the Committee may, at the discretion of the member, disqualify himself or herself from participating in any preliminary inquiry or adjudicatory review pending before the Committee and the determinations and recommendations of the Committee with respect to any such preliminary inquiry or adjudicatory review.

(4) Whenever any member of the Committee is ineligible under paragraph (1) to participate in any preliminary inquiry or adjudicatory review, or disqualifies himself or herself under paragraph (3) from participating in any preliminary inquiry or adjudicatory review, another Senator shall be appointed by the Senate to serve as a member of the Committee solely for purposes of such preliminary inquiry or adjudicatory review and the determinations and recommendations of the Committee with respect to such preliminary inquiry or adjudicatory review. Any member of the Senate appointed for such purposes shall be of the same party as the member who is ineligible or disqualifies himself or herself.

(5) The President of the Senate shall be given written notice of the ineligibility or disqualification of any member from any preliminary inquiry, adjudicatory review, or other proceeding requiring the appointment of another member in accordance with subparagraph (k)(4).

(6) A member of the Committee staff shall be ineligible to participate in any Committee proceeding that the staff director or outside counsel determines relates specifically to any of the following:

(A) the staff member's own conduct;

(B) the conduct of any employee that the staff member supervises;

(C) the conduct of any Member, officer or employee for whom the staff member has worked for any substantial period; or

(D) a complaint, sworn or unsworn, that was filed by the staff member. At the direction or with the consent of the staff director or outside counsel, a staff member may also be disqualified from participating in a Committee proceeding in other circumstances not listed above.

(l) Recorded Votes: Any member may require a recorded vote on any matter.

(m) Proxies; Recording Votes of Absent members:

(1) Proxy voting shall not be allowed when the question before the Committee is the initiation or continuation of a preliminary inquiry or an adjudicatory review, or the issuance of a report or recommendation related thereto concerning a Member or officer of the Senate. In any such case an absent member's vote may be announced solely for the purpose of recording the member's position and such announced votes shall not be counted for or against the motion.

(2) On matters other than matters listed in paragraph (m)(1) above, the Committee may order that the record be held open for the vote of absentees or recorded proxy votes if the absent Committee member has been informed of the matter or which the vote occurs and has affirmatively requested the Chairman or Vice Chairman in writing that he be so recorded.

(3) All proxies shall be in writing, and shall be delivered to the Chairman or Vice chairman to be recorded.

(4) Proxies shall not be considered for the purposes of establishing a quorum.

(n) Approval of Blind Trusts Between Sessions and During Extended Recesses. During any period in which the Senate stands in adjournment between sessions of the Congress or stands in a recess scheduled to extend beyond fourteen days, the Chairman and Vice Chairman, or their designees, acting jointly are authorized to approve or disapprove blind trusts under the provisions of Rule XXXIV.

(o) Committee Use of Services or Employees of Other Agencies and Departments: With the prior consent of the department or agency involved, the Committee may (1) utilize the services, information, or facilities of any such department or agency of the Government, and (2) employ on a reimbursable basis or otherwise the services of such personnel of any such department or agency as it deems advisable. With the consent of any other committee of the Senate, or any subcommittee, the Committee may utilize the facilities and the services of the staff of such other committee or subcommittee whenever the Chairman and Vice Chairman of the Committee, acting jointly, determine that such action is necessary and appropriate.

RULE 2: PROCEDURES FOR COMPLAINTS, ALLEGATIONS, OR INFORMATION

(a) Compliant, Allegation, or Information: Any member or staff member of the Committee shall report to the Committee, and any other person may report to the Committee, a sworn compliant other allegation or information, alleging that any Senator, or officer, or employee of the Senate has violated a law, the Senate Code of Official Conduct, or any rule or regulation of the Senate relating to the conduct of any individual in the performance of his or her duty as a Member, Officer, or employee of the Senate, or has engaged in improper conduct which may reflect upon the Senate. Such complaints or allegations or information may be reported to the Chairman, the Vice Chairman, a Committee member, or a Committee staff member.

(b) Source of Compliant, Allegation, or Information: Complaints, allegations, and information to be reported to the Committee may be obtained from a variety of sources, including but not limited to the following:

(1) sworn complaints, defined as written statement of facts, submitted under penalty of perjury, within the personal knowledge of the complainant alleging a violation of law, the Senate Code of Official Conduct, or any other rule or regulation of the Senate relating to the conduct of individuals in the performance of their duties as members, officers, or employees of the Senate;

(2) anonymous or informal complaints;

(3) information developed during a study or inquiry by the Committee or other committees or subcommittees of the Senate, including information obtained in connection with legislative or general oversight hearings;

(4) information reported by the news media; or

(5) information obtained from any individual, agency or department of the executive branch of the Federal Government.

(c) Form and Content of Complaints: A complaint need not be sworn nor must it be in any particular form to receive Committee consideration, but the preferred complaint will:

(1) state, whenever possible, the name, address, and telephone number of the party filing the complaint;

(2) provide the name of each member, officer or employee of the Senate who is specifically alleged to have engaged in improper conduct or committed a violation;

(3) state the nature of the alleged improper conduct or violation;

(4) supply all documents in the possession of the party filing the complaint relevant to or in support of his or her allegations as an attachment to the complaint.

RULE 3: PROCEDURES FOR CONDUCTING A PRELIMINARY INQUIRY

(a) Definition of Preliminary Inquiry: A ''preliminary inquiry'' is a proceeding undertaken by the Committee following the receipt of a complaint or allegation of, or information about, misconduct by a Member, officer, or employee of the Senate to determine whether there is substantial credible evidence which provides substantial cause for the Committee to conclude that a violation within the jurisdiction of the Committee has occurred.

(b) Basis For Preliminary Inquiry: The Committee shall promptly commence a preliminary inquiry whenever it has received a sworn complaint, or other allegation of, or information about, alleged misconduct or violations pursuant to Rule 2.

(c) Scope of Preliminary Inquiry:

(1) The preliminary inquiry shall be of such duration and scope as is necessary to determine whether there is substantial credible evidence which provides substantial cause for the Committee to conclude that a violation within the jurisdiction of the Committee has occurred. The Chairman and Vice Chairman, acting jointly, on behalf of the Committee may supervise and determine the appropriate duration, scope, and conduct of a preliminary inquiry. Whether a preliminary inquiry is conducted jointly by the Chairman and Vice Chairman or by the Committee as a whole, the day to day supervision of a preliminary inquiry rests with the Chairman and Vice Chairman, acting jointly.

(2) A preliminary inquiry may include any inquiries, interviews, sworn statements, depositions, or subpoenas deemed appropriate to obtain information upon which to make any determination provided for by this Rule.

(d) Opportunity for Response: A preliminary inquiry may include an opportunity for any known respondent or his or her designated representative to present either a written or oral statement, or to respond orally to questions from the Committee. Such an oral statement or answers shall be transcribed and signed by the person providing the statement or answers.

(e) Status Reports: The Committee staff or outside counsel shall periodically report to the Committee in the form and according to the schedule prescribed by the Committee. The reports shall be confidential.

(f) Final Report: When the preliminary inquiry is completed, the staff or outside counsel shall make a confidential report, oral or written, to the Committee on findings and recommendations, as appropriate.

(g) Committee Action: As soon as practicable following submission of the report on the preliminary inquiry, the Committee shall determine by a recorded vote whether there is substantial credible evidence which provides substantial cause for the Committee to conclude that a violation within the jurisdiction of the Committee has occurred. The Committee may make any of the following determinations:

(1) The Committee may determine that there is not such substantial credible evidence and, in such case, the Committee shall dismiss the matter. The Committee, or Chairman and Vice Chairman acting jointly on behalf of the Committee, may dismiss any matter which, after a preliminary inquiry, is determined to lack substantial merit. The Committee shall inform the complainant of the dismissal.

(2) The Committee may determine that there is such substantial credible evidence, but that the alleged violation is inadvertent, technical, or otherwise of a de minimis nature. In such case, the Committee may dispose of the matter by issuing a public or private letter of admonition, which shall not be considered discipline and which shall not be subject to appeal to the Senate. The issuance of a letter of admonition must be approved by the affirmative recorded vote of no fewer than four members of the Committee voting.

(3) The Committee may determine that there is such substantial credible evidence and that the matter cannot be appropriately disposed of under paragraph (2). In such case, the Committee shall promptly initiate an adjudicatory review in accordance with Rule 4. No adjudicatory review of conduct of a Member, officer, or employee of the Senate may be initiated except by the affirmative recorded vote of not less than four members of the Committee.

RULE 4: PROCEDURES FOR CONDUCTING AN ADJUDICATORY REVIEW

(a) Definition of Adjudicatory Review: An ''adjudicatory review'' is a proceeding undertaken by the Committee after a finding, on the basis of a preliminary inquiry, that there is substantial cause for the Committee to conclude that a violation within the jurisdiction of the Committee has occurred.

(b) Scope of Adjudicatory Review: When the Committee decides to conduct an adjudicatory review, it shall be of such duration and scope as is necessary for the Committee to determine whether a violation within its jurisdiction has occurred. An adjudicatory review shall be conducted by outside counsel as authorized by section 3(b)(1) of Senate Resolution 338 unless the Committee determines not to use outside counsel. In the course of the adjudicatory review, designated outside counsel, or if the Committee determines not to use outside counsel, the Committee or its staff, may conduct any inquiries or interviews, take sworn statements, use compulsory process as described in Rule 6, or take any other actions that the Committee deems appropriate to secure the evidence necessary to make a determination.

(c) Notice to Respondent: The Committee shall give written notice to any known respondent who is the subject of an adjudicatory review. The notice shall be sent to the respondent no later than five working days after the Committee has voted to conduct an adjudicatory review. The notice shall include a statement of the nature of the possible violation, and description of the evidence indicating that a possible violation occurred. The Committee may offer the respondent an opportunity to present a statement, orally or in writing, or to respond to questions from members of the Committee, the Committee staff, or outside counsel.

(d) Right to a Hearing: The Committee shall accord a respondent an opportunity for a hearing before it recommends disciplinary action against that respondent to the Senate or before it imposes an order of restitution or reprimand (not requiring discipline by the full Senate).

(e) Progress Reports to Committee: The Committee staff or outside counsel shall periodically report to the Committee concerning the progress of the adjudicatory review. Such reports shall be delivered to the Committee in the form and according to the schedule prescribed by the Committee, and shall be confidential.

(f) Final Report of Adjudicatory Review to Committee: Upon completion of an adjudicatory review, including any hearings held pursuant to Rule 5, the outside counsel or the staff shall submit a confidential written report to the Committee, which shall detail the factual findings of the adjudicatory review and which may recommend disciplinary action, if appropriate. Findings of fact of the adjudicatory review shall be detailed in this report whether or not disciplinary action is recommended.

(g) Committee Action:

(1) As soon as practicable following submission of the report of the staff or outside counsel on the adjudicatory review, the Committee shall prepare and submit a report to the Senate, including a recommendation or proposed resolution to the Senate concerning disciplinary action, if appropriate. A report shall be issued, stating in detail the Committee's findings of fact, whether or not disciplinary action is recommended. The report shall also explain fully the reasons underlying the Committee's recommendation concerning disciplinary action, if any. No adjudicatory review of conduct of a Member, officer or employee of the Senate may be conducted, or report or resolution or recommendation relating to such an adjudicatory review of conduct may be made, except by the affirmative recorded vote of not less than four members of the Committee.

(2) Pursuant to S. Res. 338, as amended, section 2(a), subsections (2), (3), and (4), after receipt of the report prescribed by paragraph (f) of this rule, the Committee may make any of the following recommendations for disciplinary action or issue an order for reprimand or restitution, as follows:

i. In the case of a Member, a recommendation to the Senate for expulsion, censure, payment of restitution, recommendation to a Member's party conference regarding the Member's seniority or positions of responsibility, or a combination of these;

ii. In the case of an officer or employee, a recommendation to the Senate of dismissal, suspension, payment of restitution, or a combination of these;

iii. In the case where the Committee determines, after according to the Member, officer, or employee due notice and opportunity for a hearing, that misconduct occurred warranting discipline less serious than discipline by the full Senate, and subject to the provisions of paragraph (h) of this rule relating to appeal, by a unanimous vote of six members

order that a Member, officer or employee be reprimanded or pay restitution or both;

iv. In the case where the Committee determines that misconduct is inadvertent, technical, or otherwise of a de minimis nature, issue a public or private letter of admonition to a Member, officer or employee, which shall not be subject to appeal to the Senate.

(3) In the case where the Committee determines, upon consideration of all the evidence, that the facts do not warrant a finding that there is substantial credible evidence which provides substantial cause for the Committee to conclude that a violation within the jurisdiction of the Committee has occurred, the Committee may dismiss the matter.

(4) Promptly, after the conclusion of the adjudicatory review, the Committee's report and recommendation, if any, shall be forwarded to the Secretary of the Senate, and a copy shall be provided to the complainant and the respondent. The full report and recommendation, if any, shall be printed and made public, unless the Committee determines by the recorded vote of not less than four members of the Committee that it should remain confidential.

(h) Right of Appeal:

(1) Any individual who is the subject of a reprimand or order of restitution, or both, pursuant to subsection (g)(2)(iii), may, within 30 days of the Committee's report to the Senate of its action imposing a reprimand or order of restitution, or both, appeal to the Senate by providing written notice of the appeal to the Committee and the presiding officer of the Senate. The presiding officer shall cause the notice of the appeal to be printed in the Congressional Record and the Senate Journal.

(2) S. Res. 338 provides that a motion to proceed to consideration of an appeal pursuant to paragraph (1) shall be highly privileged and not debatable. If the motion to proceed to consideration of the appeal is agreed to, the appeal shall be decided on the basis of the Committee's report to the Senate. Debate on the appeal shall be limited to 10 hours, which shall be divided equally between, and controlled by, those favoring and those opposing the appeal.

RULE 5: PROCEDURES FOR HEARINGS

(a) Right to Hearing: The Committee may hold a public or executive hearing in any preliminary inquiry, adjudicatory review, or other proceeding. The Committee shall accord a respondent an opportunity for a hearing before it recommends disciplinary action against that respondent to the Senate or before it imposes on order of restitution or reprimand. (See Rule 4(d)).

(b) Non-Public Hearings: The Committee may at any time during a hearing determine in accordance with paragraph 5(b) of Rule XXVI of the Standing Rules of the Senate whether to receive the testimony of specific witnesses in executive session. If a witness desires to express a preference for testifying in public or in executive session, he or she shall so notify the Committee at least five days before he or she is scheduled to testify.

(c) Adjudicatory Hearings: The Committee may, by the recorded vote of not less than four members of the Committee, designate any public or executive hearing as an adjudicatory hearing; and any hearing which is concerned with possible disciplinary action against a respondent or respondents designated by the Committee shall be an adjudicatory hearing. In any adjudicatory hearing, the procedures described in paragraph (j) shall apply.

(d) Subpoena Power: The Committee may require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such correspondence, books, papers, documents or other articles as it deems advisable. (See Rule 6.)

(e) Notice of Hearings: The Committee shall make public an announcement of the date, place, and subject matter of any hearing to be conducted by it, in accordance with Rule 1(f).

(f) Presiding Officer: The Chairman shall preside over the hearings, or in his absence the Vice Chairman. If the Vice Chairman is also absent, a Committee member designated by the Chairman shall preside. If an oath or affirmation is required, it shall be administered to a witness by the Presiding Officer, or in his absence, by any Committee member.

(g) Witnesses:

(1) A subpoena or other request to testify shall be served on a witness sufficiently in advance of his or her scheduled appearance to allow the witness a reasonable period of time, as determined by the Committee, to prepare for the hearing and to employ counsel if desired.

(2) The Committee may, by recorded vote of not less than four members of the Committee, rule that no member of the Committee or staff or outside counsel shall make public the name of any witness subpoenaed by the Committee before the date of that witness's scheduled appearance, except as specifically authorized by the Chairman and Vice Chairman, acting jointly.

(3) Any witness desiring to read a prepared or written statement in executive or public hearings shall file a copy of such statement with the Committee at least two working days in advance of the hearing at which the statement is to be presented. The Chairman and Vice Chairman shall determine whether such statements may be read or placed in the record of the hearing.

(4) Insofar as practicable, each witness shall be permitted to present a brief oral opening statement, if he or she desires to do so.

(h) Right To Testify: Any person whose name is mentioned or who is specifically identified or otherwise referred to in testimony or in statements made by a Committee member, staff number or outside counsel, or any witness, and who reasonably believes that the statement tends to adversely affect his or her reputation may—

(1) Request to appear personally before the Committee to testify in his or her own behalf; or

(2) File a sworn statement of facts relevant to the testimony or other evidence or statement of which he or she complained. Such request and such statement shall be submitted to the Committee for its consideration and action.

(i) Conduct of Witnesses and Other Attendees: The Presiding Officer may punish any breaches of order and decorum by censure and exclusion from the hearings. The Committee, by majority vote, may recommend to the Senate that the offender be cited for contempt of Congress.

(j) Adjudicatory Hearing Procedures:

(1) Notice of hearings: A copy of the public announcement of an adjudicatory hearing, required by paragraph (e), shall be furnished together with a copy of these Rules to all witnesses at the time that they are subpoenaed or otherwise summoned to testify.

(2) Preparation for adjudicatory hearings:

(A) At least five working days prior to the commencement of an adjudicatory hearing, the Committee shall provide the following information and documents to the respondent, if any:

(i) a list of proposed witnesses to be called at the hearing;

(ii) copies of all documents expected to be introduced as exhibits at the hearing; and

(iii) a brief statement as to the nature of the testimony expected to be given by each witness to be called at the hearing.

(B) At least two working days prior to the commencement of an adjudicatory hearing, the respondent, if any, shall provide the information and documents described in divisions, (i), (ii) and (iii) of subparagraph (A) to the Committee.

(C) At the discretion of the Committee, the information and documents to be exchange under this paragraph shall be subject to an appropriate agreement limiting access and disclosure.

(D) If a respondent refuses to provide the information and documents to the Committee (see (A) and (B) of this subparagraph), or if a respondent or other individual violates an agreement limiting access and disclosure, the Committee, by majority vote, may recommend to the Senate that the offender be cited for contempt of Congress.

(3) Swearing of witnesses: All witnesses who testify at adjudicatory hearings shall be sworn unless the Presiding Officer, for good cause, decides that a witness does not have to be sworn.

(4) Right to counsel: Any witness at an adjudicatory hearing may be accompanied by counsel of his or her own choosing, who shall be permitted to advise the witness of his or her legal rights during the testimony.

(5) Right to cross-examine and call witnesses:

(A) In adjudicatory hearings, any respondent and any other person who obtains the permission of the Committee, may personally or through counsel cross-examine witnesses called by the Committee and may call witnesses in his or her own behalf.

(B) A respondent may apply to the Committee for the issuance of subpoenas for the appearance of witnesses or the production of documents on his or her behalf. An application shall be approved upon a concise showing by the respondent that the proposed testimony or evidence is relevant and appropriate, as determined by the Chairman and Vice Chairman.

(C) With respect to witnesses called by a respondent, or other individual given permission by the Committee, each such witness shall first be examined by the party who called the witness or by that party's counsel.

(D) At least one working day before a witness's scheduled appearance, a witness or a witness's counsel may submit to the Committee written questions proposed to be asked of that witness. If the Committee determines that it is necessary, such questions may be asked by any member of the Committee, or by any Committee staff member if directed by a Committee member. The witness or witness's counsel may also submit additional sworn testimony for the record within twenty-four hours after the last day that the witness has testified. The insertion of such testimony in that day's record is subject to the approval of the Chairman and Vice Chairman acting jointly within five days after the testimony is received.

(6) Admissibility of evidence:

(A) The object of the hearing shall be to ascertain the truth. Any evidence that may be relevant and probative shall be admissible, unless privileged under the Federal Rules of Evidence. Rules of evidence shall not be applied strictly but the Presiding Officer shall exclude irrelevant or unduly repetitious testimony. Objections going only to the weight that should be given evidence will not justify its exclusion.

(B) The Presiding Officer shall rule upon any question of the admissibility of testimony or other evidence presented to the Committee. Such rulings shall be final unless reversed or modified by a recorded vote of not less than four members of the Committee before the recess of that day's hearings.

(C) Notwithstanding paragraphs (A) and (B), in any matter before the Committee involving allegations of sexual discrimination,

including sexual harassment, or sexual misconduct, by a Member, officer, or employee, within the jurisdiction of the Committee, the Committee shall be guided by the standards and procedures of Rule 412 of the Federal Rules of Evidence, except that the Committee may admit evidence subject to the provisions of this paragraph only upon a determination of not less than four members of the full Committee that the interests of justice require that such evidence be admitted.

(7) Supplementary hearing procedures: The Committee may adopt any additional special hearing procedures that it deems necessary or appropriate to a particular adjudicatory hearing. Copies of such supplementary procedures shall be furnished to witnesses and respondents, and shall be made available upon request to any member of the public.

(k) Transcripts:

(1) An accurate stenographic or recorded transcript shall be made of all public and executive hearings. Any member of the Committee, Committee staff member, outside counsel retained by the Committee, or witness may examine a copy of the transcript retained by the Committee of his or her own remarks and may suggest to the official reporter any typographical or transcription errors. If the reporter declines to make the requested corrections, the member, staff member, outside counsel or witness may request a ruling by the Chairman and Vice Chairman acting jointly. Any member or witness shall return the transcript with suggested corrections to the Committee offices within five working days after receipt of the transcript, or as soon thereafter as is practicable. If the testimony as given in executive session, the member or witness may only inspect the transcript at a location determined by the Chairman and Vice Chairman, acting jointly. Any questions arising with respect to the processing and correction of transcripts shall be decided by the Chairman and Vice Chairman, acting jointly.

(2) Except for the record of a hearing which is closed to the public, each transcript shall be printed as soon as is practicable after receipt of the corrected version. The Chairman and Vice Chairman, acting jointly, may order the transcript of a hearing to be printed without the corrections of a member or witness if they determine that such member of witness has been afforded a reasonable time to correct such transcript and such transcript has not been returned within such time.

(3) The committee shall furnish each witness, at no cost, one transcript copy of that witness's testimony given at a public hearing. If the testimony was given in executive session, then a transcript copy shall be provided upon request, subject to appropriate conditions and restrictions prescribed by the Chairman and Vice Chairman. If any individual violates such conditions and restrictions, the Committee may recommend by majority vote that he or she be cited for contempt of Congress.

RULE 6: SUBPOENAS AND DEPOSITIONS

(a) Subpoenas:

(1) Authorization for issuance: Subpoenas for the attendance and testimony of witnesses at depositions or hearings, and subpoenas for the production of documents and tangible things at depositions, hearings, or other times and places designated therein, may be authorized for issuance by either (A) a majority vote of the Committee, or (B) the Chairman and Vice Chairman, acting jointly, at any time during a preliminary inquiry, adjudicatory review, or other proceeding.

(2) Signature and service: All subpoenas shall be signed by the Chairman or the Vice Chairman and may be served by any person eighteen years of age or older, who is designated by the Chairman or Vice Chairman. Each subpoena shall be served with a copy of the Rules of the committee and a brief statement of the purpose of the Committee's proceeding.

(3) Withdrawal of subpoena: The Committee, by recorded vote of not less than four members of the Committee, may withdraw any subpoena authorized for issuance by it or authorized for issuance by the Chairman and Vice Chairman, acting jointly. The Chairman and Vice Chairman, acting jointly, may withdraw any subpoena authorized for issuance by them.

(b) Depositions:

(1) Persons authorized to take depositions: Depositions may be taken by any member of the Committee designated by the Chairman and Vice Chairman, acting jointly, or by any other person designated by the Chairman and Vice Chairman, acting jointly, including outside counsel, Committee staff, other employees of the Senate, or government employees detailed to the Committee.

(2) Deposition notices: Notices for the taking of depositions shall be authorized by the Committee, or the Chairman and Vice Chairman, acting jointly, and issued by the Chairman and Vice Chairman, or a Committee staff member or outside counsel designated by the Chairman and Vice Chairman, acting jointly. Depositions may be taken at any time during a preliminary inquiry, adjudicatory review or other proceeding. Deposition notices shall specify a time and place for examination. Unless otherwise specified, the deposition shall be in private, and the testimony taken and documents produced shall be deemed for the purpose of these rules to have been received in a closed or executive session of the Committee. The Committee shall not initiate procedures leading to criminal or civil enforcement proceedings for a witness's failure to appear, or to testify, or to produce documents, unless the deposition notice was accompanied by a subpoena authorized for issuance by the Committee, or the Chairman and Vice Chairman, acting jointly.

(3) Counsel at depositions: Witnesses may be accompanied at a deposition by counsel to advise them of their rights.

(4) Deposition procedure: Witnesses at depositions shall be examined upon oath administered by an individual authorized by law to administer oaths, or administered by any member of the Committee if one is present. Questions may be propounded by any person or persons who are authorized to take depositions for the Committee. If a witness objects to a question and refuses to testify, or refuses to produce a document, any member of the Committee who is present may rule on the objection and, if the objection is overruled, direct the witness to answer the question or produce the document. If no member of the Committee is present, the individual who has been designated by the Chairman and Vice Chairman, acting jointly, to take the deposition may proceed with the deposition, or may, at that time or at a subsequent time, seek a ruling by telephone or otherwise on the objection from the Chairman or Vice Chairman of the Committee, who may refer the matter to the Committee or rule on the objection. If the Chairman or Vice Chairman, or the Committee upon referral, overrules the objection, the Chairman, Vice Chairman, or the Committee as the case may be, may direct the witness to answer the question or produce the document. The Committee shall not initiate procedures leading to civil or criminal enforcement unless the witness refuses to testify or produce documents after having been directed to do so.

(5) Filing of depositions: Deposition testimony shall be transcribed or electronically recorded. If the deposition is transcribed, the individual administering the oath shall certify on the transcript that the witness was fully sworn in his or her presence and the transcriber shall certify that the transcript is a true record of the testimony. The transcript with these certifications shall be filed with the chief clerk of the Committee, and the witness shall be furnished with access to a copy at the Committee's offices for review. Upon inspecting the transcript, within a time limit set by the Chairman and Vice Chairman, acting jointly, a witness may request in writing changes in the transcript to correct errors in transcription. The witness may also bring to the attention of the Committee errors of fact in the witness's testimony by submitting a sworn statement about those facts with a request that it be attached to the transcript. The Chairman and Vice Chairman, acting jointly, may rule on the witness's request, and the changes or attachments allowed shall be certified by the Committee's chief clerk. If the witness fails to make any request under this paragraph within the time limit set, this fact shall be noted by the Committee's chief clerk. Any person authorized by the Committee may stipulate with the witness to changes in this procedure.

RULE 7: VIOLATIONS OF LAW; PERJURY; LEGISLATIVE RECOMMENDATIONS; EDUCATIONAL MANDATE; AND APPLICABLE RULES AND STANDARDS OF CONDUCT

(a) Violations of Law: Whenever the Committee determines by the recorded vote of not less than four members of the full Committee that there is reason to believe that a violation of law, including the provision of false information to the Committee, may have occurred, it shall report such possible violation to the proper Federal and state authorities.

(b) Perjury: Any person who knowingly and willfully swears falsely to a sworn complaint or any other sworn statement to the Committee does so under penalty or perjury. The Committee may refer any such case to the Attorney General for prosecution.

(c) Legislative Recommendations: The Committee shall recommend to the Senate by report or resolution such additional rules, regulations, or other legislative measures as it determines to be necessary or desirable to ensure proper standards of conduct by Members, officers, or employees of the Senate. The Committee may conduct such preliminary inquiries as it deems necessary to prepare such a report or resolution, including the holding of hearings in public or executive session and the use of subpoenas to compel the attendance of witnesses or the production of materials. The Committee may make legislative recommendations as a result of its findings in a preliminary inquiry, adjudicatory review, or other proceeding.

(d) Educational Mandate; The Committee shall develop and implement programs and materials designed to educate Members, officers, and employees about the laws, rules, regulations, and standards of conduct applicable to such individuals in the performance of their duties.

(e) Applicable Rules and Standards of Conduct:

(1) Notwithstanding any other provision of this section, no adjudicatory review shall be initiated of any alleged violation of any law, the Senate Code of Official Conduct, rule, or regulation which was not in effect at the time the alleged violation occurred. No provisions of the Senate Code of Official Conduct shall apply to or require disclosure of any act, relationship, or transaction which occurred prior to the effective date of the applicable provision of the Code.

(2) The Committee may initiate an adjudicatory review of any alleged violation of a

rule or law which was in effect prior to enactment of the Senate Code of Official Conduct if the alleged violation occurred while such rule or law was in effect and the violation was not a matter resolved in the merits by the predecessor Committee.

RULE 8: PROCEDURES FOR HANDLING COMMITTEE SENSITIVE AND CLASSIFIED MATERIALS

(a) Procedures for Handling Committee Sensitive Materials:

(1) Committee Sensitive information or material is information or material in the possession of the Select Committee on Ethics which pertains to illegal or improper conduct by a present or former Member, officer, or employee of the Senate; to allegations or accusations of such conduct; to any resulting preliminary inquiry, adjudicatory review or other proceeding by the Select Committee on Ethics into such allegations or conduct; to the investigative techniques and procedures of the Select Committee on Ethics; or to the information or material designated by the staff director, or outside counsel designated by the Chairman and Vice Chairman.

(2) The Chairman and Vice Chairman of the Committee shall establish such procedures as may be necessary to prevent the unauthorized disclosure of Committee Sensitive information in the possession of the Committee or its staff. Procedures for protecting Committee Sensitive materials shall be in writing and shall be given to each Committee staff member.

(b) Procedures for Handling Classified Materials:

(1) Classified information or material is information or material which is specifically designated as classified under the authority of Executive Order 11652 requiring protection of such information or material from unauthorized disclosure in order to prevent damage to the United States.

(2) The Chairman and Vice Chairman of the Committee shall establish such procedures as may be necessary to prevent the unauthorized disclosure of classified information in the possession of the Committee or its staff. Procedure for handling such information shall be in writing and a copy of the procedures shall be given to each staff member cleared for access to classified information.

(3) Each member of the Committee shall have access to classified material in the Committee's possession. Only Committee staff members with appropriate security clearances and a need-to-know, as approved by the Chairman and Vice Chairman, acting jointly, shall have access to classified information in the Committee's possession.

(c) Procedures for Handling Committee Sensitive and Classified Documents:

(1) Committee Sensitive documents and materials shall be stored in the Committee's offices, with appropriate safeguards for maintaining the security of such documents or materials. Classified documents and materials shall be further segregated in the Committee's offices in secure filing safes. Removal from the Committee offices of such documents or materials is prohibited except as necessary for use in, or preparation for, interviews or Committee meetings, including the taking of testimony, or as otherwise specifically approved by the staff director or by outside counsel designated by the Chairman and Vice Chairman.

(2) Each member of the Committee shall have access to all materials in the Committee's possession. The staffs of members shall not have access to Committee Sensitive or classified documents and materials without the specific approval in each instance of the Chairman, and Vice Chairman, acting jointly. Members may examine such materials in the Committee's offices. If necessary, requested materials may be hand delivered by a member of the Committee staff to the member of the Committee, or to a staff person(s) specifically designated by the member, for the Member's or designated staffer's examination. A member of the Committee who has possession of Committee Sensitive documents or materials shall take appropriate safeguards for maintaining the security of such documents or materials in the possession of the Member or his or her designated staffer.

(3) Committee Sensitive documents that are provided to a Member of the Senate in connection with a complaint that has been filed against the Member shall be hand delivered to the Member or to the Member's Chief of Staff or Administrative Assistant. Committee Sensitive documents that are provided to a Member of the Senate who is the subject of a preliminary inquiry, adjudicatory review, or other proceeding, shall be hand delivered to the Member or to his or her specifically designated representative.

(4) Any Member of the Senate who is not a member of the Committee and who seeks access to any Committee Sensitive or classified documents or materials, other than documents or materials which are matters of public record, shall request access in writing. The Committee shall decide by majority vote whether to make documents or materials available. If access is granted, the Member shall not disclose the information except as authorized by the Committee.

(5) Whenever the Committee makes Committee Sensitive or classified documents or materials available to any Member of the Senate who is not a member of the Committee, or to a staff person of a Committee member in response to a specific request to the Chairman and Vice Chairman, a written record shall be made identifying the Member of the Senate requesting such documents or materials and describing what was made available and to whom.

(d) Non-Disclosure Policy and Agreement:

(1) Except as provided in the last sentence of this paragraph, no member of the Select Committee on Ethics, its staff or any person engaged by contract or otherwise to perform services for the Select Committee on Ethics shall release, divulge, publish, reveal by writing, word, conduct, or disclose in any way, in whole, or in part, or by way of summary, during tenure with the Select Committee on Ethics or anytime thereafter, any testimony given before the Select Committee on Ethics in executive session (including the name of any witness who appeared or was called to appear in executive session), any classified or Committee Sensitive information, document or material, received or generated by the Select Committee on Ethics or any classified or Committee Sensitive information which may come into the possession of such person during tenure with the Select Committee on Ethics or its staff. Such information, documents, or material may be released to an official of the executive branch properly cleared for access with a need-to-know, for any purpose or in connection with any proceeding, judicial or otherwise, as authorized by the Select Committee on Ethics, or in the event of termination of the Select Committee on Ethics, in such a manner as may be determined by its successor or by the Senate.

(2) No member of the Select Committee on Ethics staff or any person engaged by contract or otherwise to perform services for the Select Committee on Ethics, shall be granted access to classified or Committee Sensitive information or material in the possession of the Select Committee on Ethics unless and until such person agrees in writing, as a condition of employment, to the non-disclosure policy. The agreement shall become effective when signed by the Chairman and Vice Chairman on behalf of the Committee.

RULE 9: BROADCASTING AND NEWS COVERAGE OF COMMITTEE PROCEEDINGS

(a) Whenever any hearing or meeting of the Committee is open to the public, the Committee shall permit that hearing or meeting to be covered in whole of in part, by television broadcast, radio broadcast, still photography, or by any other methods of coverage, unless the Committee decides by recorded vote of not less than four members of the Committee that such coverage is not appropriate at a particular hearing or meeting.

(b) Any witness served with a subpoena by the Committee may request not to be photographed at any hearing or to give evidence or testimony while the broadcasting, reproduction, or coverage of that hearing, by radio, television, still photography, or other methods is occurring. At the request of such witness who does not wish to be subjected to radio, television, still photography, or other methods of coverage, and subject to the approval of the Committee, all lenses shall be covered and all microphones used for coverage turned off.

(c) If coverage is permitted, it shall be in accordance with the following requirements:

(1) Photographers and reporters using mechanical recording, filming, or broadcasting apparatus shall position their equipment so as not to interfere with the seating, vision, and hearing of the Committee members and staff, or with the orderly process of the meeting or hearing.

(2) If the television or radio coverage of the hearing or meeting is to be presented to the public as live coverage, that coverage shall be conducted and presented without commercial sponsorship.

(3) Personnel providing coverage by the television and radio media shall be currently accredited to the Radio and Television Correspondents' Galleries.

(4) Personnel providing coverage by still photography shall be currently accredited to the Press Photographers' Gallery Committee of Press Photographers.

(5) Personnel providing coverage by the television and radio media and by still photography shall conduct themselves and the coverage activities in an orderly and unobtrusive manner.

RULE 10: PROCEDURES FOR ADVISORY OPINIONS

(a) When Advisory Opinions Are Rendered:

(1) The Committee shall render an advisory opinion, in writing within a reasonable time, in response to a written request by a Member or officer of the Senate or a candidate for nomination for election, or election to the Senate, concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within the Committee's jurisdiction, to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.

(2) The Committee may issue an advisory opinion in writing within a reasonable time in response to a written request by any employee of the Senate concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within the Committee's jurisdiction, to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.

(b) Form of Request: A request for an advisory opinion shall be directed in writing to the Chairman of the Committee and shall include a complete and accurate statement of the specific factual situation with respect to which the request is made as well as the specific question or questions which the requestor wishes the Committee to address.

(c) Opportunity for Comment:

(1) The Committee will provide an opportunity for any interested party to comment on a request for an advisory opinion.

(A) which requires an interpretation on a significant question of first impression that will affect more than a few individuals; or

(B) when the Committee determines that comments from interested parties would be of assistance.

(2) Notice of any such request for an advisory opinion shall be published in the Congressional Record, with appropriate deletions to insure confidentiality, and interested parties will be asked to submit their comments in writing to the Committee within ten days.

(3) All relevant comments received on a timely basis will be considered.

(d) Issuance of an Advisory Opinion:

(1) The Committee staff shall prepare a proposed advisory opinion in draft form which will first be reviewed and approved by the Chairman and Vice Chairman, acting jointly, and will be presented to the Committee for final action. If (A) the Chairman and Vice Chairman cannot agree, or (B) either the Chairman or Vice Chairman requests that it be taken directly to the Committee, then the proposed advisory opinion shall be referred to the Committee for its decision.

(2) An advisory opinion shall be issued only by the affirmative recorded vote of a majority of the members voting.

(3) Each advisory opinion issued by the Committee shall be promptly transmitted for publication in the CONGRESSIONAL RECORD after appropriate deletions are made to insure confidentiality. The Committee may at any time revise, withdraw, or elaborate on any advisory opinion.

(e) Reliance on Advisory Opinions:

(1) Any advisory opinion issued by the Committee under Senate Resolution 338, 88th Congress, as amended, and the rules may be relied upon by—

(A) Any person involved in the specific transaction or activity with respect to which such advsory opinion is rendered if the request for such advisory opinion included a complete and accurate statement of the specific factual situation; and

(B) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity which respect to which such advisory opinion is rendered.

(2) Any person who relies upon any provision or finding of an advisory opinion in accordance with the provisions of Senate Resolution 338, 88th Congress, as amended, and of the rules, and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction by the Senate.

RULE 11: PROCEDURES FOR INTERPRETATIVE RULINGS

(a) Basis for Interpretative Rulings: Senate Resolution 338, 88th Congress, as amended, authorizes the Committee to issue interpretative rulings explaining and clarifying the application of any law, the Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction. The Committee also may issue such rulings clarifying or explaining any rule or regulation of the Select Committee on Ethics.

(b) Request for Ruling: A request for such a ruling must be directed in writing to the Chairman or Vice Chairman of the Committee.

(c) Adoption of Ruling:

(1) The Chairman and Vice Chairman, acting jointly, shall issue a written interpretive ruling in response to any such request, unless—

(A) they cannot agree,

(B) it requires an interpretation of a significant question of first impression, or

(C) either requests that it be taken to the Committee, in which event the request shall be directed to the Committee for a ruling.

(2) A ruling on any request taken to the Committee under subparagraph (1) shall be adopted by a majority of the members voting and the ruling shall then be issued by the Chairman and Vice Chairman.

(d) Publication of Ruling: The Committee will publish in the Congressional Record, after making appropriate deletions to ensure confidentiality, any interpretative rulings issued under this Rule which the Committee determines may be of assistance or guidance to other Members, officers or employees. The Committee may at any time revise, withdraw, or elaborate on interpretative rulings.

(e) Reliance on Rulings: Whenever an individual can demonstrate to the Committee's satisfaction that his or her conduct was in good faith reliance on an interpretative ruling issued in accordance with this Rule, the Committee will not recommend sanctions to the Senate as a result of such conduct.

(f) Rulings by Committee Staff: The Committee staff is not authorized to make rulings or give advice, orally or in writing, which binds the Committee in any way.

RULE 12: PROCEDURES FOR COMPLAINTS INVOLVING IMPROPER USE OF THE MAILING FRANK

(a) Authority To Receive Complaints: The Committee is directed by section 6(b) of Public Law 93–191 to receive and dispose of complaints that a violation of the use of the mailing frank has occurred or is about to occur by a Member or officer of the Senate or by a surviving spouse of a Member. All such complaints will be processed in accordance with the provisions of these Rules, except as provided in paragraph (b).

(b) Disposition of Complaints:

(1) The Committee may dispose of any such complaint by requiring restitution of the cost of the mailing, pursuant to the franking statute, if it finds that the franking violation was the result of a mistake.

(2) Any complaint disposed of by restitution that is made after the Committee has formally commenced an adjudicatory review, must be summarized, together with the disposition, in a report to the Senate, as appropriate.

(3) If a complaint is disposed of by restitution, the complainant, if any, shall be notified of the disposition in writing.

(c) Advisory Opinions and Interpretative Rulings: Requests for advisory opinions or interpretative rulings involving franking questions shall be processed in accordance with Rules 10 and 11.

RULE 13: PROCEDURES FOR WAIVERS

(a) Authority for Waivers: The Committee is authorized to grant a waiver under the following provisions of the Standing Rules of the Senate:

(1) Section 101(h) of the Ethics in Government Act of 1978, as amended (Rule XXXIV), relating to the filing of financial disclosure reports by individuals who are expected to perform or who have performed the duties of their offices or positions for less than one hundred and thirty days in a calendar year;

(2) Section 102(a)(2)(D) of the Ethics in Government Act, as amended (Rule XXXIV), relating to the reporting of gifts;

(3) Paragraph 1 of Rule XXXV relating to acceptance of gifts; or

(4) Paragraph 5 of Rule XLI relating to applicability of any of the provisions of the Code of Official Conduct to an employee of the Senate hired on a per diem basis.

(b) Requests for Waivers: A request for a waiver under paragraph (a) must be directed to the Chairman or Vice Chairman in writing and must specify the nature of the waiver being sought and explain in detail the facts alleged to justify a waiver. In the case of a request submitted by an employee, the views of his or her supervisor (as determined under paragraph 12 of rule XXXVII of the Standing Rules of the Senate) should be included with the waiver request.

(c) Ruling: The Committee shall rule on a waiver request by recorded vote with a majority of those voting affirming the decision. With respect to an individual's request for a waiver in connection with the acceptance or reporting the value of gifts on the occasion of the individual's marriage, the Chairman and the Vice Chairman, acting jointly, may rule on the waiver.

(d) Availability of Waiver Determinations: A brief description of any waiver granted by the Committee, with appropriate deletions to ensure confidentiality, shall be made available for review upon request in the Committee office. Waivers granted by the Committee pursuant to the Ethics in Government Act of 1978, as amended, may only be granted pursuant to a publicity available request as required by the Act.

RULE 14: DEFINITION OF ''OFFICER OR EMPLOYEE''

(a) As used in the applicable resolutions and in these rules and procedures, the term ''officer or employee of the Senate'' means:

(1) An elected officer of the Senate who is not a Member of the Senate;

(2) An employee of the Senate, any committee or subcommittee of the Senate, or any Member of the Senate;

(3) The Legislative Counsel of the Senate or any employee of his office;

(4) An Official Reporter of Debates of the Senate and any person employed by the Official Reporters of Debates of the Senate in connection with the performance of their official duties;

(5) A member of the Capitol Police force whose compensation is disbursed by the Secretary of the Senate;

(6) An employee of the Vice President, if such employee's compensation is disbursed by the Secretary of the Senate;

(7) An employee of a joint committee of the Congress whose compensation is disbursed by the Secretary of the Senate;

(8) An officer or employee of any department or agency of the Federal Government whose services are being utilized on a full-time and continuing basis by a Member, officer, employee, or committee of the Senate in accordance with Rule XLI(3) of the Standing Rules of the Senate; and

(9) Any other individual whose full-time services are utilized for more than ninety days in a calendar year by a member, officer, employee, or committee of the Senate in the conduct of official duties in accordance with Rule XLI(4) of the Standing Rules of the Senate.

RULE 15: COMMITTEE STAFF

(a) Committee Policy:

(1) The staff is to be assembled and retained as a permanent, professional, nonpartisan staff.

(2) Each member of the staff shall be professional and demonstrably qualified for the position for which he or she is hired.

(3) The staff as a whole and each member of the staff shall perform all official duties in a nonpartisan manner.

(4) No member of the staff shall engage in any partisan political activity directly affecting any congressional or presidential election.

(5) No member of the staff or outside counsel may accept public speaking engagements or write for publication on any subject that is in any way related to his or her employment or duties with the Committee without

specific advance permission from the Chairman and Vice Chairman.

(6) No member of the staff may make public, without Committee approval, any Committee Sensitive or classified information, documents, or other material obtained during the course of his or her employment with the Committee.

(b) Appointment of Staff:

(1) The appointment of all staff members shall be approved by the Chairman and Vice Chairman, acting jointly.

(2) The Committee may determine by majority vote that it is necessary to retain staff members, including staff recommended by a special counsel, for the purpose of a particular preliminary inquiry, adjudicatory review, or other proceeding. Such staff shall be retained only for the duration of that particular undertaking.

(3) The Committee is authorized to retain and compensate counsel not employed by the Senate (or by any department or agency of the Executive Branch of the Government) whenever the Committee determines that the retention of outside counsel is necessary or appropriate for any action regarding any complaint or allegation, preliminary inquiry, adjudicatory review, or other proceeding, which in the determination of the Committee, is more appropriately conducted by counsel not employed by the Government of the United States as a regular employee. The Committee shall retain and compensate outside counsel to conduct any adjudicatory review undertaken after a preliminary inquiry, unless the Committee determines that the use of outside counsel is not appropriate in the particular case.

(c) Dismissal of Staff: A staff member may not be removed for partisan, political reasons, or merely as a consequence of the rotation of the Committee membership. The Chairman and Vice Chairman, acting jointly, shall approve the dismissal of any staff member.

(d) Staff Works for Committee as a Whole: All staff employed by the Committee or housed in Committee offices shall work for the Committee as a whole, under the general direction of the Chairman and Vice Chairman, and the immediate direction of the staff director or outside counsel.

(e) Notice of Summons To Testify: Each member of the Committee staff or outside counsel shall immediately notify the Committee in the event that he or she is called upon by a properly constituted authority to testify or provide confidential information obtained as a result of and during his or her employment with the Committee.

RULE 16: CHANGES IN SUPPLEMENTARY PROCEDURAL RULES

(a) Adoption of Changes in Supplementary Rules: The Rules of the Committee other than rules established by statute, or by the Standing Rules and Standing Orders of the Senate, may be modified, amended, or suspended at any time, pursuant to a recorded vote of not less than four members of the full Committee taken at a meeting called with due notice when prior written notice of the proposed change has been provided each member of the Committee.

(b) Publication: Any amendments adopted to the Rules of this Committee shall be published in the Congressional Record in accordance with Rule XXVI(2) of the Standing Rules of the Senate.

Mr. SMITH of New Hampshire. Mr. President, on behalf of Vice Chairman REID and other Members of the Ethics Committee, I am pleased to submit the ''Senate Ethics Procedure Reform Resolution of 1999'' for Senate consideration. This Resolution will implement key recommendations of the Senate Ethics Study Commission of 1993, a body which included among its members both the current distinguished Majority Leader and the distinguished Minority Leader.

Mr. REID. Mr. President, I am proud to join with Chairman SMITH and other Members of the Ethics Committee to bring this Reform Resolution to the floor for consideration. And I would like to take this opportunity to thank the Chairman for his leadership in working to implement these much needed changes in the Ethics Committee process.

Mr. SMITH of New Hampshire. I appreciate the Vice Chairman's comments and, more importantly, acknowledge his assistance and support in bringing these Reform measures before the Senate. This Resolution is the product of a mutual and supportive effort on both sides of the aisle to improve the Ethics Committee's procedures.

Let us briefly describe the changes included in this Reform. First, as Members may recall, the 1993 Study Commission was charged with studying the Ethics Committee's procedures and recommending needed changes. Such a Commission arose, a large part, out of the universal observation by those who had participated in Ethics Committee proceedings that: (1) the procedures were unnecessarily confusing and complex; and (2) that this created the potential for unfairness to those affected and contributed to a lack of confidence by those observing the process. In its hearings, the 1993 Study Commission heard from three distinguished former chairs of the Ethics Committee, attorneys who have practiced before and with the Ethics Committee, and experts on ethics issues and procedures from academia and public organizations with interests in legislative ethics. The resulting Commission Report, issued in 1994, recommended several changes designed to enhance public confidence in the Senate's ability to fulfill its constitutional duty of self-discipline.

The Reform Resolution now before the Senate includes those Commission recommendations specifically designed to simplify and streamline the Senate Ethics process. These reforms are intended to expedite the handling of ethics complaints in a way which should make the process fairer and more understandable. By eliminating the current unnecessary, multi-stage process for fact gathering, and using a single phase ''preliminary inquiry'' for that purpose, the process will make a lot more sense, and should save some time. If, after the facts are in, there is substantial evidence with causes the Ethics Committee to conclude that a violation may have occurred, then changes would be issued, and an ''adjudicative review'' of the evidence would ensue. This simplified process will be the same, whether the complaint is sworn or unsworn, and there will continue to be no procedural formalities surrounding the filing of a complaint with the Committee.

Mr. REID. The Reform Resolution also proposes a uniform set of possible sanctions for violations. The reforms would continue the Ethics Committee's current authority to dismiss a complaint because there is no violation, or find that any violation is inadvertent or otherwise de minimis and resolve it informally, after the Committee has gathered the facts. Both the current and the reformed process contemplate a letter of disapproval to resolve situations where a violation is de minimis and does not deserve formal discipline. Although the use of such letters is not explicit under current rules, such letters have historically been used by the Committee to resolve complaints, and the reformed process would expressly provide for public or private ''Letters of Admonition'' for this purpose. Such letters have not been and would not be considered discipline.

As to discipline by the Committee, the current process permits the Committee to resolve a case, with the Committee does not believe deserves sanction by the full Senate, by suggesting a remedy such as a reprimand, but only with consent of the respondent. The usefulness of this method of resolution is limited by the requirement of consent. The reformed process would authorize the Committee to resolve an appropriate case with a reprimand without consent, and/or financial restitution, but only after an opportunity for hearing and only with a right of appeal of the full Senate. In this fashion, cases which the Committee does not believe deserve discipline by the full Senate could be resolved, and the individual's right to defend his or her conduct before the full Senate would be preserved.

Mr. SMITH of New Hampshire. Beyond reprimand, and reserved for only the most serious cases, both the current and the reformed process contemplate that the Committee may make recommendations to the full Senate for Senate discipline. Under the current process, with respect to Members, the Committee has recommended or the full Senate has considered, either alone or in combination: financial restitution, disgorgement of funds, referral to a party conference for attention (regarding seniority or positions of responsibility), denouncement, censure, condemnation, and expulsion. The current system's use of a variety of terms, each of which has been considered by Senate historians to be censure, has resulted in some confusion about the Senate's intent in disciplining its Members. The proposed process would provide the Committee with a uniform set of recommendations for use either alone or in combination: financial restitution, referral to a party conference for attention (regarding seniority or positions of responsibility), censure, and expulsion. Absent

extraordinary circumstances, the intent would be to use uniform terminology in recommending discipline to the Senate, although the Committee would retain needed flexibility in this regard. The proposal would also add financial restitution to the possible recommendations respecting a Senate officer or employee; suspension and dismissal are currently included.

Finally, Mr. President the Reform Resolution would amend the Ethics Committee's enabling resolution to expressly provide for the Committee's educational function.

Mr. DOMENICI. I ask unanimous consent the resolution be agreed to, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

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

The resolution (S. Res. 222) was agreed to, as follows:

S. RES. 222

*Resolved,*

**SECTION 1. SHORT TITLE.**

This resolution may be cited as the ''Senate Ethics Procedure Reform Resolution of 1999''.

**SEC. 2. ESTABLISHMENT AND MEMBERSHIP OF THE SELECT COMMITTEE.**

The first section of Senate Resolution 338, agreed to July 24, 1964 (88th Congress, 2d Session)(referred to as the ''resolution'') is amended—

(1) in subsection (c), by amending paragraph (1) to read as follows:

''(1) A majority of the members of the Select Committee shall constitute a quorum for the transaction of business involving complaints or allegations of, or information about, misconduct, including resulting preliminary inquiries, adjudicatory reviews, recommendations or reports, and matters relating to Senate Resolution 400, agreed to May 19, 1976.'';

(2) in subsection (d), by amending paragraph (1) to read as follows:

''(1) A member of the Select Committee shall be ineligible to participate in—

''(A) any preliminary inquiry or adjudicatory review relating to—

''(i) the conduct of—

''(I) such member;

''(II) any officer or employee the member supervises; or

''(III) any employee of any officer the member supervises; or

''(ii) any complaint filed by the member; and

''(B) the determinations and recommendations of the Select Committee with respect to any preliminary inquiry or adjudicatory review described in subparagraph (A).

For purposes of this paragraph, a member of the Select Committee and an officer of the Senate shall be deemed to supervise any officer or employee consistent with the provision of paragraph 12 of rule XXXVII of the Standing Rules of the Senate.'';

(3) in subsection (d)(2), by amending the first sentence to read as follows: ''A member of the Select Committee may, at the discretion of the member, disqualify himself or herself from participating in any preliminary inquiry or adjudicatory review pending before the Select Committee and the determinations and recommendations of the Select Committee with respect to any such preliminary inquiry or adjudicatory review.''; and

(4) in subsection (d), by amending paragraph (3) to read as follows:

''(3) Whenever any member of the Select Committee is ineligible under paragraph (1) to participate in any preliminary inquiry or adjudicatory review or disqualifies himself or herself under paragraph (2) from participating in any preliminary inquiry or adjudicatory review, another Senator shall, subject to the provisions of subsection (d), be appointed to serve as a member of the Select Committee solely for purposes of such preliminary inquiry or adjudicatory review and the determinations and recommendations of the Select Committee with respect to such preliminary inquiry or adjudicatory review. Any Member of the Senate appointed for such purposes shall be of the same party as the Member who is ineligible or disqualifies himself or herself.''.

**SEC. 3. DUTIES OF THE SELECT COMMITTEE.**

Section 2 of the resolution is amended—

(1) in subsection (a), by striking paragraphs (2), (3), and (4) and inserting the following:

''(2)(A) recommend to the Senate by report or resolution by a majority vote of the full committee disciplinary action to be taken with respect to such violations which the Select Committee shall determine, after according to the individual concerned due notice and opportunity for a hearing, to have occurred;

''(B) pursuant to subparagraph (A) recommend discipline, including—

''(i) in the case of a Member, a recommendation to the Senate for expulsion, censure, payment of restitution, recommendation to a Member's party conference regarding the Member's seniority or positions of responsibility, or a combination of these; and

''(ii) in the case of an officer or employee, dismissal, suspension, payment of restitution, or a combination of these;

''(3) subject to the provisions of subsection (e), by a unanimous vote of 6 members, order that a Member, officer, or employee be reprimanded or pay restitution, or both, if the Select Committee determines, after according to the Member, officer, or employee due notice and opportunity for a hearing, that misconduct occurred warranting discipline less serious than discipline by the full Senate;

''(4) in the circumstances described in subsection (d)(3), issue a public or private letter of admonition to a Member, officer, or employee, which shall not be subject to appeal to the Senate;

''(5) recommend to the Senate, by report or resolution, such additional rules or regulations as the Select Committee shall determine to be necessary or desirable to insure proper standards of conduct by Members of the Senate, and by officers or employees of the Senate, in the performance of their duties and the discharge of their responsibilities;

''(6) by a majority vote of the full committee, report violations of any law, including the provision of false information to the Select Committee, to the proper Federal and State authorities; and

''(7) develop and implement programs and materials designed to educate Members, officers, and employees about the laws, rules, regulations, and standards of conduct applicable to such individuals in the performance of their duties.'';

(2) by amending subsection (b) to read as follows:

''(b) For the purposes of this resolution—

''(1) the term 'sworn complaint' means a written statement of facts, submitted under penalty of perjury, within the personal knowledge of the complainant alleging a violation of law, the Senate Code of Official Conduct, or any other rule or regulation of the Senate relating to the conduct of individuals in the performance of their duties as Members, officers, or employees of the Senate;

''(2) the term 'preliminary inquiry' means a proceeding undertaken by the Select Committee following the receipt of a complaint or allegation of, or information about, misconduct by a Member, officer, or employee of the Senate to determine whether there is substantial credible evidence which provides substantial cause for the Select Committee to conclude that a violation within the jurisdiction of the Select Committee has occurred; and

''(3) the term 'adjudicatory review' means a proceeding undertaken by the Select Committee after a finding, on the basis of a preliminary inquiry, that there is substantial credible evidence which provides substantial cause for the Select Committee to conclude that a violation within the jurisdiction of the Select Committee has occurred.'';

(3) in subsection (c), by amending paragraph (1) to read as follows:

''(1) No—

''(A) adjudicatory review of conduct of a Member or officer of the Senate may be conducted;

''(B) report, resolution, or recommendation relating to such an adjudicatory review of conduct may be made; and

''(C) letter of admonition pursuant to subsection (d)(3) may be issued,

unless approved by the affirmative recorded vote of no fewer than 4 members of the Select Committee.'';

(4) by amending subsection (d) to read as follows:

''(d)(1) When the Select Committee receives a sworn complaint or other allegation or information about a Member, officer, or employee of the Senate, it shall promptly conduct a preliminary inquiry into matters raised by that complaint, allegation, or information. The preliminary inquiry shall be of duration and scope necessary to determine whether there is substantial credible evidence which provides substantial cause for the Select Committee to conclude that a violation within the jurisdiction of the Select Committee has occurred. The Select Committee may delegate to the chairman and vice chairman the discretion to determine the appropriate duration, scope, and conduct of a preliminary inquiry.

''(2) If, as a result of a preliminary inquiry under paragraph (1), the Select Committee determines by a recorded vote that there is not such substantial credible evidence, the Select Committee shall dismiss the matter. The Select Committee may delegate to the chairman and vice chairman the authority, on behalf of the Select Committee, to dismiss any matter that they determine, after a preliminary inquiry, lacks substantial merit. The Select Committee shall inform the individual who provided to the Select Committee the complaint, allegation, or information, and the individual who is the subject of the complaint, allegation, or information, of the dismissal, together with an explanation of the basis for the dismissal.

''(3) If, as a result of a preliminary inquiry under paragraph (1), the Select Committee determines that a violation is inadvertent, technical, or otherwise of a de minimis nature, the Select Committee may dispose of the matter by issuing a public or private letter of admonition, which shall not be considered discipline. The Select Committee may issue a public letter of admonition upon a similar determination at the conclusion of an adjudicatory review.

''(4) If, as the result of a preliminary inquiry under paragraph (1), the Select Committee determines that there is such substantial credible evidence and the matter

cannot be appropriately disposed of under paragraph (3), the Select Committee shall promptly initiate an adjudicatory review. Upon the conclusion of such adjudicatory review, the Select Committee shall report to the Senate, as soon as practicable, the results of such adjudicatory review, together with its recommendations (if any) pursuant to subsection (a)(2).'';

(5) by amending subsection (e) to read as follows:

''(e)(1) Any individual who is the subject of a reprimand or order of restitution, or both, pursuant to subsection (a)(3) may, within 30 days of the Select Committee's report to the Senate of its action imposing a reprimand or order of restitution, or both, appeal to the Senate by providing written notice of the basis for the appeal to the Select Committee and the presiding officer of the Senate. The presiding officer of the Senate shall cause the notice of the appeal to be printed in the Congressional Record and the Senate Journal.

''(2) A motion to proceed to consideration of an appeal pursuant to paragraph (1) shall be highly privileged and not debatable. If the motion to proceed to consideration of the appeal is agreed to, the appeal shall be decided on the basis of the Select Committee's report to the Senate. Debate on the appeal shall be limited to 10 hours, which shall be divided equally between, and controlled by, those favoring and those opposing the appeal.'';

(6) by amending subsection (g) to read as follows:

''(g) Notwithstanding any other provision of this section, no adjudicatory review shall be initiated of any alleged violation of any law, the Senate Code of Official Conduct, rule, or regulation which was not in effect at the time the alleged violation occurred. No provisions of the Senate Code of Official Conduct shall apply to or require disclosure of any act, relationship, or transaction which occurred prior to the effective date of the applicable provision of the Code. The Select Committee may initiate an adjudicatory review of any alleged violation of a rule or law which was in effect prior to the enactment of the Senate Code of Official Conduct if the alleged violation occurred while such rule or law was in effect and the violation was not a matter resolved on the merits by the predecessor Select Committee.''; and

(7) by amending subsection (h) to read as follows:

''(h) The Select Committee shall adopt written rules setting forth procedures to be used in conducting preliminary inquiries and adjudicatory reviews.''.

**SEC. 4. AUTHORITY OF THE SELECT COMMITTEE.**

Section 3 of the resolution is amended—

(1) in subsection (b), by amending paragraph (2) to read as follows:

''(2) Any adjudicatory review as defined in section 2(b)(3) shall be conducted by outside counsel as authorized in paragraph (1), unless the Select Committee determines not to use outside counsel.''; and

(2) by amending subsection (d) to read as follows:

''(d)(1) Subpoenas may be authorized by—

''(A) the Select Committee; or

''(B) the chairman and vice chairman, acting jointly.

''(2) Any such subpoena shall be issued and signed by the chairman and the vice chairman and may be served by any person designated by the chairman and vice chairman.

''(3) The chairman or any member of the Select Committee may administer oaths to witnesses.''.

**SEC. 5. EFFECTIVE DATE OF AMENDMENTS.**

The amendments made by this resolution shall take effect on the date this resolution is agreed to, except that the amendments shall not apply with respect to further proceedings in any preliminary inquiry, initial review, or investigation commenced before that date under Senate Resolution 338, agreed to July 24, 1964 (88th Congress, 2d Session).

## WOMEN'S BUSINESS CENTERS SUSTAINABILITY ACT OF 1999

Mr. DOMENICI. Mr. President, I ask unanimous consent the Senate proceed to consideration of Calendar No. 372, S. 791.

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

The assistant legislative clerk read as follows:

A bill (S. 791) to amend the Small Business Act with respect to the women's business center program.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Small Business to strike all after the enacting clause and insert in lieu thereof the following:

S. 791

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

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the ''Women's Business Centers Sustainability Act of 1999''.*

***SEC. 2. PRIVATE NONPROFIT ORGANIZATIONS.***

*Section 29 of the Small Business Act (15 U.S.C. 656) is amended—*

*(1) in subsection (a)—*

*(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and*

*(B) by inserting after paragraph (1) the following:*

*''(2) the term 'private nonprofit organization' means an entity that is described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code;''; and*

*(2) in subsection (b), by inserting ''nonprofit'' after ''private''.*

***SEC. 3. INCREASED MANAGEMENT OVERSIGHT AND REVIEW OF WOMEN'S BUSINESS CENTERS.***

*Section 29 of the Small Business Act (15 U.S.C. 656) is amended—*

*(1) by striking subsection (h) and inserting the following:*

*''(h) PROGRAM EXAMINATION.—*

*''(1) IN GENERAL.—The Administration shall—*

*''(A) develop and implement an annual programmatic and financial examination of each women's business center established pursuant to this section, pursuant to which each such center shall provide to the Administration—*

*''(i) an itemized cost breakdown of actual expenditures for costs incurred during the preceding year; and*

*''(ii) documentation regarding the amount of matching assistance from non-Federal sources obtained and expended by the center during the preceding year in order to meet the requirements of subsection (c) and, with respect to any in-kind contributions described in subsection (c)(2) that were used to satisfy the requirements of subsection (c), verification of the existence and valuation of those contributions; and*

*''(B) analyze the results of each such examination and, based on that analysis, make a determination regarding the programmatic and financial viability of each women's business center.*

*''(2) CONDITIONS FOR CONTINUED FUNDING.—In determining whether to award a contract (as a sustainability grant) under subsection (l) or to renew a contract (either as a grant or cooperative agreement) under this section with a women's business center, the Administration—*

*''(A) shall consider the results of the most recent examination of the center under paragraph (1); and*

*''(B) may withhold such award or renewal, if the Administration determines that—*

*''(i) the center has failed to provide any information required to be provided under clause (i) or (ii) of paragraph (1)(A), or the information provided by the center is inadequate; or*

*''(ii) the center has failed to provide any information required to be provided by the center for purposes of the report of the Administration under subsection (j), or the information provided by the center is inadequate.''; and*

*(2) by striking subsection (j) and inserting the following:*

*''(j) MANAGEMENT REPORT.—*

*''(1) IN GENERAL.—The Administration shall prepare and submit to the Committees on Small Business of the House of Representatives and the Senate a report on the effectiveness of all projects conducted under this section.*

*''(2) CONTENTS.—Each report submitted under paragraph (1) shall include information concerning, with respect to each women's business center established pursuant to this section—*

*''(A) the number of individuals receiving assistance;*

*''(B) the number of startup business concerns formed;*

*''(C) the gross receipts of assisted concerns;*

*''(D) the employment increases or decreases of assisted concerns;*

*''(E) to the maximum extent practicable, increases or decreases in profits of assisted concerns; and*

*''(F) the most recent analysis, as required under subsection (h)(1)(B), and the subsequent determination made by the Administration under that subsection.''.*

***SEC. 4. WOMEN'S BUSINESS CENTERS SUSTAINABILITY PILOT PROGRAM.***

*(a) IN GENERAL.—Section 29 of the Small Business Act (15 U.S.C. 656) is amended by adding at the end the following:*

*''(l) SUSTAINABILITY PILOT PROGRAM.—*

*''(1) IN GENERAL.—There is established a 4-year pilot program under which the Administration is authorized to award grants (referred to in this section as 'sustainability grants') on a competitive basis for an additional 5-year project under this section to any private nonprofit organization (or a division thereof)—*

*''(A) that has received financial assistance under this section pursuant to a grant, contract, or cooperative agreement; and*

*''(B) that—*

*''(i) is in the final year of a 5-year project; or*

*''(ii) to the extent that amounts are available for such purpose under subsection (k)(4)(B), has completed a project financed under this section (or any predecessor to this section) and continues to provide assistance to women entrepreneurs.*

*''(2) CONDITIONS FOR PARTICIPATION.—In order to receive a sustainability grant, an organization described in paragraph (1) shall submit to the Administration an application, which shall include—*

*''(A) a certification that the applicant—*

*''(i) is a private nonprofit organization;*

*''(ii) employs a full-time executive director or program manager to manage the center; and*

*''(iii) as a condition of receiving a sustainability grant, agrees—*

*''(I) to a site visit as part of the final selection process and to an annual programmatic and financial examination; and*

*''(II) to the maximum extent practicable, to remedy any problems identified pursuant to that site visit or examination;*

*''(B) information demonstrating that the applicant has the ability and resources to meet the needs of the market to be served by the women's business center site for which a sustainability grant is sought, including the ability to fundraise;*

''(C) information relating to assistance provided by the women's business center site for which a sustainability grant is sought in the area in which the site is located, including—

''(i) the number of individuals assisted;

''(ii) the number of hours of counseling, training, and workshops provided; and

''(iii) the number of startup business concerns formed;

''(D) information demonstrating the effective experience of the applicant in—

''(i) conducting financial, management, and marketing assistance programs, as described in paragraphs (1), (2), and (3) of subsection (b), designed to impart or upgrade the business skills of women business owners or potential owners;

''(ii) providing training and services to a representative number of women who are both socially and economically disadvantaged;

''(iii) using resource partners of the Administration and other entities, such as universities;

''(iv) complying with the cooperative agreement of the applicant; and

''(v) the prudent management of finances and staffing, including the manner in which the performance of the applicant compared to the business plan of the applicant and the manner in which grant funds awarded under subsection (b) were used by the applicant; and

''(E) a 5-year plan that projects the ability of the women's business center site for which a sustainability grant is sought—

''(i) to serve women business owners or potential owners in the future by improving fundraising and training activities; and

''(ii) to provide training and services to a representative number of women who are both socially and economically disadvantaged.

''(3) REVIEW OF APPLICATIONS.—

''(A) IN GENERAL.—The Administration shall—

''(i) review each application submitted under paragraph (2) based on the information provided under in subparagraphs (D) and (E) of that paragraph, and the criteria set forth in subsection (f);

''(ii) as part of the final selection process, conduct a site visit at each women's business center for which a sustainability grant is sought; and

''(iii) approve or disapprove applications for sustainability grants simultaneously with applications for grants under subsection (b).

''(B) DATA COLLECTION.—Consistent with the annual report to Congress under subsection (j), each women's business center site that is awarded a sustainability grant shall, to the maximum extent practicable, collect information relating to—

''(i) the number of individuals assisted;

''(ii) the number of hours of counseling and training provided and workshops conducted;

''(iii) the number of startup business concerns formed;

''(iv) any available gross receipts of assisted concerns; and

''(v) the number of jobs created, maintained, or lost at assisted concerns.

''(C) RECORD RETENTION.—The Administration shall maintain a copy of each application submitted under this subsection for not less than 10 years.

''(4) NON-FEDERAL CONTRIBUTION.—

''(A) IN GENERAL.—Notwithstanding any other provision of this section, as a condition of receiving a sustainability grant, an organization described in paragraph (1) shall agree to obtain, after its application has been approved under paragraph (3) and notice of award has been issued, cash and in-kind contributions from non-Federal sources for each year of additional program participation in an amount equal to 1 non-Federal dollar for each Federal dollar.

''(B) FORM OF NON-FEDERAL CONTRIBUTIONS.—Not more than 50 percent of the non-Federal assistance obtained for purposes of subparagraph (A) may be in the form of in-kind contributions that are budget line items only, including office equipment and office space.

''(5) TIMING OF REQUESTS FOR PROPOSALS.—In carrying out this subsection, the Administration shall issue requests for proposals for women's business centers applying for the pilot program under this subsection simultaneously with requests for proposals for grants under subsection (b).''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 29(k) of the Small Business Act (15 U.S.C. 656(k)) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—There is authorized to be appropriated, to remain available until the expiration of the pilot program under subsection (l)—

''(A) $13,000,000 for fiscal year 2000;

''(B) $14,300,000 for fiscal year 2001;

''(C) $15,600,000 for fiscal year 2002; and

''(D) $17,000,000 for fiscal year 2003.'';

(2) in paragraph (2)—

(A) by striking ''Amounts made'' and inserting the following:

''(A) IN GENERAL.—Except as provided in subparagraph (B), amounts made''; and

(B) by adding at the end the following:

''(B) EXCEPTIONS.—Of the amount made available under this subsection for a fiscal year, the following amounts shall be available for selection panel costs, post-award conference costs, and costs related to monitoring and oversight:

''(i) For fiscal year 2000, 2.5 percent.

''(ii) For fiscal year 2001, 2.3 percent.

''(iii) For fiscal year 2002, 2.3 percent.

''(iv) For fiscal year 2003, 1.9 percent.''; and

(3) by adding at the end the following:

''(4) RESERVATION OF FUNDS FOR SUSTAINABILITY PILOT PROGRAM.—

''(A) IN GENERAL.—Subject to subparagraph (B), of the total amount made available under this subsection for a fiscal year, the following amounts shall be reserved for sustainability grants under subsection (l):

''(i) For fiscal year 2000, 19.4 percent.

''(ii) For fiscal year 2001, 21.9 percent.

''(iii) For fiscal year 2002, 32 percent.

''(iv) For fiscal year 2003, 35 percent.

''(B) USE OF UNAWARDED FUNDS FOR SUSTAINABILITY PILOT PROGRAM GRANTS.—If the amount reserved under subparagraph (A) for any fiscal year is not fully awarded to private nonprofit organizations described in subsection (l)(1)(B)(i), the unawarded amount—

''(i) shall first be made available for sustainability grant awards under subsection (l) to private nonprofit organizations described in subsection (l)(1)(B)(ii); and

''(ii) any remaining unawarded amount shall be made available to fund additional women's business center sites or to increase funding of existing women's business center sites under subsection (b).''.

(c) GUIDELINES.—Not later than 30 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall issue guidelines to implement the amendments made by this section.

**SEC. 5. SENSE OF THE SENATE REGARDING GOVERNMENT PROCUREMENT ACCESS FOR WOMEN-OWNED SMALL BUSINESSES.**

(a) FINDINGS.—The Senate finds that—

(1) women-owned small businesses are a powerful force in the economy;

(2) between 1987 and 1996—

(A) the number of women-owned small businesses in the United States increased by 78 percent, almost twice the rate of increase of all businesses in the United States;

(B) the number of women-owned small businesses increased in every State;

(C) total sales by women-owned small businesses in the United States increased by 236 percent;

(D) employment provided by women-owned small businesses in the United States increased by 183 percent; and

(E) the rates of growth for women-owned small businesses in the United States for the fastest growing industries were—

(i) 171 percent in construction;

(ii) 157 percent in wholesale trade;

(iii) 140 percent in transportation and communications;

(iv) 130 percent in agriculture; and

(v) 112 percent in manufacturing;

(3) approximately 8,000,000 women-owned small businesses in the United States provide jobs for 15,500,000 individuals and generate almost $1,400,000,000,000 in sales each year;

(4) the participation of women-owned small businesses in the United States in the procurement market of the Federal Government is limited;

(5) the Federal Government is the largest purchaser of goods and services in the United States, spending more than $200,000,000,000 each year;

(6) the majority of Federal Government purchases are for items that cost $25,000 or less; and

(7) the rate of Federal procurement for women-owned small businesses is 2.2 percent.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that, not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States should—

(1) conduct an audit of the Federal procurement system regarding Federal contracting involving women-owned small businesses for the 3 preceding fiscal years;

(2) solicit from Federal employees involved in the Federal procurement system any suggestions regarding how to increase the number of Federal contracts awarded to women-owned small businesses; and

(3) submit to Congress a report on the results of that audit, which report shall include—

(A) an analysis of any identified trends in Federal contracting with respect to women-owned small businesses;

(B) any recommended means to increase the number of Federal contracts awarded to women-owned small businesses that the Comptroller General considers to be appropriate, after taking into consideration any suggestions received pursuant to a solicitation described in paragraph (2), including any such means that incorporate the concepts of teaming or partnering; and

(C) a discussion of any barriers to the receipt of Federal contracts by women-owned small businesses and other small businesses that are created by legal or regulatory procurement requirements or practices.

**SEC. 6. EFFECTIVE DATE.**

This Act and the amendments made by this Act shall take effect on October 1, 1999.

AMENDMENT NO. 2543

(Purpose: To make an amendment with respect to the funding formulas and the selection process)

Mr. DOMENICI. Mr. President, Senator KERRY and Senator BOND have an amendment at the desk and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. KERRY and Mr. BOND, proposes an amendment numbered 2543.

Strike section 4 and insert the following:

**SEC. 4. WOMEN'S BUSINESS CENTERS SUSTAINABILITY PILOT PROGRAM.**

(a) IN GENERAL.—Section 29 of the Small Business Act (15 U.S.C. 656) is amended by adding at the end the following:

''(l) SUSTAINABILITY PILOT PROGRAM.—

''(1) IN GENERAL.—There is established a 4-year pilot program under which the Administration is authorized to award grants (referred to in this section as 'sustainability grants') on a competitive basis for an additional 5-year project under this section to any private nonprofit organization (or a division thereof)—

''(A) that has received financial assistance under this section pursuant to a grant, contract, or cooperative agreement; and

''(B) that—

''(i) is in the final year of a 5-year project; or

''(ii) has completed a project financed under this section (or any predecessor to this section) and continues to provide assistance to women entrepreneurs.

''(2) CONDITIONS FOR PARTICIPATION.—In order to receive a sustainability grant, an organization described in paragraph (1) shall submit to the Administration an application, which shall include—

''(A) a certification that the applicant—

''(i) is a private nonprofit organization;

''(ii) employs a full-time executive director or program manager to manage the center; and

''(iii) as a condition of receiving a sustainability grant, agrees—

''(I) to a site visit as part of the final selection process and to an annual programmatic and financial examination; and

''(II) to the maximum extent practicable, to remedy any problems identified pursuant to that site visit or examination;

''(B) information demonstrating that the applicant has the ability and resources to meet the needs of the market to be served by the women's business center site for which a sustainability grant is sought, including the ability to fundraise;

''(C) information relating to assistance provided by the women's business center site for which a sustainability grant is sought in the area in which the site is located, including—

''(i) the number of individuals assisted;

''(ii) the number of hours of counseling, training, and workshops provided; and

''(iii) the number of startup business concerns formed;

''(D) information demonstrating the effective experience of the applicant in—

''(i) conducting financial, management, and marketing assistance programs, as described in paragraphs (1), (2), and (3) of subsection (b), designed to impart or upgrade the business skills of women business owners or potential owners;

''(ii) providing training and services to a representative number of women who are both socially and economically disadvantaged;

''(iii) using resource partners of the Administration and other entities, such as universities;

''(iv) complying with the cooperative agreement of the applicant; and

''(v) the prudent management of finances and staffing, including the manner in which the performance of the applicant compared to the business plan of the applicant and the manner in which grant funds awarded under subsection (b) were used by the applicant; and

''(E) a 5-year plan that projects the ability of the women's business center site for which a sustainability grant is sought—

''(i) to serve women business owners or potential owners in the future by improving fundraising and training activities; and

''(ii) to provide training and services to a representative number of women who are both socially and economically disadvantaged.

''(3) REVIEW OF APPLICATIONS.—

''(A) IN GENERAL.—The Administration shall—

''(i) review each application submitted under paragraph (2) based on the information provided under in subparagraphs (D) and (E) of that paragraph, and the criteria set forth in subsection (f);

''(ii) as part of the final selection process, conduct a site visit at each women's business center for which a sustainability grant is sought; and

''(iii) approve or disapprove applications for sustainability grants simultaneously with applications for grants under subsection (b).

''(B) DATA COLLECTION.—Consistent with the annual report to Congress under subsection (j), each women's business center site that is awarded a sustainability grant shall, to the maximum extent practicable, collect information relating to—

''(i) the number of individuals assisted;

''(ii) the number of hours of counseling and training provided and workshops conducted;

''(iii) the number of startup business concerns formed;

''(iv) any available gross receipts of assisted concerns; and

''(v) the number of jobs created, maintained, or lost at assisted concerns.

''(C) RECORD RETENTION.—The Administration shall maintain a copy of each application submitted under this subsection for not less than 10 years.

''(4) NON-FEDERAL CONTRIBUTION.—

''(A) IN GENERAL.—Notwithstanding any other provision of this section, as a condition of receiving a sustainability grant, an organization described in paragraph (1) shall agree to obtain, after its application has been approved under paragraph (3) and notice of award has been issued, cash and in-kind contributions from non-Federal sources for each year of additional program participation in an amount equal to 1 non-Federal dollar for each Federal dollar.

''(B) FORM OF NON-FEDERAL CONTRIBUTIONS.—Not more than 50 percent of the non-Federal assistance obtained for purposes of subparagraph (A) may be in the form of in-kind contributions that are budget line items only, including office equipment and office space.

''(5) TIMING OF REQUESTS FOR PROPOSALS.—In carrying out this subsection, the Administration shall issue requests for proposals for women's business centers applying for the pilot program under this subsection simultaneously with requests for proposals for grants under subsection (b).''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 29(k) of the Small Business Act (15 U.S.C. 656(k)) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—There is authorized to be appropriated, to remain available until the expiration of the pilot program under subsection (*l*)—

''(A) $12,000,000 for fiscal year 2000;

''(B) $12,800,000 for fiscal year 2001;

''(C) $13,700,000 for fiscal year 2002; and

''(D) $14,500,000 for fiscal year 2003.'';

(2) in paragraph (2)—

(A) by striking ''Amounts made'' and inserting the following:

''(A) IN GENERAL.—Except as provided in subparagraph (B), amounts made''; and

(B) by adding at the end the following:

''(B) EXCEPTIONS.—Of the amount made available under this subsection for a fiscal year, the following amounts shall be available for selection panel costs, post-award conference costs, and costs related to monitoring and oversight:

''(i) For fiscal year 2000, 2 percent.

''(ii) For fiscal year 2001, 1.9 percent.

''(iii) For fiscal year 2002, 1.9 percent.

''(iv) For fiscal year 2003, 1.6 percent.''; and

(3) by adding at the end the following:

''(4) RESERVATION OF FUNDS FOR SUSTAINABILITY PILOT PROGRAM.—

''(A) IN GENERAL.—Subject to subparagraph (B), of the total amount made available under this subsection for a fiscal year, the following amounts shall be reserved for sustainability grants under subsection (*l*):

''(i) For fiscal year 2000, 17 percent.

''(ii) For fiscal year 2001, 18.8 percent.

''(iii) For fiscal year 2002, 30.2 percent.

''(iv) For fiscal year 2003, 30.2 percent.

''(B) USE OF UNAWARDED FUNDS FOR SUSTAINABILITY PILOT PROGRAM GRANTS.—If the amount reserved under subparagraph (A) for any fiscal year is not fully awarded to private nonprofit organizations described in subsection (*l*)(1)(B), the Administration is authorized to use the unawarded amount to fund additional women's business center sites or to increase funding of existing women's business center sites under subsection (b).''.

(c) GUIDELINES.—Not later than 30 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall issue guidelines to implement the amendments made by this section.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the amendment be agreed to and the motion to reconsider be laid on the table.

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

Mr. BOND. Mr. President, I rise today in support of the Women's Business Centers Sustainability Act of 1999 (S. 791). This bill is the latest step by the Committee on Small Business to strengthen the Women's Business Center program at the Small Business Administration (SBA). Since this program first opened its doors in 1989, it has grown from an initial 12 centers to 81 centers operating in 47 states, the District of Columbia, Puerto Rico, and the Virgin Islands. The bill I am bringing before the Senate today will increase the authorization level for the Women's business Centers program. Further, this bill establishes a four year pilot program that will, for the first time, allow centers that have completed a grant or that are in their last year of a grant under this program to apply for a second, five year grant.

S. 791 was approved by the Committee on Small Business by a 17–1 vote, and I am urging my colleagues to support this bill with an amendment that Senator KERRY and I are offering on the floor today. The amendment includes changes to the bill that have been agreed to by the House Committee on Small business. Once Senate action on this bill is complete, it is our hope the House of Representatives will be able to pass the bill before Congress adjourns, clearing the measure for the President's approval. The amendment adopts the authorization levels included in the House-passed version of this bill, and it places all centers on an equal footing when competing for sustainability grants.

During the past decade, the number of women-owned small businesses has exploded. Women-owned small businesses are the fastest growing segment of our nation's business community. Years ago, there was an advertising campaign slogan proclaiming that women ''had come a long way.'' I find that slogan very applicable to the plateau now reached by women entrepreneurs. Women business owners have established themselves as a key component of our small business community,

which has been the engine driving our economy during the 1990's.

The research foundation arm of the National Association of Women business Owners (NAWBR) has conducted studies which show that women no longer are having more trouble than men obtaining bank loans. However, obtaining a loan does not guarantee a business' success. In fact, many small businesses that start out well capitalized end up failing. Success of a small business is usually dependent on the owners' management capabilities. Women's Business Centers offer help to women entrepreneurs who are looking to start a business or who already have a business by providing them with business and education training, including marketing, finance, and management assistance.

For the past three years, I have worked with Senator DOMENICI, Senator KERRY, and Members of the Committee on Small Business first to save and later to expand the Women's Business Center Program. In 1996, when the Administration sought to zero-out the budget of the program, I helped lead the effort to earmark funds for the program within SBA's Fiscal Year 1997 budget. In 1997, Senator DOMENICI, Senator KERRY and I sponsored the ''Women's Business Centers Act of 1997,'' which expanded the program from $4 million to $8 million per year. This bill was incorporated into the ''Small Business Reauthorization Act of 1997'' (Public Law 105–135).

Earlier this year, the Congress passed the ''Women's Business Center Amendments Act of 1999'' (Public Law 106–17), which helped bring us closer to achieving our goal of having at least one Women's Business Center up and running in each of the 50 states. This law authorized $11 million for Fiscal Year 2000 for the Women's Business Center Program, which allows SBA to continue to fund the existing 35 eligible Centers and provide seed funding to new eligible applicant Centers in states not yet served by the program.

Under this latest step to strengthen the SBA's program for women-owned businesses, the ''Women's Business Centers Sustainability Act of 1999'' addresses the ongoing funding constraints that are making it increasingly difficult for Women's Business Centers to sustain the level of services they provide after they graduate from the Women's Business Centers program.

To help these centers, S. 791 would establish a four-year competitive grant pilot program that allows graduating and graduated centers that offer ongoing programs and services to women entrepreneurs to compete for another five years of matching grants known as a ''sustainability grant.'' ''Graduating centers'' are centers that are in the final year of their initial five-year funding cycle. A ''graduated center'' is a center that participated in the Women's Business Center program and no longer receives program funds but is still actively providing business programs and services to its local market.

The ''Women's Business Center Sustainability Act of 1999'' also increases oversight and review of the Women's Business Centers. Earlier this year, the General Accounting Office (GAO) undertook an examination of the Women's Business Center Program at the request of the Senate and House Committees on Small Business. The GAO found that more than two-thirds of the centers that currently receive grant funds or that received funds in the past continue to operate as Women's Business Centers. Most that are continuing to operate after Federal support ceased have continued to offer similar services to women business owners.

While conducting its examination, GAO investigators experienced difficulty obtaining complete data about the program from the SBA because of limitations of SBA's records and databases for program years 1989 through 1998. I am concerned about the report from the GAO highlighting the failure of SBA to keep complete program and financial records on Centers that are receiving SBA grants funds; therefore, the bill includes a provision requiring the SBA to send the Senate and House Committees on Small Business a yearly Management Report on the status of the program. This report will include an annual programmatic and financial examination of each Women's Business Center. Further, SBA is directed to make a determination annually of the programmatic and financial viability of each Women's Business Center. It is my belief that this new statutory requirement will lead to better SBA oversight and a stronger Women's Business Center Program.

During the Committee's consideration of S. 791, it approved unanimously an amendment sponsored by Senator ABRAHAM addressing Federal procurement opportunities for women-owned small businesses. The amendment directs the GAO to conduct an audit on the federal procurement system for the preceding three years and report on all identifiable trends in Federal contracting that are related to women-owned small businesses.

It is difficult to understand how the women-owned small businesses segment of our economy can make up 38 percent of all small businesses and receive only 2.2 percent of the $181 billion in Federal prime contracts. In 1994, Congress passed into law a goal for women-owned small businesses to receive at least 5 percent of the total amount of Federal prime contract dollars. I am distributed by the failure of the Federal agencies to meet this goal, and it is our intention for the GAO study to shed some light on this problem.

Mr. President, passage of the ''Women's Business Centers Sustainability Act of 1999'' will build on the progress and successes we have accomplished to assist women entrepreneurs succeed as small business owners. I urge each of my colleagues to vote in favor of this important legislation.

Mr. KERRY. Mr. President, seven months ago I introduced the Women's Business Centers Sustainability Act of 1999, a bill to help our Women's Business Centers weather the increasingly harsh climate of fundraising. These centers play an important role in our economy and in promoting economic independence for women. They help women take an honest look at their strengths and interests to find out whether they should strike out on their own. They teach women how to turn their talents into a business. And they train women in the fundamentals of starting and running a successful business. The centers are located in rural, urban and suburban areas, and direct much of their training and counseling assistance toward socially and economically disadvantaged women.

Through the Women's Business Centers Program, business development resources and assistance available to women have steadily improved. The program opened its first 12 centers in 1989. Ten years later, women receive assistance at 81 centers in 47 states, the District of Columbia, Puerto Rico, and the Virgin Islands. In addition to increasing self-sufficiency among women, Women's Business Centers strengthen women's business ownership overall and encourage local job creation. Over the past decade, the number of women-owned businesses operating in this country has grown by 103 percent to an estimated 9.1 million firms, generating $3.6 trillion in sales annually, while employing more than 27.5 million workers. In 1998, women-owned businesses made up more than one-third of the 23 million small businesses in the United States.

In spite of the important contributions the Women's Business Centers make to the national economy, we are in danger of losing many effective centers if we don't change the funding structure before their five-year funding runs out. Currently, the Small Business Administration's Women's Business Centers program provides five-year grants of up to $150,000, matched by non-Federal dollars, to private-sector organizations so that they can establish business-training centers for women. From Senate and House hearings at the beginning of the year, we know that without the Federal matching grant, most centers cannot afford to continue providing the same quality of services or to keep their doors open. That money is their bread and butter, as well as indispensable for leveraging fundraising dollars. I believe the Women's Business Centers Sustainability Act of 1999 is a fair way to let WBCs recompete for the base funding.

The Women's Business Centers Act creates a four-year pilot that allows graduating and graduated centers to recompete for five-year matching grants of up to $125,000. It requires the SBA to do site visits as part of the final selection process so that we can

better judge which centers merit a sustainability grant after five years in the program. It includes a provision from Senator BOND to increase management oversight and review of Centers to better evaluate the viability of centers and improve SBA's management of the program. And it incrementally raises over four years the annual authorization levels from $12 million in fiscal year 2000 to $14.5 million in fiscal year 2003. The increased authorization levels ensure that there are adequate monies to fund 45 existing centers, an average of eight recompeting centers annually, and an average of 10 new centers per year.

The Women's Business Centers Sustainability Act of 1999 has tremendous support. It is also the product of old-fashioned cooperation between Democrats and Republicans, and the House and Senate. I want to thank not only the 30 Senators—20 Democrats and 10 Republicans—who are cosponsors of this bill, but also the staff members on the House Small Business Committee who work for Chairman TALENT, Ranking Member NYDIA VELÁZQUEZ, and Congresswoman KELLY.

For the record, I would like to recognize the 30 cosponsors of my bill—BOND, HARKIN, BINGAMAN, DOMENICI, LEVIN, ENZI, KENNEDY, ABRAHAM, SARBANES, AKAKA, EDWARDS, FEINSTEIN, LANDRIEU, BOXER, CLELAND, KOHL, WELLSTONE, BURNS, LEAHY, SNOWE, HUTCHISON, DURBIN, SANTORUM, MURRAY, MIKULSKI, INOUYE, JEFFORDS, LIEBERMAN, BENNETT and ROBB.

Mr. President, I know how important this bill is to members on both sides of the aisle. I thank my colleagues for their support.

Mr. LEVIN. Mr. President, I am pleased the Senate is prepared to pass the Women's Business Centers Sustainability Act of 1999. I am an original cosponsor of this legislation to strengthen SBA's Women's Business Centers in Michigan and across the nation which help entrepreneurs start and maintain successful businesses by providing such things as start-up help and financial expertise to women-owned businesses. This legislation will allow those Women's Business Centers that are already successfully participating in the program to recompete for Federal funding after their initial funding term expires. These Centers would have previously been ineligible for renewed funding.

Women-owned businesses are the fastest growing sector of small businesses in America and provide innumerable jobs and resources to the state of Michigan and around the country. Last year, women-owned businesses made up more than one-third of the 23 million small businesses in the United States. The Women's Business Center program offers important tools to women who want to start or expand small businesses. However, the program is in danger of losing many effective Centers because the Centers are finding it increasingly difficult to raise the required non-Federal matching funds necessary to keep the programs running.

This legislation allows existing Centers to recompete for Federal funds, but sets the recompetition standards higher than those used for centers applying for their initial five-year funding term. This is to take into account established Centers' higher levels of experience and ensures that Centers meeting the highest standards can continue to get funded. The ability of established and successful Women's Business Development Centers to continue to compete for Federal funding means that critical resources will continue to be made available for women-owned businesses for such purposes as training and obtaining business financing.

Michigan has three Women's Business Centers, the Center for Empowerment and Economic Development, CEED, which houses the Women's Initiative for Self-Employment, WISE, in Ann Arbor, the Grand Rapids Opportunities for Women, GROW, in Grand Rapids, and The Detroit Entrepreneurship Institute, Inc, DEI.

These Michigan programs offer women who want to open a small business a comprehensive package of business education and training, start-up financing, technical assistance, peer group support and access to community and government supportive resources such as child care. Michigan's Women's Business Centers strongly support this legislation and believe they need to be able to recompete for Federal resources in order to continue to be able to offer the current levels of services and support to Michigan's women-owned businesses. This bill would allow them to do that.

I am pleased that Congress has continued to recognize the importance of funding the Women's Business Center program. In 1997, Congress enacted legislation to make a 1989–1991 pilot project a permanent part of the Small Business Administration programs available to help entrepreneurs start and maintain successful business. It also doubled the annual funding of the Women's Business Centers and extend the funding period from 3 to 5 years. And just this year, Congress enacted legislation to change the non-Federal and Federal funding ratio requirements and it again increased the annual authorization level from $8 million to $11 million.

The legislation that will be passed by the Senate today under a unanimous consent agreement will allow existing Women's Business Centers to compete for additional Federal funding. It also authorizes increased appropriations for the program for 4 years. It increases the FY 2000 and FY 2001 authorization from $11 million to $12 million. It also authorizes appropriations of $12.8 million in FY 2001; $13.7 million in FY 2002; and $14.5 million in FY 2003 for this program.

This is an important piece of legislation and I am pleased my Senate colleagues are supporting it.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the substitute amendment, as amended, be agreed to, the bill, as amended, be read three times, passed, and the motion to reconsider be laid upon the table, and that any statements be printed in the RECORD.

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

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 791), as amended, was read the third time and passed, as follows:

S. 791

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Women's Business Centers Sustainability Act of 1999''.

**SEC. 2. PRIVATE NONPROFIT ORGANIZATIONS.**

Section 29 of the Small Business Act (15 U.S.C. 656) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

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

''(2) the term 'private nonprofit organization' means an entity that is described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code;''; and

(2) in subsection (b), by inserting ''nonprofit'' after ''private''.

**SEC. 3. INCREASED MANAGEMENT OVERSIGHT AND REVIEW OF WOMEN'S BUSINESS CENTERS.**

Section 29 of the Small Business Act (15 U.S.C. 656) is amended—

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

''(h) PROGRAM EXAMINATION.—

''(1) IN GENERAL.—The Administration shall—

''(A) develop and implement an annual programmatic and financial examination of each women's business center established pursuant to this section, pursuant to which each such center shall provide to the Administration—

''(i) an itemized cost breakdown of actual expenditures for costs incurred during the preceding year; and

''(ii) documentation regarding the amount of matching assistance from non-Federal sources obtained and expended by the center during the preceding year in order to meet the requirements of subsection (c) and, with respect to any in-kind contributions described in subsection (c)(2) that were used to satisfy the requirements of subsection (c), verification of the existence and valuation of those contributions; and

''(B) analyze the results of each such examination and, based on that analysis, make a determination regarding the programmatic and financial viability of each women's business center.

''(2) CONDITIONS FOR CONTINUED FUNDING.—In determining whether to award a contract (as a sustainability grant) under subsection (*l*) or to renew a contract (either as a grant or cooperative agreement) under this section with a women's business center, the Administration—

''(A) shall consider the results of the most recent examination of the center under paragraph (1); and

''(B) may withhold such award or renewal, if the Administration determines that—

''(i) the center has failed to provide any information required to be provided under

clause (i) or (ii) of paragraph (1)(A), or the information provided by the center is inadequate; or

''(ii) the center has failed to provide any information required to be provided by the center for purposes of the report of the Administration under subsection (j), or the information provided by the center is inadequate.''; and

(2) by striking subsection (j) and inserting the following:

''(j) MANAGEMENT REPORT.—

''(1) IN GENERAL.—The Administration shall prepare and submit to the Committees on Small Business of the House of Representatives and the Senate a report on the effectiveness of all projects conducted under this section.

''(2) CONTENTS.—Each report submitted under paragraph (1) shall include information concerning, with respect to each women's business center established pursuant to this section—

''(A) the number of individuals receiving assistance;

''(B) the number of startup business concerns formed;

''(C) the gross receipts of assisted concerns;

''(D) the employment increases or decreases of assisted concerns;

''(E) to the maximum extent practicable, increases or decreases in profits of assisted concerns; and

''(F) the most recent analysis, as required under subsection (h)(1)(B), and the subsequent determination made by the Administration under that subsection.''.

**SEC. 4. WOMEN'S BUSINESS CENTERS SUSTAINABILITY PILOT PROGRAM.**

(a) IN GENERAL.—Section 29 of the Small Business Act (15 U.S.C. 656) is amended by adding at the end the following:

''(l) SUSTAINABILITY PILOT PROGRAM.—

''(1) IN GENERAL.—There is established a 4-year pilot program under which the Administration is authorized to award grants (referred to in this section as 'sustainability grants') on a competitive basis for an additional 5-year project under this section to any private nonprofit organization (or a division thereof)—

''(A) that has received financial assistance under this section pursuant to a grant, contract, or cooperative agreement; and

''(B) that—

''(i) is in the final year of a 5-year project; or

''(ii) has completed a project financed under this section (or any predecessor to this section) and continues to provide assistance to women entrepreneurs.

''(2) CONDITIONS FOR PARTICIPATION.—In order to receive a sustainability grant, an organization described in paragraph (1) shall submit to the Administration an application, which shall include—

''(A) a certification that the applicant—

''(i) is a private nonprofit organization;

''(ii) employs a full-time executive director or program manager to manage the center; and

''(iii) as a condition of receiving a sustainability grant, agrees—

''(I) to a site visit as part of the final selection process and to an annual programmatic and financial examination; and

''(II) to the maximum extent practicable, to remedy any problems identified pursuant to that site visit or examination;

''(B) information demonstrating that the applicant has the ability and resources to meet the needs of the market to be served by the women's business center site for which a sustainability grant is sought, including the ability to fundraise;

''(C) information relating to assistance provided by the women's business center site for which a sustainability grant is sought in the area in which the site is located, including—

''(i) the number of individuals assisted;

''(ii) the number of hours of counseling, training, and workshops provided; and

''(iii) the number of startup business concerns formed;

''(D) information demonstrating the effective experience of the applicant in—

''(i) conducting financial, management, and marketing assistance programs, as described in paragraphs (1), (2), and (3) of subsection (b), designed to impart or upgrade the business skills of women business owners or potential owners;

''(ii) providing training and services to a representative number of women who are both socially and economically disadvantaged;

''(iii) using resource partners of the Administration and other entities, such as universities;

''(iv) complying with the cooperative agreement of the applicant; and

''(v) the prudent management of finances and staffing, including the manner in which the performance of the applicant compared to the business plan of the applicant and the manner in which grant funds awarded under subsection (b) were used by the applicant; and

''(E) a 5-year plan that projects the ability of the women's business center site for which a sustainability grant is sought—

''(i) to serve women business owners or potential owners in the future by improving fundraising and training activities; and

''(ii) to provide training and services to a representative number of women who are both socially and economically disadvantaged.

''(3) REVIEW OF APPLICATIONS.—

''(A) IN GENERAL.—The Administration shall—

''(i) review each application submitted under paragraph (2) based on the information provided under in subparagraphs (D) and (E) of that paragraph, and the criteria set forth in subsection (f);

''(ii) as part of the final selection process, conduct a site visit at each women's business center for which a sustainability grant is sought; and

''(iii) approve or disapprove applications for sustainability grants simultaneously with applications for grants under subsection (b).

''(B) DATA COLLECTION.—Consistent with the annual report to Congress under subsection (j), each women's business center site that is awarded a sustainability grant shall, to the maximum extent practicable, collect information relating to—

''(i) the number of individuals assisted;

''(ii) the number of hours of counseling and training provided and workshops conducted;

''(iii) the number of startup business concerns formed;

''(iv) any available gross receipts of assisted concerns; and

''(v) the number of jobs created, maintained, or lost at assisted concerns.

''(C) RECORD RETENTION.—The Administration shall maintain a copy of each application submitted under this subsection for not less than 10 years.

''(4) NON-FEDERAL CONTRIBUTION.—

''(A) IN GENERAL.—Notwithstanding any other provision of this section, as a condition of receiving a sustainability grant, an organization described in paragraph (1) shall agree to obtain, after its application has been approved under paragraph (3) and notice of award has been issued, cash and in-kind contributions from non-Federal sources for each year of additional program participation in an amount equal to 1 non-Federal dollar for each Federal dollar.

''(B) FORM OF NON-FEDERAL CONTRIBUTIONS.—Not more than 50 percent of the non-Federal assistance obtained for purposes of subparagraph (A) may be in the form of in-kind contributions that are budget line items only, including office equipment and office space.

''(5) TIMING OF REQUESTS FOR PROPOSALS.—In carrying out this subsection, the Administration shall issue requests for proposals for women's business centers applying for the pilot program under this subsection simultaneously with requests for proposals for grants under subsection (b).''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 29(k) of the Small Business Act (15 U.S.C. 656(k)) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—There is authorized to be appropriated, to remain available until the expiration of the pilot program under subsection (l)—

''(A) $12,000,000 for fiscal year 2000;

''(B) $12,800,000 for fiscal year 2001;

''(C) $13,700,000 for fiscal year 2002; and

''(D) $14,500,000 for fiscal year 2003.'';

(2) in paragraph (2)—

(A) by striking ''Amounts made'' and inserting the following:

''(A) IN GENERAL.—Except as provided in subparagraph (B), amounts made''; and

(B) by adding at the end the following:

''(B) EXCEPTIONS.—Of the amount made available under this subsection for a fiscal year, the following amounts shall be available for selection panel costs, post-award conference costs, and costs related to monitoring and oversight:

''(i) For fiscal year 2000, 2 percent.

''(ii) For fiscal year 2001, 1.9 percent.

''(iii) For fiscal year 2002, 1.9 percent.

''(iv) For fiscal year 2003, 1.6 percent.''; and

(3) by adding at the end the following:

''(4) RESERVATION OF FUNDS FOR SUSTAINABILITY PILOT PROGRAM.—

''(A) IN GENERAL.—Subject to subparagraph (B), of the total amount made available under this subsection for a fiscal year, the following amounts shall be reserved for sustainability grants under subsection (l):

''(i) For fiscal year 2000, 17 percent.

''(ii) For fiscal year 2001, 18.8 percent.

''(iii) For fiscal year 2002, 30.2 percent.

''(iv) For fiscal year 2003, 30.2 percent.

''(B) USE OF UNAWARDED FUNDS FOR SUSTAINABILITY PILOT PROGRAM GRANTS.—If the amount reserved under subparagraph (A) for any fiscal year is not fully awarded to private nonprofit organizations described in subsection (l)(1)(B), the Administration is authorized to use the unawarded amount to fund additional women's business center sites or to increase funding of existing women's business center sites under subsection (b).''.

(c) GUIDELINES.—Not later than 30 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall issue guidelines to implement the amendments made by this section.

**SEC. 5. SENSE OF THE SENATE REGARDING GOVERNMENT PROCUREMENT ACCESS FOR WOMEN-OWNED SMALL BUSINESSES.**

(a) FINDINGS.—The Senate finds that—

(1) women-owned small businesses are a powerful force in the economy;

(2) between 1987 and 1996—

(A) the number of women-owned small businesses in the United States increased by 78 percent, almost twice the rate of increase of all businesses in the United States;

(B) the number of women-owned small businesses increased in every State;

(C) total sales by women-owned small businesses in the United States increased by 236 percent;

(D) employment provided by women-owned small businesses in the United States increased by 183 percent; and

(E) the rates of growth for women-owned small businesses in the United States for the fastest growing industries were—

(i) 171 percent in construction;

(ii) 157 percent in wholesale trade;

(iii) 140 percent in transportation and communications;

(iv) 130 percent in agriculture; and

(v) 112 percent in manufacturing;

(3) approximately 8,000,000 women-owned small businesses in the United States provide jobs for 15,500,000 individuals and generate almost $1,400,000,000,000 in sales each year;

(4) the participation of women-owned small businesses in the United States in the procurement market of the Federal Government is limited;

(5) the Federal Government is the largest purchaser of goods and services in the United States, spending more than $200,000,000,000 each year;

(6) the majority of Federal Government purchases are for items that cost $25,000 or less; and

(7) the rate of Federal procurement for women-owned small businesses is 2.2 percent.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that, not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States should—

(1) conduct an audit of the Federal procurement system regarding Federal contracting involving women-owned small businesses for the 3 preceding fiscal years;

(2) solicit from Federal employees involved in the Federal procurement system any suggestions regarding how to increase the number of Federal contracts awarded to women-owned small businesses; and

(3) submit to Congress a report on the results of that audit, which report shall include—

(A) an analysis of any identified trends in Federal contracting with respect to women-owned small businesses;

(B) any recommended means to increase the number of Federal contracts awarded to women-owned small businesses that the Comptroller General considers to be appropriate, after taking into consideration any suggestions received pursuant to a solicitation described in paragraph (2), including any such means that incorporate the concepts of teaming or partnering; and

(C) a discussion of any barriers to the receipt of Federal contracts by women-owned small businesses and other small businesses that are created by legal or regulatory procurement requirements or practices.

**SEC. 6. EFFECTIVE DATE.**

This Act and the amendments made by this Act shall take effect on October 1, 1999.

## INDEPENDENT OFFICE OF ADVOCACY ACT

Mr. DOMENICI. Mr. President, I ask unanimous consent the Senate now proceed to consideration of Calendar No. 267, S. 1346.

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

The assistant legislative clerk read as follows:

A bill (S. 1346) to ensure the independence and nonpartisan operation of the Office of Advocacy of the Small Business Administration.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Small Business, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 1346

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Independent Office of Advocacy Act''.

**SEC. 2. FINDINGS.**

Congress finds that—

(1) excessive regulations continue to burden our Nation's small businesses;

(2) Federal agencies are reluctant to comply with the requirements of chapter 6 of title 5, United States Code, and continue to propose regulations that impose disproportionate burdens on small businesses;

(3) the Office of Advocacy of the Small Business Administration (referred to in this Act as the ''Office'') is an effective advocate for small businesses that can help ensure that agencies are responsive to small businesses and that agencies comply with their statutory obligations under chapter 6 of title 5, United States Code and under the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121; 106 Stat. 4249 et seq.);

(4) the independence of the Office is essential to ensure that it can serve as an effective advocate for small businesses without being restricted by the views or policies of the Small Business Administration or any other executive branch agency;

(5) the Office needs sufficient resources to conduct the research required to assess effectively the impact of regulations on small businesses; and

(6) the research, information, and expertise of the Office make it a valuable adviser to Congress as well as the executive branch agencies with which the Office works on behalf of small businesses.

**SEC. 3. PURPOSES.**

The purposes of this Act are—

(1) to ensure that the Office has the statutory independence and adequate financial resources to advocate for and on behalf of small business;

(2) to require that the Office report to the Chairmen and Ranking Members of the Committees on Small Business of the Senate and the House of Representatives and the Administrator of the Small Business Administration in order to keep them fully and currently informed about issues and regulations affecting small businesses and the necessity for corrective action by the regulatory agency or Congress;

(3) to provide a separate authorization for appropriations for the Office;

(4) to authorize the Office to report to the President and to Congress regarding agency compliance with chapter 6 of title 5, United States Code; and

(5) to enhance the role of the Office pursuant to chapter 6 of title 5, United States Code.

**SEC. 4. OFFICE OF ADVOCACY.**

(a) IN GENERAL.—The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 32 as section 33; and

(2) by inserting after section 31 the following:

**''SEC. 32. OFFICE OF ADVOCACY.**

''(a) DEFINITIONS.—In this section—

''(1) the term 'Chief Counsel' means the Chief Counsel for Advocacy appointed under subsection (b); and

''(2) the term 'Office' means the Office of Advocacy established under subsection (b).

''(b) ESTABLISHMENT.—

''(1) IN GENERAL.—There is established in the Administration an Office of Advocacy (referred to in this section as the 'Office').

''(2) CHIEF COUNSEL FOR ADVOCACY.—

''(A) IN GENERAL.—The management of the Office shall be vested in a Chief Counsel for Advocacy who shall be appointed *from civilian life* by the President, by and with the advice and consent of the Senate, without regard to political affiliation and solely on the ground of fitness to perform the duties of the office.

''(B) EMPLOYMENT RESTRICTION.—The individual appointed to the office of Chief Counsel for Advocacy may not serve as an officer or employee of the Small Business Administration during the 5-year period preceding the appointment.

''(C) REMOVAL.—The Chief Counsel for Advocacy may be removed from office by the President and the President shall notify Congress of any such removal [within 30 days after] *not later than 30 days before* the removal.

''(3) APPROPRIATION REQUEST.—Each appropriation request prepared and submitted by the Administration under section 1108 of title 31, United States Code, shall include a separate request relating to the Office.

''(c) PRIMARY FUNCTIONS.—The Office shall—

''(1) examine the role of small businesses in the economy of the United States and the contribution that small businesses can make in improving competition, encouraging economic and social mobility for all citizens, restraining inflation, spurring production, expanding employment opportunities, increasing productivity, promoting exports, stimulating innovation and entrepreneurship, and providing the means by which new and untested products and services can be brought to the marketplace;

''(2) assess the effectiveness of Federal subsidy and assistance programs for small businesses and the desirability of reducing the emphasis on those programs and increasing the emphasis on general assistance programs designed to benefit all small businesses;

''(3) measure the direct costs and other effects of government regulation of small businesses, and make legislative, regulatory, and nonlegislative proposals for eliminating the excessive or unnecessary regulation of small businesses;

''(4) determine the impact of the tax structure on small businesses and make legislative, regulatory, and other proposals for altering the tax structure to enable all small businesses to realize their potential for contributing to the improvement of the Nation's economic well-being;

''(5) study the ability of financial markets and institutions to meet small business credit needs and determine the impact of government demands on credit for small businesses;

''(6) determine financial resource availability and recommend methods for—

''(A) delivery of financial assistance to minority and women-owned enterprises, including methods for securing equity capital;

''(B) generating markets for goods and services;

''(C) providing effective business education, more effective management and technical assistance, and training; and

''(D) assistance in complying with Federal, State, and local laws;

''(7) evaluate the efforts of Federal agencies and the private sector to assist minority and women-owned enterprises;

''(8) make such recommendations as may be appropriate to assist the development and strengthening of minority, women-owned, and other small businesses;

''(9) recommend specific measures for creating an environment in which all businesses will have the opportunity to—

''(A) compete effectively and expand to their full potential; and

''(B) ascertain any common reasons for small business successes and failures;

''(10) determine the desirability of developing a set of rational, objective criteria to be used to define small business, and to develop such criteria, if appropriate; and

''(11) make recommendations and submit reports to the Chairmen and Ranking Members of the Committees on Small Business of the Senate and the House of Representatives and the Administrator with respect to issues and regulations affecting small businesses and the necessity for corrective action by the Administrator, any Federal department or agency, or Congress.

''(d) ADDITIONAL FUNCTIONS.—The Office shall, on a continuing basis—

''(1) serve as a focal point for the receipt of complaints, criticisms, and suggestions concerning the policies and activities of the Administration and any other department or agency of the Federal Government that affects small businesses;

''(2) counsel small businesses on the means by which to resolve questions and problems concerning the relationship between small businesses and the Federal Government;

''(3) develop proposals for changes in the policies and activities of any agency of the Federal Government that will better fulfill the purposes of this section and communicate such proposals to the appropriate Federal agencies;

''(4) represent the views and interests of small businesses before other Federal agencies whose policies and activities may affect small business;

''(5) enlist the cooperation and assistance of public and private agencies, businesses, and other organizations in disseminating information about the programs and services provided by the Federal Government that are of benefit to small businesses, and information on the means by which small businesses can participate in or make use of such programs and services; and

''(6) carry out the responsibilities of the Office under chapter 6 of title 5, United States Code.

''(e) STAFF AND POWERS.—

''(1) STAFF.—

''(A) IN GENERAL.—The Chief Counsel may, without regard to the civil service laws and regulations, appoint and terminate such additional personnel as may be necessary to enable the Office to perform its duties under this section.

''(B) COMPENSATION.—The Chief Counsel may fix the compensation of personnel appointed under this paragraph without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, but at rates not to exceed the minimum rate payable for a position at GS–15 of the General Schedule, except that not more than 14 employees of the Office at any one time may be compensated at a rate not to exceed the maximum rate payable for a position at GS–15 of the General Schedule.

''(2) POWERS.—In carrying out this section, the Chief Counsel may—

''(A) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code;

''(B) consult with—

''(i) experts and authorities in the fields of small business investment, venture capital, investment and commercial banking, and other comparable financial institutions involved in the financing of business; and

''(ii) individuals with regulatory, legal, economic, or financial expertise, including members of the academic community, and individuals who generally represent the public interest;

''(C) use the services of the National Advisory Council established under section 8(b) and, in accordance with that section, appoint such other advisory boards or committees as the Chief Counsel determines to be reasonably necessary and appropriate to carry out this section; and

''(D) hold hearings and sit and act at such times and places as the Chief Counsel determines to be appropriate.

''(f) OVERHEAD AND ADMINISTRATIVE SUPPORT.—The Administrator shall provide the Office with appropriate and adequate office space at central and field office locations of the Administration, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.

''(g) INFORMATION FROM FEDERAL AGENCIES.—The Chief Counsel may secure directly from any Federal department or agency such information as the Chief Counsel considers to be necessary to carry out this section. Upon request of the Chief Counsel, the head of such department or agency shall furnish such information to the Office.

''(h) REPORTS.—

''(1) ANNUAL REPORTS.—Not less than annually, the Chief Counsel shall submit to the President and to the Committees on Small Business of the Senate and the House of Representatives a report on agency compliance with chapter 6 of title 5, United States Code.

''(2) ADDITIONAL REPORTS.—In addition to the reports required under paragraph (1) of this subsection and subsection (c)(12), the Chief Counsel may prepare and publish such reports as the Chief Counsel determines to be appropriate.

''(3) PROHIBITION.—No report under this section shall be submitted to the Office of Management and Budget or to any other department or agency of the Federal Government for any purpose before submission of the report to the President and to Congress.

''(i) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to the Office to carry out this section such sums as may be necessary for each fiscal year.

''(2) AVAILABILITY.—Any sums appropriated under paragraph (1) shall remain available, without fiscal year limitation, until expended.''.

(b) REPEAL.—Title II of Public Law 94–305 (15 U.S.C. 634a et seq.) is repealed.

(c) INCUMBENT CHIEF COUNSEL FOR ADVOCACY.—The individual serving as the Chief Counsel for Advocacy of the Small Business Administration on the date of enactment of this Act shall continue to serve in that position after such date in accordance with section 32 of the Small Business Act, as amended by this section.

Mr. BOND. Mr. President, I rise in support of the ''Independent Office of Advocacy Act'' (S. 1346). This bill is designed to build on the success achieved by the Office of Advocacy over the past 23 years. It is intended to strengthen that foundation to make the Office of Advocacy a stronger, more effective advocate for all small businesses throughout the United States. I introduced the ''Independent Office of Advocacy Act'' on July 1, 1999. Two weeks later, on July 15th, the Committee on Small Business voted unanimously, 17–0, in favor of this important legislation.

The Office of Advocacy is a unique office within the Federal government. It is part of the Small Business Administration (SBA/Agency), and its director, the Chief Counsel for Advocacy, is nominated by the President and confirmed by the Senate. At the same time, the Office is also intended to be the independent voice for small business within the Federal government. It is supposed to develop proposals for changing government policies to help small businesses, and it is supposed to represent the views and interests of small businesses before other Federal agencies.

As the director of the Office of Advocacy, the Chief Counsel for Advocacy has a dual responsibility. On the one hand, he is the independent watchdog for small business. On the other hand, he is also a part of the President's Administration. As you can imagine, those are sometimes difficult roles to play simultaneously.

The ''Independent Office of Advocacy Act'' would make the Office of Advocacy and the Chief Counsel for Advocacy a fully independent advocate within the Executive Branch acting on behalf of the small business community. The bill would establish a clear mandate that the Office of Advocacy will fight on behalf of small businesses regardless of the position taken on critical issues by the President and his Administration.

S. 1346 would direct the Chief Counsel to submit an annual report on Federal agency compliance with the Regulatory Flexibility Act to the President and the Senate and House Committees on Small Business. The ''Reg Flex Act'' is a very important weapon in the war against the over-regulation of small businesses. At the request of Senator FRED THOMPSON, Chairman of the Government Affairs Committee, I am offering a noncontroversial amendment to S. 1346 that would direct the Chief Counsel for Advocacy to send a copy of the report to the Senate Government Affairs Committee. In addition, my amendment would also require that copies of the report be sent to the House Committee on Government Reform and the House and Senate Committees on the Judiciary. It makes good sense for each of the committees to receive this report on Reg Flex compliance, and I urge my colleagues to support the amendment.

The Office of Advocacy as envisioned by the ''Independent Office of Advocacy Act'' would be unique with the Executive Branch. The Chief Counsel for Advocacy would be a wide-ranging advocate, who would be free to take positions contrary to the Administration's policies and to advocate change in government programs and attitudes as they impact small businesses. During consideration of the bill, the Committee adopted unanimously an amendment I offered, which was cosponsored by Senator JOHN KERRY, the Committee's Ranking Democrat, to require the

Chief Counsel to be appointed ''from civilian life.'' This qualification is intended to emphasize that the person nominated to serve in this important role should have a strong small business background.

In 1976, Congress established the Office of Advocacy in the SBA to be the eyes, ears and voice for small business within the Federal government. Over time, it has been assumed that the Office of Advocacy is the ''independent'' voice for small business. While I strongly believe that the Office of Advocacy and the Chief Counsel should be independent and free to advocate or support positions that might be contrary to the Administration's policies, I have come to find that the Office is not as independent as necessary to do the job for small business.

For example, funding for the Office of Advocacy comes from the Salaries and Expense Account of the SBA's budget. Staffing is allocated by the SBA Administrator to the Office of Advocacy from the overall staff allocation for the Agency. In 1990, there were 70 full-time employees working on behalf of small businesses in the Office of Advocacy. Today's allocation of staff is 49, and fewer are actually on-board as the result of the hiring freeze imposed by the SBA Administrator. The independence of the Office is diminished when the Office of Advocacy staff is reduced to allow for increased staffing for new programs and additional initiatives in other areas of SBA, at the discretion of the Administrator.

In addition, the General Accounting Office (GAO) recently completed a report for me on personnel practices at the SBA (GAO/GGD–99–68). I was alarmed by the GAO's finding that Assistant and Regional Advocates hired by the Office of Advocacy share many of the attributes of Schedule C political appointees. In fact, Regional Advocates are frequently cleared by the White House personnel office—the same procedure followed for approving Schedule C political appointees.

The facts discussed in the GAO Report cast the Office of Advocacy in a whole new light—one that had not been apparent until earlier this year. The report raises the questions, concerns and suspicions regarding the independence of the Office of Advocacy. Has there been a time when the Office did not pursue a matter as vigorously as it might have were it not for direct or indirect political influence? Prior to receipt of the GAO Report, my response was a resounding ''No.'' But now, a question mark arises.

Let me take a moment and note that I will be unrelenting in my efforts to insure the complete independence of the Office of Advocacy in all matters, at all times, for the continued benefit of all small business. However, so long as the Administration controls the budget allocated to the Office of Advocacy and controls who is hired, the independence of the Office may be in jeopardy. We must correct this situation, and the sooner we do it, the better it will be for the small business community.

The ''Independent Office of Advocacy Act'' builds a firewall to prevent the political intrusion into the management of day-to-day operations of the Office of Advocacy. The bill would require that the SBA's budget include a separate account for the Office of Advocacy. No longer would its funds come from the general operating account of the Agency. The separate account would also provide for the number of full-time employees who would work within the Office of Advocacy. No longer would the Chief Counsel for Advocacy have to seek approval from the SBA Administrator to hire staff for the Office of Advocacy.

The bill would also continue the practice of allowing the Chief Counsel to hire individuals critical to the mission of the Office of Advocacy without going through the normal competitive procedures directed by federal law and the Office of Personnel Management (OPM). I believe this special hiring authority, which is limited only to employees within the Office of Advocacy, is beneficial because it allows the Chief Counsel to hire quickly those persons who can best assist the Office in responding to changing issues and problems confronting small businesses.

Mr. President, the ''Independent Office of Advocacy Act'' is a sound bill. It is the product of a great deal of thoughtful, objective review and consideration by me, the staff of the Committee on Small Business, representatives of the small business community, former Chief Counsels for Advocacy and others. These individuals have also devoted much time and effort in actively participating in a Committee Roundtable discussion on the Office of Advocacy, which my Committee held on April 21, 1999. And I stated earlier, the Committee on Small Business approved this bill by a unanimous 17–0 vote. Therefore, I strongly urge my colleagues in the Senate to vote in favor of the ''Independent Office of Advocacy Act.''

Mr. DOMENICI. I ask unanimous consent the committee amendment be agreed to.

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

The committee amendment was agreed to.

AMENDMENT NO. 2544

(Purpose: To make an amendment with respect to the submission of annual reports)

Mr. DOMENICI. Mr. President, Senator BOND has an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. BOND, proposes an amendment numbered 2544.

The amendment is as follows:

On page 12, line 12, insert after ''Representatives'' the following: ''; the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the Committees on the Judiciary of the Senate and the House of Representatives''.

Mr. DOMENICI. I ask consent the amendment be agreed to, the bill be read a third time and passed, the motion to reconsider be laid on the table, and any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 2544) was agreed to.

The bill (S. 1346), as amended, was read the third time and passed, as follows:

S. 1346

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Independent Office of Advocacy Act''.

**SEC. 2. FINDINGS.**

Congress finds that—

(1) excessive regulations continue to burden our Nation's small businesses;

(2) Federal agencies are reluctant to comply with the requirements of chapter 6 of title 5, United States Code, and continue to propose regulations that impose disproportionate burdens on small businesses;

(3) the Office of Advocacy of the Small Business Administration (referred to in this Act as the ''Office'') is an effective advocate for small businesses that can help ensure that agencies are responsive to small businesses and that agencies comply with their statutory obligations under chapter 6 of title 5, United States Code and under the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121; 106 Stat. 4249 et seq.);

(4) the independence of the Office is essential to ensure that it can serve as an effective advocate for small businesses without being restricted by the views or policies of the Small Business Administration or any other executive branch agency;

(5) the Office needs sufficient resources to conduct the research required to assess effectively the impact of regulations on small businesses; and

(6) the research, information, and expertise of the Office make it a valuable adviser to Congress as well as the executive branch agencies with which the Office works on behalf of small businesses.

**SEC. 3. PURPOSES.**

The purposes of this Act are—

(1) to ensure that the Office has the statutory independence and adequate financial resources to advocate for and on behalf of small business;

(2) to require that the Office report to the Chairmen and Ranking Members of the Committees on Small Business of the Senate and the House of Representatives and the Administrator of the Small Business Administration in order to keep them fully and currently informed about issues and regulations affecting small businesses and the necessity for corrective action by the regulatory agency or Congress;

(3) to provide a separate authorization for appropriations for the Office;

(4) to authorize the Office to report to the President and to Congress regarding agency compliance with chapter 6 of title 5, United States Code; and

(5) to enhance the role of the Office pursuant to chapter 6 of title 5, United States Code.

**SEC. 4. OFFICE OF ADVOCACY.**

(a) IN GENERAL.—The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 32 as section 33; and

(2) by inserting after section 31 the following:

**"SEC. 32. OFFICE OF ADVOCACY.**

''(a) DEFINITIONS.—In this section—

''(1) the term 'Chief Counsel' means the Chief Counsel for Advocacy appointed under subsection (b); and

''(2) the term 'Office' means the Office of Advocacy established under subsection (b).

''(b) ESTABLISHMENT.—

''(1) IN GENERAL.—There is established in the Administration an Office of Advocacy (referred to in this section as the 'Office').

''(2) CHIEF COUNSEL FOR ADVOCACY.—

''(A) IN GENERAL.—The management of the Office shall be vested in a Chief Counsel for Advocacy who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate, without regard to political affiliation and solely on the ground of fitness to perform the duties of the office.

''(B) EMPLOYMENT RESTRICTION.—The individual appointed to the office of Chief Counsel for Advocacy may not serve as an officer or employee of the Small Business Administration during the 5-year period preceding the appointment.

''(C) REMOVAL.—The Chief Counsel for Advocacy may be removed from office by the President and the President shall notify Congress of any such removal not later than 30 days before the removal.

''(3) APPROPRIATION REQUEST.—Each appropriation request prepared and submitted by the Administration under section 1108 of title 31, United States Code, shall include a separate request relating to the Office.

''(c) PRIMARY FUNCTIONS.—The Office shall—

''(1) examine the role of small businesses in the economy of the United States and the contribution that small businesses can make in improving competition, encouraging economic and social mobility for all citizens, restraining inflation, spurring production, expanding employment opportunities, increasing productivity, promoting exports, stimulating innovation and entrepreneurship, and providing the means by which new and untested products and services can be brought to the marketplace;

''(2) assess the effectiveness of Federal subsidy and assistance programs for small businesses and the desirability of reducing the emphasis on those programs and increasing the emphasis on general assistance programs designed to benefit all small businesses;

''(3) measure the direct costs and other effects of government regulation of small businesses, and make legislative, regulatory, and nonlegislative proposals for eliminating the excessive or unnecessary regulation of small businesses;

''(4) determine the impact of the tax structure on small businesses and make legislative, regulatory, and other proposals for altering the tax structure to enable all small businesses to realize their potential for contributing to the improvement of the Nation's economic well-being;

''(5) study the ability of financial markets and institutions to meet small business credit needs and determine the impact of government demands on credit for small businesses;

''(6) determine financial resource availability and recommend methods for—

''(A) delivery of financial assistance to minority and women-owned enterprises, including methods for securing equity capital;

''(B) generating markets for goods and services;

''(C) providing effective business education, more effective management and technical assistance, and training; and

''(D) assistance in complying with Federal, State, and local laws;

''(7) evaluate the efforts of Federal agencies and the private sector to assist minority and women-owned enterprises;

''(8) make such recommendations as may be appropriate to assist the development and strengthening of minority, women-owned, and other small businesses;

''(9) recommend specific measures for creating an environment in which all businesses will have the opportunity to—

''(A) compete effectively and expand to their full potential; and

''(B) ascertain any common reasons for small business successes and failures;

''(10) determine the desirability of developing a set of rational, objective criteria to be used to define small business, and to develop such criteria, if appropriate; and

''(11) make recommendations and submit reports to the Chairmen and Ranking Members of the Committees on Small Business of the Senate and the House of Representatives and the Administrator with respect to issues and regulations affecting small businesses and the necessity for corrective action by the Administrator, any Federal department or agency, or Congress.

''(d) ADDITIONAL FUNCTIONS.—The Office shall, on a continuing basis—

''(1) serve as a focal point for the receipt of complaints, criticisms, and suggestions concerning the policies and activities of the Administration and any other department or agency of the Federal Government that affects small businesses;

''(2) counsel small businesses on the means by which to resolve questions and problems concerning the relationship between small businesses and the Federal Government;

''(3) develop proposals for changes in the policies and activities of any agency of the Federal Government that will better fulfill the purposes of this section and communicate such proposals to the appropriate Federal agencies;

''(4) represent the views and interests of small businesses before other Federal agencies whose policies and activities may affect small business;

''(5) enlist the cooperation and assistance of public and private agencies, businesses, and other organizations in disseminating information about the programs and services provided by the Federal Government that are of benefit to small businesses, and information on the means by which small businesses can participate in or make use of such programs and services; and

''(6) carry out the responsibilities of the Office under chapter 6 of title 5, United States Code.

''(e) STAFF AND POWERS.—

''(1) STAFF.—

''(A) IN GENERAL.—The Chief Counsel may, without regard to the civil service laws and regulations, appoint and terminate such additional personnel as may be necessary to enable the Office to perform its duties under this section.

''(B) COMPENSATION.—The Chief Counsel may fix the compensation of personnel appointed under this paragraph without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, but at rates not to exceed the minimum rate payable for a position at GS–15 of the General Schedule, except that not more than 14 employees of the Office at any one time may be compensated at a rate not to exceed the maximum rate payable for a position at GS–15 of the General Schedule.

''(2) POWERS.—In carrying out this section, the Chief Counsel may—

''(A) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code;

''(B) consult with—

''(i) experts and authorities in the fields of small business investment, venture capital, investment and commercial banking, and other comparable financial institutions involved in the financing of business; and

''(ii) individuals with regulatory, legal, economic, or financial expertise, including members of the academic community, and individuals who generally represent the public interest;

''(C) use the services of the National Advisory Council established under section 8(b) and, in accordance with that section, appoint such other advisory boards or committees as the Chief Counsel determines to be reasonably necessary and appropriate to carry out this section; and

''(D) hold hearings and sit and act at such times and places as the Chief Counsel determines to be appropriate.

''(f) OVERHEAD AND ADMINISTRATIVE SUPPORT.—The Administrator shall provide the Office with appropriate and adequate office space at central and field office locations of the Administration, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.

''(g) INFORMATION FROM FEDERAL AGENCIES.—The Chief Counsel may secure directly from any Federal department or agency such information as the Chief Counsel considers to be necessary to carry out this section. Upon request of the Chief Counsel, the head of such department or agency shall furnish such information to the Office.

''(h) REPORTS.—

''(1) ANNUAL REPORTS.—Not less than annually, the Chief Counsel shall submit to the President and to the Committees on Small Business of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the Committees on the Judiciary of the Senate and the House of Representatives a report on agency compliance with chapter 6 of title 5, United States Code.

''(2) ADDITIONAL REPORTS.—In addition to the reports required under paragraph (1) of this subsection and subsection (c)(12), the Chief Counsel may prepare and publish such reports as the Chief Counsel determines to be appropriate.

''(3) PROHIBITION.—No report under this section shall be submitted to the Office of Management and Budget or to any other department or agency of the Federal Government for any purpose before submission of the report to the President and to Congress.

''(i) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to the Office to carry out this section such sums as may be necessary for each fiscal year.

''(2) AVAILABILITY.—Any sums appropriated under paragraph (1) shall remain available, without fiscal year limitation, until expended.''.

(b) REPEAL.—Title II of Public Law 94–305 (15 U.S.C. 634a et seq.) is repealed.

(c) INCUMBENT CHIEF COUNSEL FOR ADVOCACY.—The individual serving as the Chief Counsel for Advocacy of the Small Business Administration on the date of enactment of this Act shall continue to serve in that position after such date in accordance with section 32 of the Small Business Act, as amended by this section.

## TO PROVIDE FOR THE HOLDING OF COURT IN NATCHEZ, MISSISSIPPI IN THE SAME MANNER AS COURT IS HELD IN VICKSBURG, MISSISSIPPI

Mr. DOMENICI. Mr. President, I ask unanimous consent the Senate now proceed to the immediate consideration of Calendar No. 386, S. 1418.

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

The assistant legislative clerk read as follows:

A bill (S. 1418) to provide for the holding of court in Natchez, Mississippi, in the same manner as court is held in Vicksburg, Mississippi, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. DOMENICI. I ask consent the bill be read a third time and passed, the motion to reconsider be laid on the table, and any statement relating to the bill be printed in the RECORD.

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

The bill (S. 1418) was read the third time and passed, as follows:

S. 1418

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

**SECTION 1. HOLDING OF COURT AT NATCHEZ, MISSISSIPPI.**

Section 104(b)(3) of title 28, United States Code, is amended in the second sentence by striking all beginning with the colon through ''United States''.

## MISSOURI-NEBRASKA BOUNDARY COMPACT

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 389, H.J. Res. 54.

The PRESIDING OFFICER. The clerk will report the joint resolution by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 54) granting the consent of Congress to the Missouri-Nebraska Boundary Compact.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the joint resolution be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the resolution be printed in the RECORD.

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

The joint resolution (H.J. Res. 54) was read the third time and passed.

## CONTINUED REPORTING OF INTERCEPTED WIRE, ORAL, AND ELECTRONIC COMMUNICATIONS ACT

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 355, S. 1769.

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

The assistant legislative clerk read as follows:

A bill (S. 1769) to continue the reporting requirements of section 2519 of title 18, United States Code, beyond December 21, 1999, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 1769

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Continued Reporting of Intercepted Wire, Oral, and Electronic Communications Act''.

**SEC. 2. FINDINGS.**

Congress makes the following findings:

(1) Section 2519(3) of title 18, United States Code, requires the Director of the Administrative Office of the United States Courts to transmit to Congress a full and complete annual report concerning the number of applications for orders authorizing or approving the interception of wire, oral, or electronic communications. This report is required to include information specified in section 2519(3).

(2) The Federal Reports Elimination and Sunset Act of 1995 provides for the termination of certain laws requiring submittal to Congress of annual, semiannual, and regular periodic reports as of December 21, 1999, 4 years from the effective date of that Act.

(3) Due to the Federal Reports Elimination Act and Sunset Act of 1995, the Administrative Office of United States Courts is not required to submit the annual report described in section 2519(3) of title 18, United States Code, as of December 21, 1999.

**SEC. 3. CONTINUED REPORTING REQUIREMENTS.**

(a) CONTINUED REPORTING REQUIREMENTS.—Section 2519 of title 18, United States Code, is amended by adding at the end the following:

''(4) The reports required to be filed by subsection (3) are exempted from the termination provisions of section 3003(a) of the Federal Reports Elimination and Sunset Act of 1995 (Public Law 104–66).''.

(b) EXEMPTION.—Section 3003(d) of the Federal Reports Elimination and Sunset Act of 1995 (Public Law 104–66) is amended—

(1) in paragraph (31), by striking ''or'' at the end;

(2) in paragraph (32), by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(33) section 2519(3) of title 18, United States Code.''.

**SEC. 4. ENCRYPTION REPORTING REQUIREMENTS.**

**[**Section 2519(1)(b)**]** *(a) Section 2519(2)(b)* of title 18, United States Code, is amended by striking ''and (iv)'' and inserting ''(iv) the number of orders in which encryption was encountered and whether such encryption prevented law enforcement from obtaining the plain text of communications intercepted pursuant to such order, and (v)''.

*(b) The encryption reporting requirement in subsection (a) shall be effective for the report transmitted by the Director of the Administrative Office of the Courts for calendar year 2000 and in subsequent reports.*

**SEC. 5. REPORTS CONCERNING PEN REGISTERS AND TRAP AND TRACE DEVICES.**

Section 3126 of title 18, United States Code, is amended by striking the period and inserting '', which report shall include information concerning—

''(1) the period of interceptions authorized by the order, and the number and duration of any extensions of the order;

''(2) the offense specified in the order or application, or extension of an order;

''(3) the number of investigations involved;

''(4) the number and nature of the facilities affected; and

''(5) the identity, including district, of the applying investigative or law enforcement agency making the application and the person authorizing the order.''.

Mr. LEAHY. Mr. President, I am pleased that the Senate is today considering S. 1769, which I introduced with Chairman HATCH on October 22, 1999. This bill will continue and enhance the current reporting requirements for the Administrative Office of the Courts and the Attorney General on the eavesdropping and surveillance activities of our federal and state law enforcement agencies.

For many years, the Administrative Office (AO) of the Courts has complied with the statutory requirement, in 18 U.S.C. § 2519(3), to report to Congress annually the number and nature of federal and state applications for orders authorizing or approving the interception of wire, oral or electronic communications. By letter dated September 3, 1999, the AO advised that it would no longer submit this report because ''as of December 21, 1999, the report will no longer be required pursuant to the Federal Reports Elimination and Sunset Act of 1995.'' I commend the AO for alerting Congress that their responsibility for the wiretap reports would lapse at the end of this year, and for doing so in time for Congress to take action.

The AO has done an excellent job of preparing the wiretap reports. We need to continue the AO's objective work in a consistent manner. If another agency took over this important task at this juncture and the numbers came out in a different format, it would immediately generate questions and concerns over the legitimacy and accuracy of the contents of that report.

In addition, it would create difficulties in comparing statistics from prior years going back to 1969 and complicate the job of congressional oversight. Furthermore, transferring this reporting duty to another agency might create delays in issuance of the report since no other agency has the methodology in place. Finally, federal, state and local agencies are well accustomed to the reporting methodology developed by the AO. Notifying all these agencies that the reporting standards and agency have changed would inevitably create more confusion and more expense as law enforcement agencies across the country are forced to learn a new system and develop a liaison with a new agency.

The system in place now has worked well and should be continued. We know how quickly law enforcement may be subjected to criticism over their use of these surreptitious surveillance tools

and we should avoid aggravating these sensitivities by changing the reporting agency.

The bill would update the reporting requirements currently in place with one additional reporting requirement. Specifically, the bill would require the wiretap reports prepared beginning in calendar year 2000 to include information on the number of orders in which encryption was encountered and whether such encryption prevented law enforcement from obtaining the plain text of communications intercepted pursuant to such order.

Encryption technology is critical to protect sensitive computer and online information. Yet, the same technology poses challenges to law enforcement when it is exploited by criminals to hide evidence or the fruits of criminal activities. A report by the U.S. Working Group on Organized Crime titled, ''Encryption and Evolving Technologies: Tools of Organized Crime and Terrorism,'' released in 1997, collected anecdotal case studies on the use of encryption in furtherance of criminal activities in order to estimate the future impact of encryption on law enforcement. The report noted the need for ''an ongoing study of the effect of encryption and other information technologies on investigations, prosecutions, and intelligence operations''. As part of this study, ''a database of case information from federal and local law enforcement and intelligence agencies should be established and maintained.'' Adding a requirement that reports be furnished on the number of occasions when encryption is encountered by law enforcement is a far more reliable basis than anecdotal evidence on which to assess law enforcement needs and make sensible policy in this area.

The final section of this bill would codify the information that the Attorney General already provides on pen register and trap and trace device orders, and require further information on where such orders are issued and the types of facilities—telephone, computer, pager or other device—to which the order relates. Under the Electronic Communications Privacy Act (''ECPA'') of 1986, P.L. 99–508, codified at 18 U.S.C. §3126, the Attorney General of the United States is required to report annually to the Congress on the number of pen register orders and orders for trap and trace devices applied for by law enforcement agencies of the Department of Justice. As the original sponsor of ECPA, I believed that adequate oversight of the surveillance activities of federal law enforcement could only be accomplished with reporting requirements such as the one included in this law.

The reports furnished by the Attorney General on an annual basis compile information from five components of the Department of Justice: the Federal Bureau of Investigation, the Drug Enforcement Administration, the Immigration and Naturalization Service, the United States Marshals Service and the Office of the Inspector General. The report contains information on the number of original and extension orders made to the courts for authorization to use both pen register and trap and trace devices, information concerning the number of investigations involved, the offenses on which the applications were predicted and the number of people whose telephone facilities were affected.

These specific categories of information are useful, and the bill we have introduced would direct the Attorney General to continue providing these specific categories of information. In addition, the bill would direct the Attorney General to include information on the identity, including the district, of the agency making the application and the person authorizing the order. In this way, the Congress and the public will be informed of those jurisdictions using this surveillance technique—information which is currently not included in the Attorney General's annual reports.

The requirement for preparation of the wiretap reports will soon lapse so I am delighted to see the Senate take prompt action on this legislation to continue the requirement for submission of the wiretap reports and to update the reporting requirements for both the wiretap reports submitted by the AO and the pen register and trap and trace reports submitted by the Attorney General.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the committee amendments be agreed to, the bill be considered read for a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The committee amendments were agreed to.

The bill (S. 1769), as amended, was read the third time and passed, as follows:

S. 1769

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Continued Reporting of Intercepted Wire, Oral, and Electronic Communications Act''.

**SEC. 2. FINDINGS.**

Congress makes the following findings:

(1) Section 2519(3) of title 18, United States Code, requires the Director of the Administrative Office of the United States Courts to transmit to Congress a full and complete annual report concerning the number of applications for orders authorizing or approving the interception of wire, oral, or electronic communications. This report is required to include information specified in section 2519(3).

(2) The Federal Reports Elimination and Sunset Act of 1995 provides for the termination of certain laws requiring submittal to Congress of annual, semiannual, and regular periodic reports as of December 21, 1999, 4 years from the effective date of that Act.

(3) Due to the Federal Reports Elimination Act and Sunset Act of 1995, the Administrative Office of United States Courts is not required to submit the annual report described in section 2519(3) of title 18, United States Code, as of December 21, 1999.

**SEC. 3. CONTINUED REPORTING REQUIREMENTS.**

(a) CONTINUED REPORTING REQUIREMENTS.—Section 2519 of title 18, United States Code, is amended by adding at the end the following:

''(4) The reports required to be filed by subsection (3) are exempted from the termination provisions of section 3003(a) of the Federal Reports Elimination and Sunset Act of 1995 (Public Law 104–66).''.

(b) EXEMPTION.—Section 3003(d) of the Federal Reports Elimination and Sunset Act of 1995 (Public Law 104–66) is amended—

(1) in paragraph (31), by striking ''or'' at the end;

(2) in paragraph (32), by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(33) section 2519(3) of title 18, United States Code.''.

**SEC. 4. ENCRYPTION REPORTING REQUIREMENTS.**

(a) Section 2519(2)(b) of title 18, United States Code, is amended by striking ''and (iv)'' and inserting ''(iv) the number of orders in which encryption was encountered and whether such encryption prevented law enforcement from obtaining the plain text of communications intercepted pursuant to such order, and (v)''.

(b) The encryption reporting requirement in subsection (a) shall be effective for the report transmitted by the Director of the Administrative Office of the Courts for calendar year 2000 and in subsequent reports.

**SEC. 5. REPORTS CONCERNING PEN REGISTERS AND TRAP AND TRACE DEVICES.**

Section 3126 of title 18, United States Code, is amended by striking the period and inserting '', which report shall include information concerning—

''(1) the period of interceptions authorized by the order, and the number and duration of any extensions of the order;

''(2) the offense specified in the order or application, or extension of an order;

''(3) the number of investigations involved;

''(4) the number and nature of the facilities affected; and

''(5) the identity, including district, of the applying investigative or law enforcement agency making the application and the person authorizing the order.''.

## EXECUTIVE SESSION

### EXECUTIVE CALENDAR

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations on the Executive Calendar: Nos. 383 through 392 and all nominations on the Secretary's desk in the Air Force, Army and Navy. I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, any statements relating to the nomination be printed in the RECORD, and the President be immediately notified of the Senate's action.

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

The nominations considered and confirmed are as follows:

DEPARTMENT OF DEFENSE

Cornelius P. O'Leary, of Connecticut, to be a Member of the National Security Education Board for a term of four years.

Alphonso Maldon, Jr., of Virginia, to be an Assistant Secretary of Defense.

John K. Veroneau, of Virginia, to be an Assistant Secretary of Defense.

IN THE AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be general*

Gen. John P. Jumper, 0000

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be general*

Lt. Gen. Gregory S. Martin, 0000

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Maj. Gen. Bruce A. Carlson, 0000

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under Title 10, U.S.C., section 601:

*To be lieutenant general*

Maj. Gen. Stephen B. Plummer, 0000

IN THE ARMY

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

*To be brigadier general*

Col. William F. Smith, III, 0000

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

*To be brigadier general, Medical Corps*

Col. Lester Martinez-Lopez, 0000

The following named officers for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., section 12203:

*To be major general*

Celia L. Adolphi, 0000
James W. Comstock, 0000
Robert M. Kimmitt, 0000
Paul E. Lima, 0000
Thomas J. Matthews, 0000
Jon R. Root, 0000
Joseph L. Thompson III, 0000
John R. Tindall, Jr., 0000
Gary C. Wattnem, 0000

*To be brigadier general*

Alan D. Bell, 0000
Kristine K. Campbell, 0000
Wayne M. Erck, 0000
Stephen T. Gonczy, 0000
Robert L. Heine, 0000
Paul H. Hill, 0000
Rodney M. Kobayashi, 0000
Thomas P. Maney, 0000
Ronald S. Mangum, 0000
Randall L. Mason, 0000
Paul E. Mock, 0000
Collis N. Phillips, 0000
Michael W. Symanski, 0000
Theodore D. Szakmary, 0000
David A. Van Kleeck, 0000
George H. Walker, Jr., 0000
William K. Wedge, 0000

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE, ARMY, NAVY

Air Force nominations beginning Joseph A. Abbott, and ending Thomas J. Zuzack, which nominations were received by the Senate and appeared in the Congressional Record of October 27, 1999.

Army nomination of Joel R. Rhoades, which was received by the Senate and appeared in the Congressional Record of October 27, 1999.

Navy nominations beginning George R. Arnold, and ending Todd S. Weeks, which nominations were received by the Senate and appeared in the Congressional Record of October 18, 1999.

## UNANIMOUS CONSENT AGREEMENT—TREATIES

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Senate proceed to consider the following treaties on today's Executive Calendar: Nos 4 through 14. I further ask unanimous consent that the treaties be considered as having passed through their various parliamentary stages, up to and including the presentation of the resolutions of ratification; all committee provisos, reservations, understandings, and declarations be considered agreed to; any statements be printed in the RECORD; and the Senate take one vote on the resolutions of ratification to be considered as separate votes. Further, that when the resolutions of ratification are voted upon, the motions to reconsider be laid upon the table, the President be notified of the Senate's action, and the Senate return to legislative session.

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

## TAX CONVENTION WITH ESTONIA

The resolution of ratification is as follows:

*Resolved (two-thirds of the Senators present concurring therein)*, That the Senate advise and consent to the ratification of the Convention between the Government of the United States of America and the Republic or Estonia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Washington on January 15, 1998 (Treaty Doc. 105–55), subject to the declaration of subsection (a) and the proviso of subsection (b).

(a) DECLARATION.—The Senate's advice and consent is subject to the following declaration, which shall be binding on the President:

(1) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the State Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

(1) SUPREMACY OF CONSTITUTION.—Nothing in the Convention requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

## TAX CONVENTION WITH LITHUANIA

The resolution of ratification is as follows:

*Resolved (two-thirds of the Senators present concurring therein)*, That the Senate advise and consent to the ratification of the Convention between the Government of the United States of America and the Government of the Republic of Lithuania for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Washington on January 15, 1998 (Treaty Doc. 105–56), subject to the declaration of subsection (a) and the proviso of subsection (b).

(a) DECLARATION.—The Senate's advice and consent is subject to the following declaration, which shall be binding on the President:

(1) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

(1) SUPREMACY OF CONSTITUTION.—Nothing in the Convention requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

## TAX CONVENTION WITH LATVIA

The resolution of ratification is as follows:

*Resolved (two-thirds of the Senators present concurring therein)*, That the Senate advise and consent to the ratification of the Convention between the Government of the United States of America and the Republic of Latvia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Washington on January 15, 1998 (Treaty Doc. 105–57), subject to the declaration of subsection (a) and the proviso of subsection (b).

(a) DECLARATION.—The Senate's advice and consent is subject to the following declaration, which shall be binding on the President:

(1) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

(1) SUPREMACY OF CONSTITUTION.—Nothing in the Convention requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

## TAX CONVENTION WITH VENEZUELA

The resolution of ratification is as follows:

*Resolved, (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of the Convention between the Government of the

United States of America and the Government of the Republic of Venezuela for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Texas on Income and Capital, together with a Protocol, signed at Caracas on January 25, 1999 (Treaty Doc. 106–3), subject to the understanding of subsection (a), the declarations of subsection 9(b), and the proviso of subsection (c).

(a) UNDERSTANDINGS.—The Senate's advice and consent is subject to the following understandings, which shall be included in the instrument of ratification, and shall be binding on the President:

(1) PREVENTION OF DOUBLE EXEMPTION.—Where under Article 7 (Business Profits) or Article 14 (Independent Personal Services) of this Convention income is relieved from tax in one Contracting State and, under the law in force in the other Contracting State a person is not subject to tax in that other Contracting State in respect of such income, then the relief to be allowed under this Convention in the first-mentioned Contracting State shall apply only to so much of the income as is subject to tax in the other Contracting State. This understanding shall cease to have effect when the provisions of Venezuela's Law Amending the Income Tax Law (hereinafter the ''new Venezuelan tax law''), relating to the implementation of a worldwide tax system in replacement of Vnezuela's current territorial tax system, are effective in accordance with the provisions of such new Venezuelan tax law.

(2) VENEZUELAN BRANCH PROFITS TAX.—The United States understands that the reference to an ''additional tax'' in Article 11A of the Convention includes the tax that may be imposed by Venezuela (the ''Venezuelan Branch Tax'') pursuant to the relevant provisions of the new Venezuelan tax law. In addition, the United States understands that the limit imposed under Article 11A of the Convention shall apply with respect to the Venezuelan Branch Tax and that for purposes of that article the Venezuelan Branch Tax shall be imposed only on an amount not in excess of the amount that is analogous to the ''dividend equivalent amount'' defined in subparagraph (a) of paragraph 10 of the Protocol with respect to the United States.

(b) DECLARATIONS.—The Senate's advice and consent is subject to the following declarations, which shall be binding on the President:

(1) NEW VENEZUELAN TAX LAW.—Before the President may notify Venezuela pursuant to Article 29 of the Convention that the United States has completed the required ratification procedures, he shall certify to the Committee on foreign Relations that:

(i) the new Venezuelan tax law has been enacted in accordance with Venezuelan law;

(ii) the Department of the Treasury in consultation with the Department of State, has thoroughly examined the new Venezuelan tax law; and

(iii) the new Venezuelan tax law is fully consistent with and appropriate to the obligations under the Convention.

(2) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed forces in Europe, approved by the Senate on May 14, 1997.

(c) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

(1) SUPREMACY OF CONSTITUTION.—Nothing in the Convention requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

## TAX CONVENTION WITH SLOVENIA

The resolution of ratification is as follows:

*Resolved, (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of the Convention between the United States of America and the Republic of Slovenia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital, signed at Ljubljana on June 21, 1999 (Treaty Doc. 106–9), subject to the reservation of subsection (a), the understanding of subsection (b), the declaration of subsection (c), and the proviso of subsection (d).

(a) RESERVATION.—The Senate's advice and consent is subject to the following reservation, which shall be included in the instrument of ratification, and shall be binding on the President:

(1) MAIN PURPOSE TESTS.—Paragraph 10 of Article 10 (Dividends), paragraph 10 of Article 11 (Interest), paragraph 7 of Article 12 (Royalties), paragraph 3 of Article 21 (Other Income), and subparagraph (g) of paragraph 3 of Article 25 (Mutual Agreement Procedure) of the Convention shall be stricken in their entirety.

(b) UNDERSTANDING.—The Senate's advice and consent is subject to the following understanding, which shall be included in the instrument of ratification, and shall be binding on the President:

(1) EXCHANGE OF INFORMATION.—The United States understands that, pursuant to Article 26 of the Convention, both the competent authority of the United States and the competent authority of the Republic of Slovenia have the authority to obtain and provide information held by financial institutions. nominees or persons acting in an agency or fiduciary capacity, or respecting interests in a person.

(c) DECLARATION.—The Senate's advice and consent is subject to the following declaration, which shall be binding on the President:

(1) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(d) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

(1) SUPREMACY OF CONSTITUTION.—Nothing in the Convention requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

## TAX CONVENTION WITH ITALY

The resolution of ratification is as follows:

*Resolved (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of the Convention between the Government of the United States of America and the Government of the Italian Republic for the Avoidance of Double Taxation with Respect to Taxes on Income and the Prevention of Fraud or Fiscal Evasion, signed at Washington on August 25, 1999, together with a Protocol (Treaty Doc. 106–11), subject to the reservation of subsection (a), the understanding of subsection (b), the declaration of subsection (c), and the proviso of subsection (d).

(a) RESERVATION.—The Senate's advice and consent is subject to the following reservation, which shall be included in the instrument of ratification, and shall be binding on the President:

(1) MAIN PURPOSE TESTS.—Paragraph 10 of Article 10 (Dividends), paragraph 9 of Article 11 (Interest), paragraph 8 of Article 12 (Royalties), and paragraph 3 of Article 22 (Other Income) of the Convention, and paragraph 19 of Article 1 of the Protocol (dealing with Article 25 (Mutual Agreement Procedure) of the Convention) shall be stricken in their entirety, and paragraph 20 of Article 1 of the Protocol shall be renumbered as paragraph 19.

(b) UNDERSTANDING.—The Senate's advice and consent is subject to the following understanding, which shall be included in the instrument of ratification, and shall be binding on the President:

(1) EXCHANGE OF INFORMATION.—The United States understands that, pursuant to Article 26 of the Convention, both the competent authority of the United States and the competent authority of the Republic of Italy have the authority to obtain and provide information held by financial institutions, nominees or persons acting in an agency or fiduciary capacity, or respecting interests in a person.

(c) DECLARATION.—The Senate's advice and consent is subject to the following declaration, which shall be binding on the President:

(1) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(d) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

(1) SUPREMACY OF CONSTITUTION.—Nothing in the Convention requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

## TAX CONVENTION WITH DENMARK

The resolution of ratification is as follows:

*Resolved, (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of the Convention between the Government of the United States of America and the Government of the Kingdom of Denmark for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Washington on August 19, 1999, together with a Protocol (Treaty Doc. 106–12), subject to the declaration of subsection (a) and the proviso of subsection (b).

(a) DECLARATION.—The Senate's advice and consent is subject to the following declaration, which shall be binding on the President:

(1) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of

the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

(1) SUPREMACY OF CONSTITUTION.—Nothing in the Convention requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

## PROTOCOL AMENDING TAX CONVENTION WITH GERMANY

The resolution of ratification is as follows:

*Resolved (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of the Protocol Amending the Convention between the United States of America and the Federal Republic of Germany for the Avoidance of Double Taxation with Respect to Taxes on Estates, Inheritances, and Gifts signed at Bonn on December 3, 1980, signed at Washington on December 14, 1998 (Treaty Doc. 106–13), subject to the declaration of subsection (a) and the proviso of subsection (b).

(a) DECLARATION.—The Senate's advice and consent is subject to the following declaration, which shall be binding on the President:

(1) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

(1) SUPPREMACY OF CONSTITUTION.—Nothing in the Protocol requires or authorize legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

## AMENDING CONVENTION WITH IRELAND

The resolution of ratificatioan is as follows:

*Resolved (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of the Convention Amending the Convention between the Government of the United States of America and the Government of Ireland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital Gains, signed at Dublin on July 28, 1997 (the Amending Convention was signed at Washington on September 24, 1999) (Treaty Doc. 106–15), subject to the declaration of subsection (a) and the proviso of subsection (b).

(a) DECLARATION.—The Senate's advice and consent is subject to the following declaration, which shall be binding on the President:

(1) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President.

(1) SUPREMACY OF CONSTITUTION.—Nothing in the Amending Convention requires or authorizes legislation or other action by the Unied States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

## CONVENTION (NO. 182) FOR ELIMINATION OF THE WORST FORMS OF CHILD LABOR

The resolution of ratification is as follows:

*Resolved (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of Convention (No. 182) Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor, adopted by the International Labor Conference at its 87th Session in Geneva on June 17, 1999 (Treaty Doc. 106–5), subject to the understandings of subsection (a), the declaration of subsection (b), and the proviso of subsection (c).

(a) UNDERSTANDINGS.—The Senate's advice and consent is subject to the following understandings, which shall be included in the instrument of ratification:

CHILDREN WORKING ON FARMS.—The United States understands that Article 3(d) of Convention 182 does not encompass situations in which children are employed by a parent or by a person standing in the place of a parent on a farm owned or operated by such parent or person, nor does it change, or is it intended to lead to a change in the agricultural employment provisions or any other provision of the Fair Labor Standards Act in the United States.

BASIC EDUCATION.—The United States understands that the term ''basic education'' in Article 7 of Convention 182 means primary education plus one year: eight or nine years of schooling, based on curriculum and not age.

(b) DECLARATION.—The Senate's advice and consent is subject to the following declaration, which shall be binding on the President.

TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(c) PROVISO.—The resolution of ratification is subject to the following proviso, which shall not be included in the instrument of ratification to be signed by the President.

SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

## EXTRADITION TREATY WITH KOREA

The resolution of ratification is as follows:

*Resolved (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of the Extradition Treaty between the Government of the United states of America and the Government of Republic of Korea, signed at Washington on June 9, 1998 (Treaty Doc. 106–2), subject to the understanding of subsection (a), the declaration of subsection (b), and the proviso of subsection (c).

(a) UNDERSTANDING.—The Senate's advice and consent is subject to the following understanding, which shall be included in the instrument of ratification:

PROHIBITION OF EXTRADITION TO THE INTERNATIONAL CRIMINAL COURT.—The United States understands that the protections contained in Article 15 concerning the Rule of Specialty would preclude the resurrender of any person from the United States to the International Criminal Court agreed to in Rome, Italy, on July 17, 1998, unless the United States consents to such resurrender; and the United States shall not consent to the transfer of any person extradited to the Republic of Korea by the United States to the International Criminal Court agreed to in Rome, Italy, on July 17, 1998, unless the treaty establishing that Court has entered into force for the United States by and with the advice and consent of the Senate, as required by Article II, section 2 of the United States Constitution.

(b) DECLARATION.—The Senate's advice and consent is subject to the following declaration, which shall be binding on the President:

TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(c) PROVISO.—The resolution of ratification is subject to the following proviso, which shall not be included in the instrument of ratification to be signed by the President:

SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

Mrs. BOXER. Mr. President, for several months, I have been working on a case with the South Korean government on behalf of a family in California.

The family, Mr. and Mrs. B.K. Cho, are concerned about actions taken against them in South Korea in 1984. At that time, the Cho family owned one of the largest construction companies in the country. The Cho family alleges that their holdings were illegally transferred to two other companies, Cho Hung Bank and Daelim Industries. They also accuse officials of the then Chun government of ordering this transfer.

Soon after their property was taken from them, the Cho family left for the United States. They have filed a lawsuit in California against Cho Hung Bank and Daelim Industries and their U.S. subsidiaries.

Because of the strong concerns I have about this case, I had asked that this particular treaty be delayed until I had

the opportunity to further explore this matter. One of the concerns raised by the family was that the Korean Ministry of Foreign Affairs and Trade (MOFAT) had not served the court petition to the Cho Hung Bank and Daelim Industries. I have now been assured that this action has been taken. I ask unanimous consent that a letter dated September 22, 1999 from the First Secretary of the Congressional Section of the South Korean Embassy be printed in the RECORD.

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

EMBASSY OF THE REPUBLIC OF KOREA,
*Washington, DC, September 22, 1999.*

Mr. SEAN MOORE,
*Office of Senator Barbara Boxer,*
*U.S. Senate, Washington, DC.*

DEAR MR. MOORE, in reference to my letter dated August 6, 1999, concerning the case of Mr. Cho Bong-Koo, I am pleased to inform you that, according to the Korean Ministry of Foreign Affairs and Trade (MOFAT), the Cho Hung Bank and the Daelim Industrial Company have each received a court petition at the end of August.

The Embassy has also learned that these two entities are planning to establish legal counsel to represent their interests regarding this lawsuit. As was mentioned in the attached letter dated August 24, 1998 and addressed to Senator Boxer, the Korean Government is of the view that any remaining questions in transferring the management of Samho in the 1980's should be settled through legal procedures in court.

I thank you again for your interests and concern.

Sincerely yours,

CHANG BEOM KIM,
*First Secretary,*
*Congressional Section.*

Mrs. BOXER. Mr. President, I also have received assurances from the South Korean Ambassador, Dr. Lee Hong-koo, that his government will not interfere with the pending court case and expresses hope that legal proceedings will be conducted as quickly as possible.

I ask unanimous consent that a letter to me dated November 5, 1999 from Ambassador Lee be printed in the RECORD.

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

EMBASSY OF THE REPUBLIC OF KOREA,
*Washington, DC, November 5, 1999.*

Hon. BARBARA BOXER,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR BOXER, I would like to take this opportunity to express my appreciation for your support for the ratification of the U.S.-Korea Extradition Treaty.

I would also like to commend you on your efforts to assist your Korean-American constituent, Mr. Cho Bong-Koo, who has filed suit in the Los Angeles Superior Court against several Korean corporations.

I understand your concerns about this case and have considered it with the utmost gravity. Given our respect for the integrity of the U.S. legal system, it is inappropriate for the Embassy or any Korean government official to interfere in a case pending in your courts. However, in view of the long duration of this matter of concern to the Cho family, I remain hopeful that the legal proceedings will be conducted in a timely manner, so that the case may be resolved without delay.

Please be assured that I understand your endeavor to help ameliorate your constituent's concerns. As a public servant in a democratic government, I fully recognize the importance of your efforts. It is my belief that we will continue to work well together on future matters.

Sincerely,

LEE HONG-KOO,
*Ambassador.*

Mrs. BOXER. Mr. President, I support this treaty and will allow it to be cleared by the full Senate. I will continue to work with the Cho family and the South Korean government and hope that it can be resolved in a timely matter.

Mr. DOMENICI. Mr. President, I ask for a division vote on the resolutions of ratification.

The PRESIDING OFFICER. A division has been requested.

Senators in favor of the ratification of these treaties, please stand and be counted. (After a pause.) Those opposed will rise and stand until counted.

On this vote, two-thirds of the Senators present having voted in the affirmative, the resolutions of ratification are agreed to.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. DOMENICI. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DOMENICI. Mr. President, I am prepared to recite the closing script, but I understand the distinguished Senator from Alabama wants to be recognized.

The PRESIDING OFFICER. Does the Senator want to go through with that and just accept whatever statement the Senator from Alabama wishes to make?

Mr. DOMENICI. All right.

## ORDERS FOR MONDAY, NOVEMBER 8, 1999

Mr. DOMENICI. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 12 noon on Monday, November 8. I further ask consent that on Monday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business, with Senators speaking for up to 5 minutes each, with the following exceptions: Senator THOMAS or designee, from 12 until 1 o'clock; Senator REID or designee, from 1 to 2 o'clock.

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

## ORDER FOR RECORD TO REMAIN OPEN

Mr. DOMENICI. Pursuant to the agreement on S. 625, I ask unanimous consent that the RECORD remain open until 5 p.m. for the filing of amendments to the pending legislation.

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

## PROGRAM

Mr. DOMENICI. Mr. President, for the information of all Senators, at 12 noon on Monday, the Senate will begin a period of morning business until 2 p.m. Following morning business, the Senate will resume debate on the bankruptcy reform legislation. By a previous consent agreement, the minority leader or his designee will be recognized at 3 p.m. to offer an amendment relative to the minimum wage, which will then be set aside so that the majority leader or his designee can be recognized to offer an amendment relative to business costs. Votes on these amendments have been set to occur at 10:30 a.m. on Tuesday, November 9.

The leader has announced that the first vote of next week will occur on Monday at 5:30 p.m. in relation to the bankruptcy bill. During the next week's session, the Senate will also consider the foreign operations appropriations bill, which has been received from the House, and any other appropriations bills that are available for action.

## ORDER OF PROCEDURE

Mr. DOMENICI. I ask unanimous consent that the Senator from Alabama be granted permission to speak for up to 5 minutes.

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

Mr. SESSIONS. If the Senator will yield, I believe Senator WYDEN also wanted to make remarks for up to 10 minutes.

Mr. DOMENICI. All right. Which Senator?

Mr. SESSIONS. Senator WYDEN, before we adjourn.

Mr. DOMENICI. OK.

## ORDER FOR ADJOURNMENT

Mr. DOMENICI. Mr. President, 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, except that there be time remaining for the distinguished Senator from Alabama, Mr. SESSIONS, and 10 minutes for Senator WYDEN.

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

The Senator from Alabama.

(The remarks of Mr. SESSIONS pertaining to the introduction of S. 1873 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. I ask unanimous consent at this point to speak for up to 15 minutes as in morning business.

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

## MEDICARE COVERAGE OF PRESCRIPTION DRUGS

Mr. WYDEN. Mr. President, I have been coming to the floor now on a number of occasions, as we move toward the end of our work for this year, in an effort to try to build bipartisan support for ensuring that senior citizens can get prescription drugs under their Medicare.

There is one bipartisan bill now before the Senate. It is the legislation that Senator SNOWE and I have introduced together. Fifty-four Members of the Senate have voted for this bill. It seems so sad that the Senate cannot come together on an issue such as this and provide some real relief for the Nation's older people.

So as part of this effort to get bipartisan support for legislation to cover seniors for their prescription drug bills, I have come to the floor and urged seniors to send in copies of their prescription drug bills, to send in copies of their bills to all of us here in the Senate in Washington, DC. I hope that in doing that, it will help generate some awareness about how serious a problem this really is for the Nation's older people.

As I have done on previous occasions, I come to the floor to discuss some of these letters. This afternoon, I want to take a couple of minutes to talk about a handful of the letters I have received from senior citizens in my hometown of Portland. We have read from letters from seniors across the State of Oregon in the past. Today, I thought I would look to my hometown and describe a little bit about what the seniors are faced with in terms of trying to pay these prescription bills.

One elderly widow wrote me in the last couple of days from Portland to describe her situation as one where she has a monthly income of $806. She spends about $150 of that monthly income on her prescriptions. She indicates she is having problems paying for these very large prescription drug bills. When asked by our staff what she does in a situation such as this, she just said: I do without and pray. That was her response to the question of making sure she could get help with her prescriptions. She goes on to say, when we asked her about choosing between food and fuel and health care—we have literally millions of our Nation's seniors today walking on an economic tightrope, balancing these costs, medical bills against their fuel bills. When we asked her how she handled the situation with respect to her medicine, she said: I just wait. I always pay the utilities first.

Now, this isn't some kind of statistic or abstract kind of matter that the think tanks are debating here in the beltway. This is a senior citizen back home in Portland, my hometown. She has a monthly income of $806. She spends $150 of it on her prescription medicines. When she can't afford her prescriptions, she writes me: I just do without and pray.

How is it that a country as rich and strong and powerful as ours can't provide some relief to an elderly widow with an income of $806 a month, spending more than $150 of it on her prescriptions and literally having to pray she will get some help with her medical bills? How is it that our country, so strong and so good, can't come up with a plan to help an elderly widow such as this?

Senator SNOWE and I are part of a bipartisan team trying to address it. The Snowe-Wyden legislation has garnered 54 votes on the floor of the Senate in terms of its funding plan. Already a majority of the Senate is on record as saying this is an appropriate way to try to fund a prescription drug benefit for older people. I am concerned—this is right at the heart of the philosophy behind the Snowe-Wyden legislation—that if we don't act, and act in a bipartisan way, in this session of the Congress before we wrap up our business next year, it will be years before older people get some help with their prescription drugs.

I am very often asked at town hall meetings and other gatherings whether our Nation can afford to cover prescription drugs. My view is, we cannot afford not to cover these prescription drugs. Not only are we hearing about the suffering in these letters I keep bringing to the floor of the Senate, but we are seeing in so many instances that if older people could get just a little bit of help with their prescription drug costs, that would help our country save much more expensive medical bills down the road.

I have repeatedly cited on this floor the anticoagulant drugs. That seems to me a particularly good example. The evidence shows that if older people can get help with some of these anticoagulant medicines—the cost might be $1,000 a year for help with anticoagulant medicines—they could save the cost they might incur if they suffer a stroke as a result of not getting their medicines. Those costs can be upwards of $100,000 a year. That is, in effect, the kind of challenge with which we are faced. Either we address this issue on a bipartisan basis—that is what the Snowe-Wyden legislation is all about—or we continue to have our senior citizens suffering, whether it is in Alabama, Oregon, or any other State. This is an area where we can work in a bipartisan way.

In the Snowe-Wyden legislation, we reject price controls. This isn't a run from Washington, one-size-fits-all Federal approach. We try to use marketplace forces, the ingenuity of the marketplace to give senior citizens some clout. It is a model we all know something about. Federal employees in Alabama and Oregon use the Federal Employees Health Benefits Plan. It is marketplace oriented. It gives folks choices and options and alternatives. That is the model behind the Snowe-Wyden legislation.

Our bill is called SPICE, the Senior Prescription Insurance Coverage Equity Act. With a majority of the Senate already having voted for a funding plan for the program, we think that is the way to proceed.

As seniors hear us on the floor of the Senate talking about this issue and urging that folks send us copies of their prescription drug bills to the Senate in Washington, DC, they may have other ideas than the Snowe-Wyden legislation. The important thing is, there is no reason this Senate cannot come together in a bipartisan fashion and act in a way to provide real and meaningful relief to the Nation's older people.

I will cite another couple of examples of older people who have been writing us in recent days. An elderly gentleman from Portland, again, describes taking five drugs, a lot of them very familiar—Minocin, nitroglycerin for blood pressure, for heart ailments connected with diabetes. This gentleman has a monthly income of about $900. He is spending about $170 from his monthly income on prescriptions.

We talked to him about what it means for him to be in this kind of financial crunch where, out of a monthly income of $900, $170 of it goes for prescriptions. He reports that if he could have a little bit of help with his prescriptions, he would have money for other things he describes as clothing.

So we are not talking about seniors getting help with their prescriptions and then suddenly using it for some sort of luxury or something that might be considered nonessential. These seniors are talking about not having enough money to pay for essentials. When they can't get help for their prescription drugs, such as this elderly gentleman in Portland, this gentleman said, in effect, he can't afford his clothing. He cannot afford clothing.

Of course, that, to some extent, is a health-related kind of matter because older people are susceptible to illness. This is getting to be the colder part of the year. These are folks who, if they can't get adequate clothing, may pick up illnesses as a result of not being able to afford warm clothes.

What we are talking about may not be of great importance to some of these think tanks in Washington. I have seen they are putting out all kinds of reports that this is not all that important to seniors. I talk to senior citizens at home in Oregon. The seniors we are

talking to know these are real problems. What they want to see is the Senate deal with them in a bipartisan kind of fashion. They want to see us get beyond some of the bickering and the finger pointing.

The Snowe-Wyden legislation is built on that principle. We don't want to see the U.S. Senate duck this issue, have it go out on the campaign trail where Democrats will attack the Republicans and Republicans will attack back. That is really easy. It is easy to take issues like this, using the campaign fodder for advertisements. What is tough is crafting bipartisan legislation.

So I am very hopeful that seniors, as this poster says, will send in copies of their prescription drug bills to us here in the Senate in Washington, DC. Instead of having to come to the floor of the Senate day after day, as I have, I can come to the floor of the Senate and talk about being proud of working with my colleagues on a bipartisan basis to address this issue.

Before I wrap this up for this afternoon, I wanted to mention one other account that came to Tualatin just outside Portland at home in Oregon. This was an elderly couple, they spend about $300 a month on their prescription drugs. They are taking 11 prescriptions. They report that they are retired but are trying to work to pay for prescriptions. The husband is over 65 and he is trying to work now in order to pay their prescription drug bills of $300 a month. This is an elderly couple in Tualatin, OR. None of it is covered by health insurance. They report to us that they are cutting down on other essentials that are important to them, but they are going to keep working. The husband is going to keep working simply to pay the couple's prescription drug bills.

Think about that for a moment, the three cases I have read from today: An elderly widow who can't pay her prescription drug bills without great hardship with an income of $806 a month, with $150 for prescriptions. She says, ''I just do without and pray.'' Next is an elderly gentlemen from Portland, with a monthly income of $900 a month, and he is spending about $170 of it on prescription drugs. He says he hopes to be able to get some coverage so he would be able to afford some clothing —an essential, especially as we move into the cold weather season. And then, finally, is the couple I just mentioned with $300 a month in prescription drug bills, with the husband not in good health but continuing to work solely to pay for their prescriptions.

I think it is so sad that when we have had a majority in the Senate go on record as voting for a plan to fund this important benefit for the elderly, when I know there are Senators of good will on both sides of the aisle who would like to work on a marketplace solution to covering prescription drugs for seniors, the Senate can't come together and deal with it. The fact is, our senior citizens are getting creamed with respect to their prescription drug bills, and it happens two ways. First, Medicare never covered prescriptions when the program began in 1965. I guess the architects didn't think it would be all that important.

As I have said on the floor of the Senate, it is more important today than it used to be because many of these drugs help to lower bills because they are preventive in nature. In addition to Medicare not covering prescriptions, what is happening today is if you are a senior citizen in Alabama, or in Oregon, and you walk into a drugstore in a small town in Oregon or in the State of the Presiding Officer, that senior citizen who walks into the drugstore, in effect, subsidizes the big buyers of medicine. If you are a health maintenance organization in Oregon, or in any other State, you can go out and negotiate a discount. You can go out and negotiate a good price on your medicine. You have clout in the marketplace. But if you are a senior citizen who just walks into a drugstore, you don't have any bargaining power, you don't have any clout. So, in effect, that senior citizen who walks into a pharmacy is subsidizing the big buyers in the community, the health maintenance organizations that can negotiate a discount. Those seniors are getting creamed twice. Medicare doesn't cover it, and then they have to subsidize the big buyers.

So I intend to keep coming to the floor of the Senate, continuing to bring to light these various kinds of real-life examples from home in Oregon. I hope seniors, as this poster indicates, will send us copies of their prescription drug bills. I want to hear from them. I want folks who are listening to the work of the Senate and are following this to send me and my colleagues copies of your prescription drug bills. Send it to us, each of us here, as the poster says, in Washington, DC.

I want you to do it for just one reason: I think this is the kind of problem that we are sent here to deal with. This is not some trifling, inconsequential matter. This is a question of whether we are going to respond to the more than 20 percent of the Nation's senior citizens who are walking on an economic tightrope every year, spending more than $1,000 a year out-of-pocket on prescriptions, balancing food costs against fuel costs, and fuel costs against their medical costs. As I have said again and again, they are giving up medicines that are essential to their health.

I mentioned yesterday older people with diabetes who can't afford the Glucophage, an essential diabetes drug. This is not something that is inconsequential; this is something that, for older people, can literally mean the difference between decent health or incurring a very, very serious illness and, often, even death.

Let us not be indifferent to the plight of those older people. They are asking the Senate for action. The bipartisan Snowe-Wyden legislation is one approach that I happen to favor. But I am sure our colleagues have other ideas. What is unacceptable to me, though, is to just say that this Senate won't take it up, we will save it for the campaign trail of 2000, we will tackle it another day. We ought to tackle it now. This has been an issue and a concern of the Nation's older people since back in the days when I was director of the Gray Panthers at home in Oregon. But it is getting to be an even bigger concern because more and more older people can't afford their medicine, and with more seniors interested in wellness and trying to stay healthy, this is the time for the United States Senate to act.

So I intend to keep coming back again and again to the floor of the Senate, and I hope seniors will send in copies of their prescription drug bills. I am proud there is a bipartisan bill now before the Senate to deal with this issue, the Snowe-Wyden legislation. I hope that seniors will be in contact with us, give us their ideas on whether they think our bill is the way to go, or if they prefer another route. What is unacceptable to me is for the Senate to duck this issue. We have an opportunity to work in a bipartisan fashion on it. I intend to keep coming back to the floor of the Senate again and again until we get that action.

With that, I yield the floor.

## ADJOURNMENT UNTIL MONDAY, NOVEMBER 8, 1999

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned.

Thereupon, the Senate, at 3:48 p.m., adjourned until Monday, November 8, 1999, at 12 noon.

## CONFIRMATIONS

Executive nominations confirmed by the Senate November 5, 1999:

DEPARTMENT OF DEFENSE

CORNELIUS P. O'LEARY, OF CONNECTICUT, TO BE A MEMBER OF THE NATIONAL SECURITY EDUCATION BOARD FOR A TERM OF FOUR YEARS.

ALPHONSO MALDON, JR., OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE.

JOHN K. VERONEAU, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be general*

GEN. JOHN P. JUMPER, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be general*

LT. GEN. GREGORY S. MARTIN, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. BRUCE A. CARLSON, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. STEPHEN B. PLUMMER, 0000.

IN THE ARMY

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be brigadier general*

COL. WILLIAM F. SMITH III, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be brigadier general, Medical Corps*

COL. LESTER MARTINEZ-LOPEZ, 0000.

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING JOSEPH A. ABBOTT, AND ENDING THOMAS J. ZUZACK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 27, 1999.

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

*To be colonel*

JOEL R. RHOADES, 0000.

IN THE NAVY

NAVY NOMINATIONS BEGINNING GEORGE R. ARNOLD, AND ENDING TODD S. WEEKS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 18, 1999.

IN THE ARMY

ARMY NOMINATIONS BEGINNING CELIA L. ADOLPHI, AND ENDING WILLIAM K. WEDGE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 27, 1999.