SEC. 107. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 108. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 109. No provision in the appropriations Act for the fiscal year 1999 referred to in section 101 of this Act that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 106(c) of this joint resolution.

SEC. 110. Appropriations and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 111. This joint resolution shall be implemented so that only the most limited funding action of that permitted in the joint resolution shall be taken in order to provide for continuation of projects and activities.

SEC. 112. Notwithstanding any other provision of this joint resolution, except section 106, for those programs that had high initial rates of operation or complete distribution of fiscal year 1998 appropriations at the beginning of that fiscal year because of distributions of funding to States, foreign countries, grantees or others, similar distributions of funds for fiscal year 1999 shall not be made and no grants shall be awarded for such programs funded by this resolution that would impinge on final funding prerogatives.

SEC. 113. Notwithstanding any other provision of this joint resolution, except section 106, the rate for operations for projects and activities that would be funded under the heading ''International Organizations and Conferences, Contributions to International Organizations'' in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999, shall be the amount provided by the provisions of section 101 multiplied by the ratio of the number of days covered by this resolution to 365.

SEC. 114. Notwithstanding any other provision of this joint resolution, except section 106, the rate for operations for the following activities funded with Federal Funds for the District of Columbia, shall be at a rate for operations not exceeding the current rate, multiplied by the ratio of the number of days covered by this joint resolution to 365: Corrections Trustee Operations, Offender Supervision, Public Defender Services, Parole Revocation, Adult Probation, and Court Operations.

SEC. 115. Activities authorized by sections 1309(a)(2), 1319, 1336(a), and 1376(c) of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4001 et seq.), may continue through the date specified in section 106 of this joint resolution.

SEC. 116. Section 28f(a) of title 30, U.S.C., is amended by striking the words ''The holder'' through ''$100 per claim.'' And inserting ''The holder of each unpatented mining claim, mill, or tunnel site located pursuant to the mining laws of the United States before October 1, 1998 shall pay the Secretary of the Interior, on or before September 1, 1999 a claim maintenance fee of $100 per claim site.''. Notwithstanding any other provision of law, the time for locating any unpatented mining claim, mill, or tunnel site pursuant to 30 U.S.C. 28g may continue through the date specified in section 106 of this joint resolution.

SEC. 117. The amounts charged for patent fees through the date provided in section 106 shall be the amounts charged by the Patent and Trademark Office on September 30, 1998, including any applicable surcharges collected pursuant to section 8001 of P.L. 103–66: *Provided*, That such fees shall be credited as offsetting collections to the Patent and Trademark Office Salaries and Expenses account: *Provided further*, That during the period covered by this joint resolution, the commissioner may recognize fees that reflect partial payment of the fees authorized by this section and may require unpaid amounts to be paid within a time period set by the Commissioner.

SEC. 118. Notwithstanding sections 101, 104, and 106 of this joint resolution, until 30 days after the date specified in section 106, funds may be used to initiate or resume projects or activities at a rate in excess of the current rate to the extent necessary, consistent with existing agency plans, to achieve Year 2000 (Y2K) computer conversion.

SEC. 119. Notwithstanding any other provision of this joint resolution, except section 106, the amount made available for projects and activities for decennial census programs shall be the higher of the amount that would be provided under the heading ''Bureau of the Census, Periodic Censuses and Programs'' in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999, as passed by the House, or the amount that would be provided by such Act as passed by the Senate, or the amount of the budget request, multiplied by the ratio of the number of days covered by this resolution to 365.

UNANIMOUS CONSENT AGREEMENT—S. RES. 279

Mr. STEVENS. Mr. President, I further ask unanimous consent that at 7 p.m., the Senate proceed to the consideration of S. Res. 279 regarding Puerto Rico, submitted earlier today by Senators TORRICELLI, D'AMATO and MURKOWSKI. I further ask there be 50 minutes for debate on the resolution equally divided between the majority and minority sides, with 10 minutes of the minority time under the control of Senator SARBANES.

I further ask that upon the conclusion or yielding back of the time, the resolution and preamble be agreed to, and the motion to reconsider be laid upon the table, and that no amendment be in order to the resolution or the preamble.

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

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

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

SENSE OF THE SENATE REGARDING PUERTO RICO

The PRESIDING OFFICER. Under the previous order, the clerk will report the resolution.

The bill clerk read as follows:

A resolution (S. Res. 279) expressing the sense of the Senate supporting the right of the United States citizens in Puerto Rico to express their desires regarding their future political status.

The Senate proceeded to consider the resolution.

Mr. DASCHLE. Mr. President, I am very pleased to join my colleagues in support of this sense-of-the-Senate resolution that recognizes the rights of U.S. citizens in Puerto Rico to decide their political future.

I publicly commend the distinguished Senator from New Jersey and the Senator from Florida for their outstanding leadership in bringing us to this point. Resolutions of this kind and legislation dealing with this particular issue have had a roller-coaster ride in this Congress. Were it not for the tremendous persistence of the Senator from New Jersey and the Senator from Florida, we would not be here tonight. So I publicly express, on behalf of all of our colleagues, our thanks to them for their leadership, their persistence, and their diligence in bringing us to a point where we hope on a unanimous basis this resolution will at long last be adopted tonight.

Very simply, the resolution states that the people of Puerto Rico should be given an opportunity to express their views on the political status of Puerto Rico through some form of plebiscite. President Kennedy once said, ''The most precious and powerful right in the world is the right to vote in an American election.''

The great Mexican patriot, Benito Juarez, once said that ''democracy is the destiny of humanity.'' In the case of Puerto Rico, democracy delayed is democracy denied. The destiny of Puerto Rico's political future should be in the hands of the people of Puerto Rico. Congress should pass legislation that provides the congressional framework to recognize and implement their decision.

Our Nation is built on democratic principles of equality, opportunity and the right of self-determination.

Yet, American citizens on the island of Puerto Rico lack the rights to express the basic tenet of democracy, a government chosen by the people.

In the words of Thomas Jefferson, ''That government is the strongest of which every man feels a part.'' In regard to Puerto Rico, formal recognition of these democratic ideals is long-overdue. Since the end of the Spanish-American War 100 years ago, we have shared a social, economic, and political union with Puerto Rico. In 1917, Congress granted citizenship to Puerto Ricans. In 1952, the people of Puerto Rico took on local self-government.

In 1963, President Kennedy called for self-determination for the people of Puerto Rico.

More than a quarter of a century later, we are still debating the issue in the Senate as 4 million Americans are denied basic democratic rights. I hope we will all agree that this is simply unacceptable.

The people of Puerto Rico have long demonstrated their patriotism to the United States. Tens of thousands have served in the American military. More than 1,200 Puerto Ricans have died in combat to preserve our democratic way of life.

Mr. President, I support the right of self-determination for U.S. citizens living in Puerto Rico. That is why I am a cosponsor of S. 472, the ''United States-Puerto Rico Political Status Act,'' which provides a congressionally recognized framework for U.S. citizens living in Puerto Rico to freely decide statehood, independence, or the continuance of the commonwealth under U.S. jurisdiction.

As a first step, Congress should adopt this sense-of-the-Senate resolution this year in an effort to resolve the question of Puerto Rico's political status in a fair manner.

We must ensure we provide full democratic rights for all American citizens, including those who live in Puerto Rico.

Mr. President, I yield the floor.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from the great State of Florida.

Mr. GRAHAM. Mr. President, I rise to speak on this sense-of-the-Senate resolution with mixed feelings. I would have much preferred to be speaking tonight in behalf of legislation that would have provided for the first time in the 100-year relationship between the United States and Puerto Rico for a congressionally sanctioned plebiscite giving to the people of Puerto Rico the sense of confidence from respect that their voice would be heard as to their desires for their political future.

Our colleagues in the House of Representatives passed such a plebiscite bill. Unfortunately, after months of hearings, we will not have the opportunity to present from the Energy and Natural Resources Committee to the full Senate such legislation. I commend Senator MURKOWSKI who made a valiant effort to do so, including developing legislation which I think could have been the basis of a consensus on this matter and would have resulted in a favorable vote in the full Senate and the nucleus of a compromise with the House of Representatives.

But the world goes on. The Governor of Puerto Rico has, with the concurrence of the Puerto Rican Congress, called for a referendum on the political future of Puerto Rico to be held on December 13. It is important that, as a minimal statement of our commitment to the principle of self-determination, we adopt this sense-of-the-Senate resolution and express our position in favor of that plebiscite and indicate that we will take its results with appropriate seriousness.

We recognize, and the sense-of-the-Senate resolution proclaims, that the ultimate decision as to the political future of Puerto Rico will be made by this Congress, but by giving the degree of recognition to the Puerto Rican-called plebiscite on December 13 that this sense-of-the-Senate resolution will do; it will give additional standing, additional confidence, to the people of Puerto Rico that their vote on that day will have an important impact here as we decide what next steps to take relative to the political future of Puerto Rico.

Mr. President, it is clear that we cannot continue with the status quo. A decision is going to have to be made, and I believe made soon, as to what the permanent political status of Puerto Rico will be. We have had this expedience throughout America's history.

After the first 13 colonies, there was the Northwest Ordinance which laid out the basic principle by which future States would be carved out of the large territories of America and joined to the Original States. And that principle included the fact that those new States would join with equal dignity, with equal political rights and responsibilities to the Thirteen Original States. These have been basic tenets of our democracy which now we are called upon to make available to the people of Puerto Rico.

My colleague, Senator TORRICELLI, in comments last week made the statement which I think summarizes the essence of the debate that we are having this evening, and that is, that Puerto Rico represents the unfinished business of American democracy. And it cannot be ignored—unfinished business. We need to set about our task of completing that. And that task begins by a respectful listening to the desires of the almost 4 million U.S. citizens who live on the island of Puerto Rico.

I remind my colleagues that we are not talking about 4 million people who are citizens of a foreign land. Every one of those 4 million people in Puerto Rico is a citizen of the United States of America. These are fellow citizens who have never been afforded the opportunity for a clear congressionally sanctioned expression of their opinion as to what their political future should be. The nearly 4 million U.S. citizens who reside in Puerto Rico are entitled to that opportunity. And this combination of a Puerto Rican congressionally called plebiscite with this degree of sanction by the U.S. Congress is as close as we can reach to that objective in 1998.

The sense of the Senate is the very least that we can do to honor the request of our fellow U.S. citizens in Puerto Rico and send them a clear message that we are listening to their desires.

The sense of the Senate, in conjunction with the House-passed bill, takes an important step in the right direction. I thank all of my colleagues who have cosponsored this resolution. I thank all of those who have been so active in the effort to secure a congressionally sanctioned plebiscite in Puerto Rico.

I say to our fellow citizens in Puerto Rico, we admire your contribution for a century to the development of our land. We admire your patriotism in time of war and your great contributions in time of peace. We extend to you this statement of our respect.

We urge your full participation in the plebiscite on December 13. We will be anxious to receive your statement of your desires for your political destiny. And then I hope that my colleagues here in this Chamber and our companion Chamber will hear with dignity what you have said and will move towards, with your direction, providing a permanent political status for the U.S. citizens on the island of Puerto Rico.

Thank you, Mr. President.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, first of all, let me thank the Senator from New Jersey for authoring and bringing forth Senate Resolution 279. I am pleased to be a cosponsor of it, along with the chairman of the Energy and Natural Resources Committee, Senator MURKOWSKI; for he and I have, can I say, labored mightily, along with the Senator from Florida, over the last good many months, first of all, to work on the issue of self-determination for Puerto Rico.

I certainly thank all of my colleagues for the cosponsorship of S. 472, legislation that I introduced a year ago that I hoped, as does the Senator from Florida, that we could be voting on at this time—debating it, voting on it, and giving our Puerto Rican friends and fellow citizens the opportunity, a clear direction as it relates to self-determination. That is not going to be the case. Time has not allowed that.

So I hope that by next year the record before the Senate might include the results of another plebiscite in Puerto Rico that the Senator from Florida has just mentioned. That is why the resolution before us today, I think, is very important.

In accordance with their rights of self-determination, the citizens of this Nation—the people of Puerto Rico—acting through their constitutional process and elected representatives, have empowered themselves to conduct a vote based on the record created in the House and the Senate deliberations in the Congress since the 1993 vote.

Since any act of self-determination in Puerto Rico is not self-executing, the resolution of Puerto Rico's political status is a Federal matter that can only be fully and finally determined by an act of Congress. However, in the exercising of its powers in this regard, Congress must be informed by the freely expressed wishes of the citizens of Puerto Rico. Thus, this resolution recognizes that the coming vote will advance the process of self-determination

within the framework of our great Nation's Constitution.

Contrary to rumors in Puerto Rico, there was no great intrigue or political reaction to videotapes from the local status campaigns that prevented the Senate from moving forward with legislation at this time. Rather, faced with what we all understand is a very complicated schedule here in the final days before we adjourn, and concern on the part of colleagues on both sides of the aisle, we have brought Senate Resolution 279 to the floor to express at this time, as the House has expressed, an opportunity for the Puerto Ricans to advance the cause of their self-determination. And I hope that the resolution and our vote on it tonight reflects that.

Mr. President, today the Senate ends its prolonged silence on the question of Puerto Rico's political status. The 105th Congress will not end without a Senate response to the 1994 and 1997 petitions of the Legislature of Puerto Rico to Congress. By our action today, the Senate joins the House in responding to those petitions by recognizing the need for further self-determination in Puerto Rico. This is because the 1993 status vote in Puerto Rico did not resolve the status question. Indeed, no option won a majority in 1993.

That is why I sponsored a bill to recognize the need for further self-determination. I thank my colleagues from both parties who joined me by cosponsoring S. 472.

I also want to thank the chairman of the Energy and Natural Resources Committee, Senator MURKOWSKI, for his assistance and leadership to establish a record to support action by the committee and the full Senate on this matter. I regret that the draft chairman's mark has not been acted on, but I applaud his commitment to move the self determination issue forward.

It now appears that by next year the record before the Senate may include the results of another plebiscite in Puerto Rico. That is why the resolution before us today is so very important. In accordance with their right of self-determination, the people of Puerto Rico, acting through their constitutional process and elected representatives, have empowered themselves to conduct a vote based on the record created in the House and Senate deliberations in Congress since the 1993 vote.

Since any act of self-determination in Puerto Rico is not self-executing, resolution of Puerto Rico's political status is a federal matter that can only be fully and finally determined by an act of Congress. However, in exercising its powers in this regard Congress must be informed by the freely expressed wishes of the residents of Puerto Rico. Thus, this resolution recognizes that the coming vote will advance the process of self-determination within the framework of our great Nation's Constitution.

Contrary to rumors in Puerto Rico, there was no great intrigue or political reaction to videotapes from the local status campaigns that prevented the Senate from moving forward with legislation at this time. Rather, faced with the difficulty of completing a full Senate debate on the draft chairman's legislative mark, this body is doing the right thing by moving forward with a Resolution recognizing the need for further self-determination and recognizing the constraints placed upon it.

I am proud of the Senate today, and I am proud of the people of Puerto Rico for seizing the moment and organizing an act of self-determination that is based upon the arguments heard in the Congressional process which will continue next year. This action is good for Puerto Rico and serves the interests of our entire Nation as we move forward together to seek to resolve the territorial status dilemma that began 100 years ago. I wish our fellow U.S. citizens in Puerto Rico well in exercising their God given right of self-determination. I hope they will join me in trusting that their voice will be heard and that Congress will answer. In America, we have no alternative to democracy and desire nothing more.

I join with my colleagues from Florida, New Jersey—now the chairman of the full committee is here on the floor—to say to our friends and citizens of Puerto Rico that we ask them to go forward with their vote in December. We hope that that is an advanced expression of their desire to advance the cause of statehood, but most importantly to advance the cause of self-determination so that the Congress can have the kind of direction that we hope that vote will bring.

With that, I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. In view of my colleagues who have waited longer than I have, I simply want to identify the time on either side, and if I may, if there is no objection, I would like to control the time.

The PRESIDING OFFICER. The majority has 20 minutes; the minority has 13 minutes.

Mr. MURKOWSKI. I would be happy to—obviously, I will not speak for the minority—but I would yield whatever time to the minority or perhaps Senator TORRICELLI would like to control the time for the minority.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

PRIVILEGE OF THE FLOOR

Mr. GRAHAM. I ask unanimous consent that Delia Lasanta, Luis Rivera, and Danielle Quintana of my staff and Susan Nisar of Senator D'AMATO's staff be accorded floor privileges for the remainder of today's session.

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

Mr. TORRICELLI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. TORRICELLI. Mr. President, is there a unanimous consent request proposed by the Senator from Alaska?

The PRESIDING OFFICER. If the Senator would withhold for a moment, 10 minutes of the minority's time is already under the control of Senator SARBANES under a previous order.

Mr. TORRICELLI. Mr. President, I ask unanimous consent that I be able to control the remainder of the minority time and the Senator from Alaska control the remainder of the majority time.

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

Mr. MURKOWSKI. How much time does the Senator from New York desire?

Mr. D'AMATO. No more than 5 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. D'AMATO. Mr. President, let me at the outset say how tremendously proud and pleased I am that one of my great and dear friends, the Senator from Alaska, has worked so hard and so diligently to attempt to advance a cause that this Nation espouses to so many.

We talk about the lack of freedom throughout the world. We talk about democracy. Indeed, it is unfortunate that there are strong forces, people who I know and who I respect, who even at this very time give lip service rather than meaningful and true support for that cause. Senator MURKOWSKI understands that freedom and democracy are not something that just should be for some, but should be for all, and that the right of self-determination is an inalienable God-given right. It is one that this country is founded on. People have paid the greatest price and sacrifice with their life, jeopardizing their families, in the fight for freedom and democracy.

I have to tell Members that it is more than imperative, it is a moral necessity, that we strongly encourage the process of self-determination for 4 million Americans, U.S. citizens who live in Puerto Rico, that they should determine by what rules and what form of government they should live.

We have for years talked about the lack of democracy in all areas of the world. We talk about it in China, Korea, here, there. We should be ashamed that it has taken us so long to come forth with a rather simple resolution, and that it has taken such an incredible effort by the Senator from Alaska and others, to bring us to this point. This is a pittance in comparison to those who have bled, who have sacrificed for democracy, for self-determination.

I hope we understand that we want to encourage people, saying the right to vote, the right to determine one's own destiny, is inalienable.

I would like to have a recorded vote. I would like for us to say: We are going

to recognize your hopes and your aspirations and your dreams. It is my hope that the people vote for statehood. But that is their right. They may determine that they want to continue the present situation, but they should have that inalienable right, and we should say to them that we are ready and willing to recognize your choice, your decision, as free men and women, and, yes, that we would be willing and ready to undertake supporting that decision because we respect the inalienable rights of people to make their own determination.

As we mark the 100th anniversary of Puerto Rico becoming a part of the United States, I think it is important to recognize that their sons and daughters have made the supreme sacrifice. They have answered the call of duty. They have been there. And now it is time for us to say: You can be a part of this great Nation, not just as citizens, but as a State, if you choose, if you determine, and then send your response to us.

There are those who say it doesn't matter. Well, it does matter, and it is bigger than partisan politics. It is bigger than Republicans and Democrats. I believe that in the fullness of time what an incredible beacon a 51st State might be. But that is for the people of Puerto Rico to determine. What an example to all of Central America and South America, in terms of sharing our cultures, our values, with this island as part of this great Nation. Certainly at the very least, the people of Puerto Rico, our citizens, should have that right which we declare day in and day out is inalienable for people throughout the country, for all corners of the world.

I congratulate my friends who have brought it to this point, and the Senate majority leader, and Senator TORRICELLI for his unwavering support of that commitment to justice, to democracy, to self-determination.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. TORRICELLI. Mr. President, I want to first express my congratulations to Senator MURKOWSKI without whose efforts in committee we would not, today, be discussing this resolution; Senator GRAHAM of Florida, who has labored for so long on this cause; Senator DASCHLE; Senator LANDRIEU; Senator D'AMATO; Senator CRAIG; so many Members of this institution who have taken the cause and interests of the people of Puerto Rico and made them their own.

There are few more solemn responsibilities to come to the Congress of the United States than the issue of admission into this great Union. It is solemn because to join in union is to share a future, to pledge our fortunes, our lives, together. It is a serious occasion because the prospect of joining this Union raises the prospect of ''forever,'' because this Union is indivisible, it is permanent. The judgment to join this Union is made by any peoples and any lands but once in their history, and it is never revisited again.

For 100 years, the people of Puerto Rico and these United States have shared a common history. Our people have fought together, bled together, and died together. Our cultures over a period of time increasingly have merged. Hundreds of thousands, indeed, millions, of people of Puerto Rico have chosen to live among other Americans in these United States. Indeed, the judgment that potentially might be made by the people of Puerto Rico who reside on the island has economically and culturally and even politically already been made by millions of others in how they live and where they choose to live.

The history of the United States for these 200 years has been a history of constant enfranchisement, expanding the right to vote to African-Americans, to women, people 18 years of age, in our own generation to the people of Hawaii and Alaska.

It is part of the great history of this country that we, unlike other nations, were not satisfied to simply enfranchise ourselves but recognized we were the greater and the better people through our expansion. Now we, potentially, visit that question again. It is a judgment that can only be made by the people of Puerto Rico for themselves. This is ultimately their responsibility to decide. But it is the responsibility of this Congress that they have the right to decide. It is a peculiar and tragic irony of history that the first republic to be created out of colonialism might now enter the 21st century in a neocolonialist position.

No American should be content with this contradiction of our own history, and some might claim—some might even accuse—that this U.S. Government is in a position with the people of Puerto Rico that is anything less than full, free, fair, and democratic. Yet, by the definition we have applied for ourselves, it would be difficult to defend against the charge. Written on the walls of this Capitol from the inaugural address of President Harrison in 1841 is, ''The only legitimate right to government is an expressed grant of power from the governed.''

Yet, Mr. President, every day, the people of Puerto Rico are subjected to fees, rules, regulations, policies, and determinations from this Congress, having no representative who has a right to vote and make a judgment on their behalf. The relationship between the people of Puerto Rico and the United States is a contradiction with everything that we hold dear and every principle upon which this country was founded.

Mr. President, I urge the people of Puerto Rico to take this judgment seriously between this date and December 13 and to think carefully. If they decide to join this Union, this is a moment that they will not visit again. Joining this Union is permanent. If it were my judgment, I, like the Senator from New York, Senator D'AMATO, would choose to join the Union. I believe history has given us the right and the responsibility to face the future together. But I recognize mine is no more than a casual opinion. The decision rests with the people of Puerto Rico alone. The importance of this resolution is that as the people of Puerto Rico vote, they should recognize that the U.S. Congress considers Puerto Rico to genuinely be the unfinished business of American democracy.

The people of Puerto Rico should recognize as they vote that the Congress of the United States is watching, that we recognize our responsibilities and are prepared in the 106th Congress to receive their judgment and make our own decision about the future of this Union.

Mr. President, once again, I want to congratulate Senator MURKOWSKI for having presided over these issues these months, and Senator GRAHAM for his leadership, and each of my colleagues who come to this floor on a bipartisan basis, across ideological lines, uniting in our common belief that there is no right to govern without the consent of the governed and that it is not good enough, in spite of the enfranchisement of all of our people across this continent, that there remains a single exception. America is too good a land, our history is too great, for anyone to be an exception to these great and lasting principles.

Mr. President, I yield the floor.

Mr. MURKOWSKI. Mr. President, it is my understanding that this side has about 15 minutes remaining?

The PRESIDING OFFICER. Yes, 15 minutes.

Mr. MURKOWSKI. I yield 5 minutes to Senator DOMENICI from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, first, let me say that it is most appropriate that we take this action tonight during the second week of Hispanic Heritage Month in the United States. It is quite appropriate, while we are honoring the contribution which Hispanic culture has made to our country, that we are now saying to one group of Hispanics who live on the island of Puerto Rico that we are willing to see you take a vote regarding whether or not you would choose to become the next State.

Mr. President, this resolution affirms that the first step in any change of political status for the community of Puerto Rico rests with the people of that island. When they express that opinion in December—December of this very year—then it will be up to Congress to take whatever steps are necessary to consider that decision.

Let me say that there are a number of Senate heroes with reference to this Puerto Rico resolution. First, I must say that the individuals most likely to recall the difficulties of taking a vote and deciding whether to become a State are the citizens represented by

those Senators whose States were last admitted, or close to being last admitted. So the hero tonight is FRANK MURKOWSKI of the great state of Alaska. For anybody wondering, that is not a Hispanic name—MURKOWSKI—but it is a name of European descent, perhaps Polish. He understands what it is for a State to go through this process of deciding whether you are going to become a part of the Union, the United States of America.

I remind the Puerto Ricans—who are Americans in their own right—that Americans think that the United States is so important that we had a Civil War over whether you could unilaterally drop out of the Union once you joined it. So I want you to take it seriously, Puerto Rico, because it is serious. We had the biggest battle within the borders of our own Nation about the issue of keeping this great country together, and you should know that and you should be concerned about that.

Secondly, let me suggest that in the State of New York there is a Senator named Senator D'AMATO, and the Puerto Ricans know that is not a Spanish name either; it is Italian like mine, DOMENICI. But this Senator from New York understands what the Puerto Ricans in his State and the Puerto Ricans in Puerto Rico mean to our Nation. He has always been willing to give the people in Puerto Rico an opportunity to determine their destiny. And I believe second to Senator MURKOWSKI on our side of the aisle, behind the scenes, Senator D'AMATO has made it very clear that this night should occur—not next year or the year after, but now. So I compliment my good friend and a friend of the Puerto Rican people in New York and across the country. I compliment the Senator for his tremendous, tremendous regard for what Puerto Rico believes is right and fair.

I must say, from the other side of the aisle, it is most interesting that tonight we have a series of Senators with these strange names—MURKOWSKI on our side, D'AMATO on our side, DOMENICI speaking, and TORRICELLI from New Jersey. I compliment Senator TORRICELLI for his vigilant and absolute persistence that something should be done on this issue before we leave here.

So tonight, without any question, the Puerto Rican people can already say across the island and throughout the rest of America, because it is a foregone conclusion, that the Senate will vote on this resolution propounded by the Senator from Alaska, Senator MURKOWSKI. Frankly, it will pass overwhelmingly. There will be no dissenting votes tonight, because for those who would like to dissent, they have already decided that they are not going to make a point of it.

As a consequence, we are going to approve this in just as formidable a way as if we had voted, when the U.S. Senate says without a dissenting vote tonight, that we agree with this resolution.

Mr. President, once again, many of us came here from around the world, or our parents or grandparents did. And we know the validity and the great value of America. We hope the people in Puerto Rico understand that and act accordingly.

I yield the floor.

Mr. MURKOWSKI. Mr. President, I believe Senator HATCH would like recognition for 3 minutes.

The PRESIDING OFFICER. The Senator from Utah is recognized for 3 minutes.

Mr. HATCH. Mr. President, I have been to Puerto Rico. I have to say it is a beautiful land.

These are our fellow citizens. They have to make this determination. Of course, we should give them that right.

I have heard both arguments within Puerto Rico. Some feel it is a great idea to have statehood. Others don't think it is quite so great. There are disadvantages to becoming a State. There is no question about it. But there are great advantages as well.

All we are doing here this evening is acknowledging as Members of the U.S. Senate the right of our fellow U.S. citizens in Puerto Rico to express democratically their views regarding their future political status through a referendum or other public forum, and to communicate those views to the President of the United States and to the Congress.

That is the least we could do. These are good people. These are proud people. These are people who have contributed to this country—and who will contribute to this country—even though their status has been different from other citizens.

I personally endorse and support this resolution here this evening. I hope and I know that it will pass. It will pass unanimously, which I think is the high tribute to the people of Puerto Rico and to those on both sides of this issue down there.

I congratulate all of those who have worked so hard to get this done, especially Senator MURKOWSKI, Senator TORRICELLI, the others who have been mentioned, Senator D'AMATO and Senator DOMENICI.

This is a wonderful evening, a wonderful day, and something that is long overdue. I congratulate my colleagues for having accomplished this today.

I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, first of all, in the concluding minutes that we have before our vote, let me recognize from the House of Representatives our good friend, CARLOS ROMERO-BARCELÓ, who is with us watching this historic action of the U.S. Senate. It is a pleasure to have you with us, my friend. Your contribution to these moments have been immeasurable, and your people of Puerto Rico can be very proud of your contribution in bringing this matter from the House of Representatives to the floor of the U.S. Senate tonight.

Mr. President, let me acknowledge my good friends and colleagues who have had such a significant role in moving this to where we are today. Of course, that would include Senator TORRICELLI and Senator D'AMATO.

I think it is important to recognize the constituency associated with many of the Members who have come forth as initial sponsors. Senator LAUTENBERG referred to Senator HATCH; my good friend from Hawaii, Senator AKAKA; Senator DASCHLE; Senator LANDRIEU; Senator LIEBERMAN; Senator GRAHAM of Florida; and Senator DOMENICI, and there are many, many more.

But the significance of the commitment, particularly of Senator D'AMATO and Senator TORRICELLI, I think represent an extraordinary sensitivity as brought out in the statements not necessarily individually of their feeling towards what America is all about but perhaps better in the comments that were made by the Senator from New Mexico, Senator DOMENICI, who indicated, as you look at the names of sponsors on this legislation, that you have a potpourri, if you will, of the mixture of Americans committed to democracy.

I must acknowledge in my thanks to my colleagues that this Senator from Alaska does not have a large Puerto Rican constituency. But I do have a long memory.

Alaska has been a State since 1959. I grew up in a territory. We had taxation without representation. My father used to say he felt good about being able to write on his income tax form in a red pen ''filed under protest, taxation without representation.'' But that is the extent of what made him feel good.

I can recall seeing neighbors when I was too young to go into the draft being drafted. We were second-class citizens, Mr. President. We had special identification cards to leave the territory of Alaska to visit the State of Washington. It was quite a blow to the sensitivity of American citizens, and as a consequence we have a situation with regard to Puerto Rico today.

Mr. President, I would like to have the clerk reserve at least 2 minutes of my time remaining for one of my colleagues who is here with me.

The PRESIDING OFFICER. The Senator has 4 minutes 30 seconds remaining.

Mr. MURKOWSKI. Mr. President, if I may, I want to specifically cite the fact that I support this resolution. I fully support the objective of this resolution in reaffirming the right of our fellow citizens in Puerto Rico to express their desires on political status through popular referenda and to communicate those desires to the federal government. I also agree that the federal government should carefully review and consider any such communication.

This resolution is fully consistent with the objective of the draft chairman's mark that I circulated immediately prior to the recess.

I want to thank my colleagues who reviewed the draft chairman's mark and who provided me with comments and suggestions. As I stated in my press release last week, I do not think that there will be time to fully consider the legislation this session, but I think we have made considerable progress. This resolution is fully consistent with the philosophy of my draft that the initiative for any political status change lies exclusively with Puerto Rico.

During this Congress, the House of Representatives has passed legislation requiring a referendum in Puerto Rico. Similar legislation was introduced in the Senate. I stated at the outset of this Congress, that I consider the matter of political status one of the most important constitutional responsibilities of the Congress and of my committee.

I cautioned when those measures were introduced that as much as some would like to see legislation enacted in this centennial year of Puerto Rico coming under United States sovereignty, this was an extraordinarily complex and important issue and deserved full and fair consideration because I recall what happened in my own State of Alaska. It took a long time. Although the committee conducted a series of meetings in Puerto Rico at the beginning of the Congress, I made the decision that we would wait for the House to pass legislation before we began the formal committee process. I made that decision so that our committee would have all the various proposals before us.

By the time the House passed its legislation, it was already clear that it would be very difficult to resolve the many questions presented by the legislation this year. I want to emphasize the words ''this year,'' because I think there has been too much emphasis on timing and not enough on substance.

I am committed to the enactment of responsible legislation and not simply to the enactment of legislation this year.

Nonetheless, and despite the limitations of the Senate schedule and the importance of the other measures pending before the committee, we held a series of workshops, oversight hearing, and legislative hearings. I circulated a draft chairman's mark prior to the August recess to my colleagues on the committee. I asked for a review and comments. Several Members submitted very thoughtful amendments to the draft chairman's mark. While I have directed the staff to continue to work on these amendments, I do not see that attempting to force the legislative process would either be wise or helpful in view of the remaining time left in this session.

The initial workshop heard from the Governor and the leadership of the three recognized political parties in Puerto Rico. The Governor expressed the desire of the government of Puerto Rico to obtain an expression from the federal government of status alternatives. The parties agreed that so long as each political party is able to craft its own definition, those definition, those definitions would be political statements and as a result, no referendum would provide the clarity that Congress would want.

The first oversight hearing considered the fiscal and economic implications of any change in status. Those proceedings shed considerable light on some of the difficulties involved in any transition to prepare Puerto Rico for either consideration of an Admissions Act or for the withdrawal of United States sovereignty.

The second oversight hearing focused on the individual issues involved in separate sovereignty, either as full independence or in some form of free association. In addition to a consideration of the issues, especially that of citizenship, the hearing also served to focus on sovereignty as the test for consideration of those issues.

Those hearings and the legislative hearing that followed demonstrated how unique the present circumstances of Puerto Rico is and how difficult any change in status will be. The hearings also demonstrate that the federal government is responsible for the present situation and the creation of the obstacles that must be overcome prior to any change in status.

A major defect, in my mind, in the measures pending before the committee and in the definitions used in past referenda in Puerto Rico, is the failure of the definitions for Statehood or Independence to acknowledge that Puerto Rico is not presently prepared for federal consideration of either option.

There is a very complex and difficult process involved before either option could be implemented, as our hearings demonstrated.

For Statehood, that process would entail, at a minimum, significant consideration of several entitlement programs as well as the extension of the Internal Revenue laws in concert with a complete overhaul of Puerto Rico's local tax code. This is not a simple matter and I do not expect that it can be done rapidly. Only after that transition is complete should Congress consider fully extending the Constitution to Puerto Rico.

As my colleagues know, the Constitution does not fully apply to Puerto Rico. Puerto Rico has never been ''incorporated'' into the United States. Alaska and Hawaii were fully incorporated well before the first Admissions Act was even introduced. Only after the debate on incorporation has concluded and when the Constitution is fully applicable in Puerto Rico can the political debate on admissions begin.

The point that I tried to achieve in my draft chairman's mark, is that Congress has created a series of obstacles to the achievement of any change in political status. I think we owe our fellow citizens an explanation of what the process is likely to be to overcome those obstacles so that they can express their desires with a clear understanding of the process that lies before them.

A second major defect in the legislation was that it required Puerto Rico to vote on federally defined options. How and whether Puerto Rico seeks to petition the Congress should not be dictated by the federal government. If we are serious about local self-government, then we should be willing to allow the local government to determine how to respond to the desires of its constituents. Not all territories conducted referenda on future political status and none were ever required to hold one by the federal government. As part of the Enabling or Admissions Act, some territories were required to agree to the terms of a particular Statehood proposal, but that came after Congress had enacted the legislation to provide for their admission.

We should not constrain Puerto Rico in how it seeks to approach a request to the federal government. Perhaps they will continue to use referenda, perhaps they will use resolutions of the legislature, perhaps they will use petitions. Each territory has approached the process from its own political perspective and we should not dictate to our fellow citizens in Puerto Rico what process they must use.

As a result of our workshops and hearings, I circulated a draft chairman's mark prior to the August recess to my colleagues on the committee. I asked for their review and comments. Several Members have submitted very thoughtful amendments to my draft chairman's mark. While I have directed staff to work on those amendments, I do not see that attempting to force the legislative process would be either wise or helpful.

I support the objectives of this resolution and they are fully consistent with the framework of my draft chairman's mark. There is no question that Puerto Rico, either through popular referenda or resolution of the legislature or simple petition, has the right to express its desire on political status. There should also be no question that the federal government should respond to any such expression seriously and with due consideration.

The government of Puerto Rico has now enacted legislation calling for a referendum on December 13 of this year. In developing the definitions that will be placed before the voters, the draftsmen had before them the language contained in the House-passed measure, the Senate-introduced measure, and my draft chairman's mark. They also had the testimony of the administration.

They chose to adopt definitions based on their own judgement. I want to make absolutely clear that even had

the draft chairman's mark been enacted, Puerto Rico would not have been obliged to adopt the definitions contained in it. My draft mark was strictly advisory as will be the results of any referendum. That is as it should be. All we could hope to do would be to provide some guidance as to what this Congress thinks the process would likely be. Just as we can not bind a future Congress, neither can an advisory referendum bind us.

I believe that we still owe our fellow citizens in Puerto Rico a fair statement of the alternatives and process involved in future political status so that they can express their desires in a meaningful way. Passage of this resolution does not in any sense diminish the importance of providing that information. This resolution does reaffirm that the initial step for any political status change rests with out fellow citizens in Puerto Rico. Only they can decide whether and when to petition the Congress for consideration of a change in status. Only Congress can consider the legislation necessary to remove the obstacles to such a status and, in the philosophy of the Northwest Ordinance, prepare Puerto Rico for consideration of that status.

I think that ultimately we need to clarify that process in legislation. Time is running out for this session of Congress, but I intend to resume where we are now at the beginning of the 106th Congress. In the interim, I think we have made considerable progress in clarifying the issues through our hearings and in the reactions to the draft chairman's mark. This resolution is completely consistent with that progress.

My best wishes go to the Governor and the people of Puerto Rico as they prepare to express their preference on the December 13 referendum vote.

I yield the time I have remaining to the senior Senator from Alaska, Mr. STEVENS.

Mr. STEVENS. Mr. President, I thank my colleague from Alaska.

I come to the floor to congratulate him and the other members of his committee for the action they are taking tonight to recognize the continuing support of the Congress for the determination by the people of Puerto Rico of what their future status should be.

The first resolution dealing with Alaska was introduced in the Congress in 1913. Final action on statehood for Alaska took place in 1958. We became a State in 1959, as Senator MURKOWSKI said. It is a long process to seek to change the political status of a portion of the United States, and Puerto Rico is a portion of our country. Its people really deserve the opportunity to express themselves on what their future should be.

So my congratulations to everyone for moving this resolution forward. I hope the day will come when I am still in the Senate that we can vote on statehood for Puerto Rico.

Mr. TORRICELLI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. TORRICELLI. How much time remains?

The PRESIDING OFFICER. The Senator from New Jersey controls 4 minutes 40 seconds.

Mr. TORRICELLI. Mr. President, let me finally, in conclusion, also thank CARLOS ROMERO-BARCELÓ. The fact that this Senate has come together in this extraordinary judgment would not have been possible without his leadership. And also, as Senator MURKOWSKI said, Governor Pedro Rossello has been such an important person in building this very broad coalition. To the Governor, I offer my very sincere congratulations. He is an extraordinary man who has given great service to his people in making this night possible. CARLOS ROMERO-BARCELÓ, your service has been nonetheless a great credit to the people of Puerto Rico.

Mr. President, I yield the remainder of my time to the Senator from Connecticut, Mr. LIEBERMAN.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 4 minutes.

Mr. LIEBERMAN. I thank the Chair. I thank my friend from New Jersey particularly for his leadership in bringing this resolution forward and to express my own pleasure at being a cosponsor along with a bipartisan group of cosponsors.

Mr. President, very briefly, this resolution is about principle. It is not about politics. It is about the principle of self-determination, which was at the heart of the creation of America—the principle of self-determination, democracy, self-rule. It has continued throughout our history to today, when it remains a fundamental priority element of our foreign policy toward other peoples and other nations.

Really, what this is about is taking that fundamental American principle which we are eager to apply around the world and applying it to 4 million of our fellow American citizens who live on the islands that constitute Puerto Rico, who served and died in defense of America's freedom in disproportionate numbers. They deserve the right to become fully free, determine their destiny, participate fully, if they choose and how they choose, in our democracy.

Senator MURKOWSKI has been a very steadfast leader in this effort. It didn't get as far as he or we wanted, but this resolution at least gives us the possibility, before the 105th session adjourns and prior to the referendum that will be held in Puerto Rico in December, to say as Members of the Senate of both parties we welcome the exercise and recognize the right of our 4 million fellow Americans in Puerto Rico to express themselves to us and that we will review any such communication that results from the vote that they hold in December. It is the least we can do to be true to our principles.

I thank the Chair and I yield the floor.

Mr. LAUTENBERG. Mr. President, I rise in strong support of this resolution. I am pleased that we are passing this resolution on the second day of Hispanic Heritage Month because Puerto Ricans, like all Hispanic Americans, have made a great contribution to the culture and economic growth of America.

There are nearly 4,000,000 American Citizens who live in the Islands of Puerto Rico. They are an integral part of our nation, they pay taxes and serve and die in our nation's military. Furthermore, there are millions of American Citizens with Puerto Rican heritage who live on the continent, hundreds of thousands of whom live in New Jersey. In many ways, New Jersey is a second home for Puerto Ricans.

I strongly believe that the American citizens who live in Puerto Rico should have the right to a democratic vote to determine the future status of these islands. I am pleased that such a referendum will take place in December. After this vote, Congress should take the appropriate legislative action that reflects the will of the American citizens living in Puerto Rico. And I will work with my colleagues to make sure that this happens.

I urge my colleagues to support this resolution.

The PRESIDING OFFICER. Who seeks recognition?

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I see no other Senator wishing to speak.

I believe there is no more remaining time on our side.

The PRESIDING OFFICER. The Senator from Alaska controls 2 minutes; the Senator from New Jersey controls 1 minute 45 seconds.

Mr. TORRICELLI. Mr. President, I yield back my time.

Mr. MURKOWSKI. Mr. President, I would be very pleased, if there is no other Senator wishing recognition, to yield back the remainder of our time.

The PRESIDING OFFICER. Under the previous order, the resolution and the preamble are agreed to.

The resolution (S. Res. 279), with its preamble, reads as follows:

S. RES. 279

Whereas nearly 4,000,000 United States citizens live in the islands of Puerto Rico.

Whereas 1998 marks the centenary of the acquisition of the islands of Puerto Rico from Spain;

Wheras in 1917 the United States granted United States citizenship to the inhabitants of Puerto Rico.

Whereas since 1952, Puerto Rico has exercised local self-government under the sovereignty of the United States and subject to the provisions of the Constitution of the United States and other Federal laws applicable to Puerto Rico;

Whereas the Senate supports and recognizes the rights of United States citizens residing in Puerto Rico to express their views regarding their future political status; and

Whereas the political status of Puerto Rico can be determined only by the Congress of the United States: Now, therefore, be it

Resolved,

SECTION 1. SENSE OF THE SENATE REGARDING A REFERENDUM ON THE FUTURE POLITICAL STATUS OF PUERTO RICO.

It is the sense of the Senate that—

(1) the Senate supports and recognizes the right of United States citizens residing in Puerto Rico to express democratically their views regarding their future political status through a referendum or other public reform, and to communicate those views to the President and Congress; and

(2) the Federal Government should review any such communication.

Mr. MURKOWSKI. I thank the Chair.

I move to reconsider the vote and lay that motion on the table.

The motion to lay on the table was agreed to.

CONSUMER BANKRUPTCY REFORM ACT OF 1998

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (S. 1301) to amend title II, United States Code, to provide for consumer bankruptcy protection, and for other purposes.

The Senate resumed consideration of the bill.

AMENDMENT NO. 3600 TO AMENDMENT NO. 3559

(Purpose: To provide for protection of retirement savings)

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

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for himself, Mr. GRAHAM, Mr. DURBIN, and Mr. GRASSLEY, proposes an amendment numbered 3600 to amendment No. 3559.

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 amendment is as follows:

[The amendment was not available for printing. It will appear in a future edition of the RECORD.]

Mr. HATCH. Mr. President, I am pleased to offer this amendment cosponsored by Senator CHARLES GRASSLEY of Iowa on our side and Senator BOB GRAHAM of Florida and Senator DICK DURBIN on the Democrat side, all of whom I would like to thank for their hard work on this important matter.

The Hatch-Graham-Grassley-Durbin pension amendment, among other things, is designed to do the following: Provide a uniform exemption for all types of tax-favored qualified pension plan assets in bankruptcy including Roth IRAs whose status under current bankruptcy law is uncertain, protect retirement assets that are in the process of being rolled over into a new qualified plan, and protect loans from pension funds in bankruptcy.

Under present law, retirement plans which have received a determination letter from the IRS pursuant to section 7805 of the Internal Revenue Code of 1986, as amended, which have not been revoked by a court or by the IRS have, in many instances, been held by the bankruptcy courts not to be qualified plans. This holding allows the trustee for the bankruptcy estate to seize the interest of the bankrupt participant in the plan.

Similarly, if a retirement plan that is not eligible to receive a favorable determination letter but has in all other respects operated under the ERISA provisions and has not had its status revoked by a court or by the IRS, such a plan has been found by the bankruptcy court not to be a qualified plan.

This amendment addresses this problem by providing, 1, that if a plan has received a favorable determination letter that is in effect, the plan is presumed to be exempt from the bankruptcy estate; and, 2, if a plan is not eligible for a determination letter, the plan may be exempt from the bankruptcy estate if there has been no prior determination by a court or the IRS to the contrary and the plan is in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986, as amended.

Further, Mr. President, under present law, if there is a direct transfer of an individual's retirement funds by the trustee of a plan exempt from the bankruptcy estate to the trustee of another retirement plan that is exempt from the bankruptcy estate, there is a question as to whether these retirement funds are exempt while in transit. It is possible that a bankruptcy court may hold that such funds are in a ''pay status'' and thus subject to attachment by the bankruptcy trustee. If there is a distribution of a plan's assets to a distributee and the latter within 60 days transfers them to another qualified plan, ERISA rules do not treat that as a distribution.

There is some question whether these funds in transit are protected from the bankruptcy estate. If a participant is in bankruptcy when either of these types of transit occur, the bankruptcy trustee may be authorized by the bankruptcy court to seize the funds. The result would be to severely reduce or wipe out the participant's retirement funds. This is contrary to sound public policy.

The proposed amendment provides that a direct transfer of retirement funds from one qualified retirement plan to another shall be exempt from the bankruptcy estate. In addition, it provides that eligible ''rollover'' funds from a qualified retirement plan shall be exempt from the estate if rolled over to another qualified plan within the allowed 60 days of the initial distribution.

Finally, on the issue of qualified plan loans, the amendment provides that qualified plan loans outstanding when the participant is in bankruptcy are not dischargeable, and that payroll deductions used to repay plan loans are not stayed by the court.

The retirement savings of hundreds of thousands of elderly Americans are at risk in bankruptcy proceedings. In 1997, an estimated 280,000 Americans age 50 and older filed bankruptcy. Almost one in five bankruptcy cases involve one or both petitioners who are 50 or older. This amendment has the full support of the AARP, which has stated that:

The accumulation and preservation of retirement funds represents an important national goal.

I could not agree more. With this national goal in mind, I urge my colleagues to support this amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Colorado?

Mr. DURBIN. Mr. President, let me say I am happy to support this amendment. I am happy to be a cosponsor with my friend from Utah, Senator HATCH. I had prepared an amendment on this subject and I am happy to join him in making this a bipartisan effort.

I will not take any time because I know a number of Members have to return to their families this evening, but I concur with him, with the increased number of Americans over the age of 50 filing for bankruptcy, this is a problem which we should address and address directly. It is not only to the benefit of senior citizens who are saving for their own retirement, it is certainly to the benefit of their families who are concerned that they be allowed to live in independence and security in their retirement years. We have traditionally given special consideration to 401(k) plans. This amendment will extend that consideration to IRAs and other vehicles that allow people to put savings away for their future retirement.

I am happy to support this and I am happy to say that the amendment which I offered, and I am sure this one as well, had the support of the American Association of Retired Persons and virtually every major senior citizens group in the country.

I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator from Vermont.

Mr. LEAHY. Mr. President, when the distinguished Senator from Illinois first talked about this amendment, I was telling him I thought he had a winner on his hands. I could not imagine anybody opposing it. I was delighted to see the distinguished senior Senator from Utah has also adopted the same idea of the Senator from Illinois. I think it is an excellent piece of legislation.