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House of Representatives

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. SOLOMON).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 10, 1998.

I hereby designate the Honorable GERALD B.H. SOLOMON to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Of all your blessings, O God, to which we cling and of all the gifts that mark the human soul, we especially hold dear the spirit of thanksgiving and the attitude of praise. O Almighty God, who has given us all good things, we pray that we will express our gratitude to you for your love to us even as we express our appreciation and respect to those we love. Bless us this day and every day, we pray, amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Missouri (Mr. SKELTON) come forward and lead the House in the Pledge of Allegiance.

Mr. SKELTON 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.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to make an announcement. After consultation with the majority and minority leaders and with their consent and their approval, the Chair announces that during the joint meeting to hear an address by his Excellency Kim Dae-Jung, only the doors immediately opposite the Speaker and those on his right and left will be open.

No one will be allowed on the floor of the House who does not have the privilege of the floor of the House.

Due to the large attendance which is anticipated, the Chair feels that the rule regarding the privilege of the floor must be strictly adhered to. Children of Members will not be permitted on the floor, and the cooperation of all Members is requested.

RECESS

The SPEAKER pro tempore. Pursuant to the order of the House of Friday, June 5, the House will stand in recess subject to the call of the Chair.

Accordingly (at 9 o'clock and 3 minutes a.m.), the House stood in recess subject to the call of the Chair.

During the recess, beginning at about 10:00 a.m., the following proceedings were had.

□ 1000

JOINT MEETING OF THE HOUSE AND SENATE TO HEAR AN ADDRESS BY HIS EXCELLENCY KIM DAE-JUNG, PRESIDENT OF THE REPUBLIC OF KOREA

The SPEAKER of the House presided.

The Assistant to the Sergeant at Arms, Richard Wilson, announced the President pro tempore of the Senate and the Members of the U.S. Senate who entered the Hall of the House of Representatives, the President pro tempore of the Senate taking the chair at the right of the Speaker, and Members of the Senate the seats reserved for them.

The SPEAKER. On the part of the House, the Chair appoints as members of the committee on the part of the House to escort His Excellency Kim Dae-jung into the Chamber:

The gentleman from Texas (Mr. ARMEY);

The gentleman from Texas (Mr. DELAY);

The gentleman from Ohio (Mr. BOEHNER);

The gentleman from California (Mr. COX);

The gentleman from New York (Mr. GILMAN);

The gentleman from Nebraska (Mr. BEREUTER);

The gentleman from New York (Mr. SOLOMON);

The gentleman from California (Mr. KIM);

The gentleman from Missouri (Mr. GEPHARDT);

The gentleman from Michigan (Mr. BONIOR);

The gentlewoman from Connecticut (Mrs. KENNELLY);

The gentleman from Maryland (Mr. HOYER);

The gentleman from Indiana (Mr. HAMILTON);

The gentleman from Connecticut (Mr. GEJDENSON);

The gentlewoman from California (Ms. PELOSI); and

The gentleman from North Dakota (Mr. POMEROY).

The PRESIDENT pro tempore. The President pro tempore of the Senate, at the direction of that body, appoints the following Senators as a committee on

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

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the part of the Senate to escort His Excellency Kim Dae-jung, the President of the Republic of Korea, into the House Chamber:

The Senator from Oklahoma (Mr. NICKLES);

The Senator from Florida (Mr. MACK);

The Senator from Georgia (Mr. COVERDELL);

The Senator from Indiana (Mr. LUGAR);

The Senator from Alaska (Mr. MURKOWSKI);

The Senator from Wyoming (Mr. THOMAS);

The Senator from South Dakota (Mr. DASCHLE);

The Senator from Maryland (Ms. MIKULSKI);

The Senator from Nebraska (Mr. KERREY);

The Senator from New Jersey (Mr. TORRICELLI);

The Senator from Iowa (Mr. HARKIN);

The Senator from Delaware (Mr. BIDEN);

The Senator from New Jersey (Mr. LAUTENBERG);

The Senator from Michigan (Mr. LEVIN); and

The Senator from California (Mrs. BOXER).

The Assistant to the Sergeant at Arms announced the Acting Dean of the Diplomatic Corps, His Excellency Roble Olhawe, Ambassador of Djibouti.

The Acting Dean of the Diplomatic Corps entered the Hall of the House of Representatives and took the seat reserved for him.

The Assistant to the Sergeant at Arms announced the Cabinet of the President of the United States.

The members of the Cabinet of the President of the United States entered the Hall of the House of Representatives and took the seats reserved for them in front of the Speaker's rostrum.

(At 10 o'clock and 11 minutes a.m., the Assistant to the Sergeant at Arms announced the President of the Republic of Korea, His Excellency Kim Dae-jung.)

[Applause, the Members rising.]

The SPEAKER. Members of the Congress, it is my great privilege and I deem it a high honor and personal pleasure to present to you His Excellency Kim Dae-jung, the President of the Republic of Korea.

[Applause, the Members rising.]

ADDRESS BY HIS EXCELLENCY KIM DAE-JUNG, PRESIDENT OF THE REPUBLIC OF KOREA

President KIM. Mr. Speaker, Mr. President, distinguished Members of the Senate and House, ladies and gentlemen.

A rare succession of world leaders has been accorded the honor of speaking from this lofty podium. But today, I am the first to have been twice snatched from death by the decisive actions of your Nation.

You first saved my life in 1973, when I was kidnapped and nearly murdered by the military regime, and again in 1980, when a dictatorship sentenced me to death.

I escaped five attempts on my life; one by communists; the other four by military dictators. Living 40 years of my life under surveillance, I spent six years in prison and more than 10 years in exile or under house arrest.

In 1973, I was kidnapped in Tokyo and taken onto a ship. Bound and gagged, I was about to be thrown overboard. But, as only someone who has brushed up to death's door can know, I saw Jesus Christ near me. I prayed for my life and I truly believe God saved me.

At that moment, an airplane flew over the vessel and stopped my abductors. Later, we learned the plane had intervened because of information from the United States.

In 1980, I was arrested by the leaders of a military coup d'etat and sentenced to death. If not for the active efforts by President Carter and President-elect Reagan, this podium would now be empty.

In prison, threats of death were ceaseless. But I could never make a separate peace with a dictatorship. I could never betray the people.

□ 1020

And when they said I would die, still I never gave in, even though I was afraid of death. Every now and then, I look in the mirror, with deep emotion, and wonder how I overcame 40 years of such trial. Even now, the anguish and doubt of those times are hard to talk about.

Only years later did I hear words attributed to your great statesman, Abraham Lincoln, and come to know their true meaning: ''I will prepare, and someday, my chance will come.''

So the improbable Korean journey that has brought me to this, democracy's most famous home, is not lost on this humble and fellow public servant.

And to those of you in this Chamber, to those Americans who fought for democracy and to whom my life is literally owed, I will never forget the example of your safe haven. I will never forget America and the destiny that so strongly binds my political life to your Nation.

Mr. Speaker, Mr. President, distinguished Members of the Senate and House, a century and 16 years ago, our two nations established formal relations. It is a long and unbroken friendship. The United States helped liberate Korea from the iron chains of Japanese colonialism and defend the Republic from Communist aggression.

Today, in this Chamber, with deepest gratitude, I pray between these words for the souls of more than 33,000 young Americans who sacrificed their precious lives to defend the Republic from Communist tyranny. How can I thank the brave Americans who fought nearly 50 years ago in that horror of a war? Some of you here fought in that war. For this sacrifice, I thank you from the bottom of my heart. In defending Korea, you helped set us free.

Yet today, there is no peace on the Korean peninsula. At this hour, armed forces of the Republic and the United States stand within sight of North Korean Communist troops in a state of hostility. And that must change. We must bring a real and permanent peace to the Peninsula and nudge North Korea toward cooperation and reconciliation.

So to the leader of North Korea, I say: First, no armed provocation by North Korea will be tolerated, under any circumstances. Second, we will not undermine your regime or attempt unification by absorbing the North. Third, we will pursue with you across-the-board exchange and cooperation. Support for this approach comes from Koreans and from Japan, China, Russia, and the United States, and many other nations around the world.

Above all, I say again, we must not tolerate armed provocation by North Korea. We must secure peace through strength. Our purpose is not war. We seek only peaceful cooperation with North Korea.

In this regard, the Geneva Agreed Framework must continue to play an important role in promoting peace and stability on the Peninsula and strengthening the global nuclear nonproliferation regime. Thus, even with our current economic difficulties, Korea will faithfully abide by our commitment to the KEDO project. And we hope the United States continues to smoothly implement the agreed framework.

To lead North Korea toward reconciliation, the Republic and the United States should promote a ''sunshine'' policy, offering inducements against the backdrop of strong security measures. And we should extend to North Korea both goodwill and sincerity so suspicion dissolves and openness emerges.

Above all, we need a flexible policy. To get a passerby to take off his coat, so the fable goes, sunshine is more effective than a strong wind.

We are going to promote cooperation in a wide range of areas, under the principle of separation of politics and economics. We want America's support in this effort. Both our nations need to be more confident, coordinated, and composed in our relations with North Korea.

We hope such an overall approach gives North Korea psychological room to open its mind and its doors. To be sure, we will never relax our vigilance against North Korea. But neither will we be afraid to pursue peace.

That is what I believe. This approach, this doctrine, is the most secure and stabilizing for the Peninsula, for Northeast Asia, for America and for the world.

Indeed, Northeast Asia is one of the world's most important regions, militarily and economically. The United States, Japan, China and Russia all have a stake in this region.

Nearly surrounded by these four powers, Korea's national and security interests are substantially influenced by them. And I am convinced the continued pretense of U.S. troops in East Asia, including Korea, is consistent with American national interest and necessary for peace and stability in the region.

Mr. Speaker, Mr. President, for 30 years Korea has sustained economic growth. But late last year, we began to face grave economic difficulties due to a sudden and unanticipated shortage of reserves. America has taken the lead in international efforts to assist us through these difficult times. And may I say, it is truly good to have friends in times of need. I remember vividly a phone call from President Clinton and his encouraging words the day after my election, as well as the many messages from Members of this great Congress.

The cause of our economic problems is quite clear. My predecessors did not practice democracy and a free market economy. In fact, there was too little democracy, too much collusion with big business, and too much government-directed finance. Corruption prevailed. Imprudent borrowing weakened our Nation's banks and businesses.

Today, Korea faces a long and hard challenge. Unemployment is at a record high. Sales are falling. Bankruptcies are increasing. Nevertheless, the people and government are joining hands to overcome the foreign exchange crisis and to reform the economic structure. Labor, business and government are doing their part to rebuild the economy. Reform bills have been passed. Changes are underway.

As a result, encouraging signs have begun to appear. Foreign exchange reserves now total 35 billion U.S. dollars, a far cry from the mere $3.9 billion tallied on December 18, the day I was elected. Once skyrocketing foreign exchange and interest rates are on a downward trend.

We remain focused on reviving Korea's economy. And what we need now, more than anything else, are foreign investors. Since the crisis, Koreans have become far more positive about accommodating foreign capital. A recent poll showed 87 percent of Koreans now believe foreign investment is beneficial to our Nation's economy.

Inspired by this support, we have moved decisively to revise laws and regulations so that international investors can operate under the same conditions as Koreans. In fact, Korea will become one of the best countries for international investors to freely and safely do business. This is a precious opportunity, and we must seize it.

In international trade, we will open our markets. Unfair regulations are being abolished. And we will no longer tolerate legal discrimination against foreign products. Free trade is essential for success.

Pursuing reform of this magnitude, we need help from others. And we need unreserved supported from the United States.

Korea is America's eighth largest trading partner and one of your staunchest allies. Today, I appeal to you and to the American people: We need your encouragement for our reforms to succeed and for us to become a stronger trading partner in the future.

It may be remembered that at important times Korea was there for America, too. For example, during your own economic downturn in the 1980s, Korea dispatched special purchasing delegations to the United States and bought billions of dollars of your goods. Over the years, Korean corporations have individually invested over $1 billion each in the U.S. In 1996, Korea purchased from America $11.6 billion more than we sold to you, absorbing more than half the total trade deficit of that year. And Korean Airlines just concluded a $2 billion contract with an American aircraft manufacturing.

Mr. Speaker, Mr. President, I am grateful for the help we received from the IMF, the IBRD, and other financial institutions. With the IMF's strong support, we are aggressively and successfully promoting restructuring of our economy to the level of other advanced countries.

In a sense, the IMF is to international finance what the Federal Reserve is to your Nation's financial system, the lender of last resort. The IMF may well have to play again a critical role in averting and stabilizing future economic crises. And the IMF deserves continued support.

Korea is going to dedicate this year to economic reform. To be sure, Koreans must endure cruel tests of unemployment, inflation, recession and bankruptcy. But many experts believe conditions will improve substantially in the second half of next year. The Korean economy will then reenter a stage of solid growth, bounding ahead, beginning in the year 2000.

□ 1040

Korea can do it. We built one of the leading economies in the world in just three decades, rising from the ruins of war. We have a proven potential. We are resilient. But we now need your help.

Mr. Speaker, Mr. President, at this thrilling moment for me, in a life that has already been long and not entirely uneventful, millions of Koreans are also listening to these words. And I am sure they feel very proud. Korea's first President to be elected through a genuinely democratic process is speaking in this, democracy's most hallowed hall. My countrymen will surely join me in wanting our two nations to grow closer and rise to a higher partnership, to a higher friendship.

Across Asia, a valuable lesson is being learned. Where there is no democracy, there can be no free market economy; and where there is no dynamic free market economy, there can be no competitiveness. Many people in Asia, and around the world, are beginning to agree that democracy and a free market economy can and must flourish together, as one.

Today, we face a fundamental challenge in working together to help Korea move beyond the current economic crisis, so it can once again stand boldly as a model of inspiration for the world.

Mr. Speaker, Mr. President, thank you for helping me stand before you as the President of a democratic Korea.

Today, how can I help but think back to destiny, to the two times your Nation saved me from death? So much was endured throughout that long and hard struggle for real democratization in Korea that today, our two nations are obligated to ensure it was all truly worthwhile.

Twenty-five years ago and eighteen years ago, America's decisive actions saved me from paying the highest price an individual can pay. Today, I say, let us join together in a higher friendship that stands as a shining example of democracy's true destiny.

Thank you very much.

[Applause, the Members rising.]

At 10 o'clock and 44 minutes a.m., the President of the Republic of Korea, accompanied by the committee of escort, retired from the Hall of the House of Representatives.

The Assistant to the Sergeant at Arms escorted the invited guests from the Chamber in the following order:

The Members of the President's Cabinet.

The Acting Dean of the Diplomatic Corps.

JOINT MEETING DISSOLVED

The SPEAKER. The purpose of the joint meeting having been completed, the Chair declares the joint meeting of the two Houses now dissolved.

Accordingly, at 10 o'clock and 46 minutes a.m., the joint meeting of the two Houses was dissolved.

The Members of the Senate retired to their Chamber.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The House will continue in recess until the hour of 11 a.m.

□ 1106

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 11 o'clock and 6 minutes p.m.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate passed bills of the following titles, in which concurrence of the House is requested:

S. 1531. An act to deauthorize certain portions of the project for navigation, Bass Harbor, Maine.

S. 1532. An act to amend the Water Resources Development Act of 1996 to deauthorize the remainder of the project at East Boothbay Harbor, Maine.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. On January 4, 1995, the Chair enunciated a clear policy concerning the conduct of electronic votes. Under that policy the House was able to avoid the unnecessary loss of time in conducting its business by striving to close each electronic vote as soon as possible after the minimum time guaranteed by the rules. After consultation with the minority leader, the Chair has concluded that this policy bears reaffirmation.

As Members are aware, the rules of the House establish 15 minutes as the minimum time for electronic voting in the ordinary case and 5 minutes as the minimum time for electronic voting in other cases where Members are already in or near the Chamber in response to an earlier vote. With the cooperation of the Members, an electronic vote can be completed within the minimum time allotted under the rules.

Today the Chair asks all Members to join in mutual rededication to the policy of closing electronic votes as soon as possible after the minimum time guaranteed by the rule. Where the minimum time guaranteed by the rule is 15 minutes, occupants of the chair will endeavor to close votes after no more than 17 minutes. Where the minimum time guaranteed by the rules is 5 minutes, occupants of the chair will endeavor to close votes after no more than 6 minutes.

Members have appreciated and cooperated with the Chair's strict enforcement of this policy in the past. The Chair encourages all Members to depart for the Chamber promptly upon the appropriate bell and light signal. As in recent Congresses, the Cloakroom should not forward to the Chair requests to hold a vote by electronic device but should simply apprise inquiring Members of the time remaining on the voting clock. Members should not rely on signals related from outside the Chamber to assume that votes will be held open until they arrive in the Chamber.

Although no occupant of the chair will prevent a Member who is visible to the Chair before the announcement of the result from casting or changing his or her vote, each occupant of the chair will have the full support of the Speaker in striving to close each electronic vote at the earlier opportunity.

PRINTING OF PROCEEDINGS HAD DURING RECESS

Mr. NEUMANN. Mr. Speaker, I ask unanimous consent that the proceedings had during the recess be printed in the RECORD.

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

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will recognize 10 Members on each side for 1 minutes.

HARLEY-DAVIDSON CELEBRATES 95TH ANNIVERSARY

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

Mr. NEUMANN. Mr. Speaker, the Harley-Davidson Company is gearing up for its 95th anniversary celebration, and I would like to take this opportunity to express my admiration for this outstanding Wisconsin company. Great Wisconsinites, like Green Bay Packer Coach Mike Holmgren, drive Harley bikes; I believe the coach has been seen around the State in a Heritage Softail.

Harley Davidson is a company that I have long admired for its commitment to quality, its dedication to treating both customers and employees like the valuable commodities they are. I believe for this reason that Harley Davidson inspires a loyalty that we see too rarely in American-made products in this day and age. The company has come a long ways from its humble beginnings in 1903, but it has never lost its vision of the American dream, and continues to excel in both domestic and international marketplaces.

Harley-Davidson is also a major contributor to the welfare of communities it is a part of. For example, Harley is a Wisconsin sponsor of the Tour de Cure an annual bike ride for American Diabetic Association. The company also contributes a portion of its corporate earnings each year for the Harley-Davidson Foundation which oversees charitable donation of groups like Boy Scouts and Girl Scouts.

For this reason, I want to be among those who are standing up saying, ''Happy Birthday, Harley-Davidson, and keep up the good work.''

INTRODUCTION OF H.R. 3652, THE ETHERIDGE SCHOOL CONSTRUCTION ACT

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

Mr. ETHERIDGE. Mr. Speaker, I rise today to call on this House to pass common sense legislation to help our States and communities build modern, safe school facilities for our children.

Across the country, students rejoice as another school year comes to an end. On Friday I had the opportunity to attend the high school graduation for my son David. It was one of my proudest moments as a father. But as a former superintendent of my State schools, I also know firsthand that too many of our children are forced to attend classes in trailers or closets and bathrooms and unsafe, overcrowded classrooms, and I call on this Congress to pass legislation before the start of the next school year to build new schools, relieve the overcrowding and reduce class sizes.

I have introduced legislation, H.R. 3652, that will create $7.2 billion in school construction bonds for States and localities that are suffering under the strain of overcrowded schools. Forty-eight Members of this House have already signed on from 15 different States, and I call on other colleagues to join me to address this urgent need. Many different organizations have joined, and I challenge others to join us.

Mr. Speaker, an investment in our schools is an investment in our children and an investment in our Nation's future.

THE CHILD PROTECTION AND SEXUAL PREDATOR PUNISHMENT ACT

(Ms. DUNN asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include therein extraneous material.)

Ms. DUNN. Mr. Speaker, I rise today to encourage my colleagues to send a strong message to those who would prey on innocent children over the Internet. Make no mistake, these sex crimes against children will not be tolerated.

This week the House will consider the Child Protection and Sexual Predator Punishment Act introduced by the gentleman from Florida (Mr. MCCOLLUM) and myself. This legislation is for moms and dads throughout the country who are doing everything they can to keep their children safe and innocent but cannot control the pedophiles cruising the Internet.

In this age of ever expanding technology, pedophiles are increasingly using the anonymity of the Internet to pose as minors and befriend vulnerable children who are unknowingly lured into very dangerous situations.

That is why the McCollum-Dunn bill is so critical to families across America. This legislation helps law enforcement crack down on pedophiles who no longer offer candy to unsuspecting children on the playground but now offer companionship to children through the Internet chat room. This bill tells sexual predators that the Information Superhighway is not a detour for deviant behavior, it is a dead end.

Mr. Speaker, I encourage my colleagues to support this legislation.

HOPE FOR DEMOCRACY IN CHINA COULD TURN TO DESPAIR IF THE PRESIDENT STANDS WITH COMMUNISTS IN TIANANMEN SQUARE

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

Mr. TRAFICANT. Mr. Speaker, the President said if China wants a ceremony in Tiananmen Square, so be it; it is not my place to make demands on Communist China.

Unbelievable. When the leader of the free world stands with Communists on

the very same site where young Chinese students gave their lives struggling for democracy, something is wrong, very wrong, and the hope and inspiration for democracy that once existed in China may turn into disgust and despair.

Let us tell it like it is. If the President can stonewall Kenneth Starr, the President can stonewall the butchers of Tiananmen Square.

And one last word:

The Berlin Wall would still be standing if Ronald Reagan made no demands on Communists.

□ 1115

TECHNOLOGY TRANSFERS TO CHINA A RISK TO AMERICAN SECURITY

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

Mr. GIBBONS. Mr. Speaker, most Americans are familiar with the old saying, ''Fool me once, shame on you; fool me twice, shame on me.'' Well, Americans are now starting to wonder just how many times the Communist Chinese have fooled this administration.

The Clinton administration has been selling U.S. secrets to China for the past few years. You name it, nuclear technology, missile secrets, computer technology, they have sold it. Now we have another foolish deal to add to the list.

In 1993, in exchange for a deal on commercial airliners, the Clinton administration pushed a sale to China of special computer-controlled machinery used to make parts for America's premier war planes. The Chinese gave us their word, they gave us their solemn promise, that these machines would not, repeat, would not, be used for military purposes.

Should anyone have been surprised when that sophisticated equipment showed up in a Communist Chinese factory that makes military cruise missiles, military cruise missiles that can be aimed at American soldiers and sailors?

Mr. Speaker, it is time the Clinton administration and their Commerce Department take off their blinders and see these technology transfers for what they are, risks to American national security that clearly endanger American lives.

HONORING SANTA MARIA, CALIFORNIA

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

Mrs. CAPPS. Mr. Speaker, I rise today to pay special tribute to Santa Maria, California, one of the most vital and remarkable communities of this great Nation. The strength of this diverse city is its people. The residents of Santa Maria are from all walks of life, and they work together often finding innovative ways to solve complex problems.

For example, the Santa Maria-Bonita School District's Healthy Start Program has long offered crucial services to local families in need, and it is not unusual for farmers, educators, entrepreneurs and elected officials to join together and stand up for their city, as they did last October when a delegation of leaders came to our Nation's capital for Santa Maria Day in Washington. Just last Saturday my grandson and I participated in the annual Elks rodeo and parade and saw firsthand the support this community gives to projects which benefit children and families.

Mr. Speaker, it is for these reasons that I wholeheartedly recommend Santa Maria for the prestigious All-American City Award.

Mr. Speaker, this is a city and a community to be honored.

EXPLANATION REQUIRED ON U.S. MISSILE TECHNOLOGY TRANSFERS TO CHINA

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

Mr. BARR of Georgia. Mr. Speaker, India conducts nuclear tests; Pakistan then conducts nuclear tests; China we know transfers nuclear technology to Pakistan, to Iran, and possibly other nations. Now it turns out that the United States gave missile technology to China. That is right, Communist China, the same country that has transferred that technology to Pakistan, Iran and possibly other adversaries. Though, not to worry, we are told, the Communist Chinese have assured us they will not do it anymore.

It is time, Mr. Speaker, for Congress to examine how the President of the United States has become the Proliferator-in-Chief. It is time for the White House to explain how it is that transferring authority for technology waivers from the State Department to the Commerce Department is in our national interests.

Why will the White House not respond to the May 1997 Pentagon report that concluded, ''National security has been harmed,'' as a result of the technology transfers arising from China's February 1996 rocket failure? The Proliferator-in-Chief should respond to these questions before the next nuclear tests take the world by surprise yet again.

PASS CAMPAIGN FINANCE REFORM LEGISLATION NOW

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

Mr. ADAM SMITH of Washington. Mr. Speaker, I rise today to strongly urge the House to pass the Shays-Meehan campaign finance reform bill as quickly as possible. I also urge the House to reject all amendments and all substitutes to that bill.

Opposition to campaign finance reform has been the main reason that it has not passed thus far, but another reason has been the lack of consensus among the pro-campaign finance reform members. There have been too many reform proposals to settle on one, and the confusion has stopped reform. Well, thanks to the work of Mr. SHAYS and Mr. MEEHAN, we have a consensus bill. Let us unite behind that legislation and pass it as soon as possible.

I also urge this House to stop the sham on the campaign finance reform debate. The underlying bill currently has 11 substitutes and over 600 amendments filed. It is obvious that this is just a stalling tactic to stop reform.

Promises have been repeatedly made on the floor of this House to bring up campaign finance reform and have a vote on it as soon as possible. Once again, those promises are not being met. Campaign finance reform is being thwarted, and a stalling tactic is replacing real reform. Let us vote on Shays-Meehan as soon as possible.

PROTECT AMERICA FROM THREAT OF BALLISTIC MISSILE ATTACK

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

Mr. ROGAN. Mr. Speaker, recent nuclear tests abroad serve as a stark reminder to those who need reminding that the world is still a very dangerous place. Although some are tempted to think that free trade and diplomacy alone will remove the threat of war, all of history suggests this is both fantasy and a dangerous illusion. It was a dangerous illusion in 1914, it was a dangerous illusion in 1939, and it remains a dangerous illusion today.

It is crucial that America end this foolish policy of remaining vulnerable to a ballistic missile attack. Many Americans will be shocked to learn that it is the policy of the United States to have no national ballistic missile defense system in place.

It is time to protect Americans from the threat of a ballistic missile attack and recognize the reality that the world is a dangerous place. If we fail to do that, Mr. Speaker, we will fail in the most crucial obligation we have as a Congress and as the elected representatives of the American people—to secure their future.

TIME TO SCHEDULE VOTE ON SHAYS-MEEHAN CAMPAIGN FINANCE REFORM BILL

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

Mr. MEEHAN. Mr. Speaker, yesterday's Los Angeles Times got it right: ''Voters are getting tired of empty promises'' from the Republican leadership on campaign finance reform.

Weeks have passed since the Republican leadership committed to holding a vote on the Shays-Meehan bill. Each day Republican leaders have postponed reform or debate on reform, and every day they postpone it, support for our bill has grown. Grassroots organizations, ranging from the AARP to the National Farmers Union to public groups all over the country are uniting behind supporting the Shays-Meehan bill.

Last week, key Democratic and Republican sponsors of the commission bill merged with our coalition in support of a single bipartisan bill. Over the past few weeks, reform-minded Members on both sides of the aisle have committed to pulling their own reform proposals off if the Shays-Meehan bill wins a majority vote. Now all we need is the opportunity to do just that. Vote on the Shays-Meehan bill.

In short, to the gentleman from Texas (Mr. ARMEY) and the gentleman from Texas (Mr. DELAY), reform supporters are ready to move forward. Enough is enough. Let us vote on Shays-Meehan.

TIME TO BUILD NATIONAL MISSILE DEFENSE SYSTEM

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

Mr. PITTS. Mr. Speaker, it is a shame that it has taken nuclear blasts in India and Pakistan to convince American leaders that it is time to put an end to our policy of mutually assured vulnerability.

What I mean by this is that the United States is vulnerable to a missile attack. Many Americans are unaware of this. But if a missile were to be fired at American cities, the United States would be defenseless against it. Not only that, but this is the deliberate policy of the United States, to remain defenseless in the face of nuclear attack.

But recent events in Pakistan and India should serve to force us to reconsider our policy of vulnerability in face of a missile attack. Recent reports that Communist China has 13 nuclear missiles aimed at the United States should reinforce the need for this reassessment. It is time to begin to build a national missile defense system. The security of our Nation is at stake.

SUPPORT DOLLARS TO THE CLASSROOM ACT

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

Mr. SHIMKUS. Mr. Speaker, I rise today to urge Congress and the President to send more dollars to our classrooms instead of Washington bureaucrats. The Dollars to the Classroom Act is a Republican initiative which would require 95 percent of all Federal funding for K-through-12 education programs to be sent to local schools. As a former teacher, I support this act.

Unfortunately, the Clinton administration and its core of Washington bureaucrats believe that they know best how to educate our children. They believe that our children should submit to another national test and that they would benefit from another Federal mandate.

However, the American people know better. The Dollars to the Classroom Act will send nearly all of our Federal tax dollars for education back to local schools. That means $10 billion will be taken from the grasp of bureaucrats and put into the hands of a teacher who actually knows your child's name.

Support H.R. 3248, the Dollars to the Classroom Act.

WITNESSES REFUSING TO TESTIFY IN WHITE HOUSE INVESTIGATION

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

Mr. CHABOT. Mr. Speaker, the Washington Post, which is not exactly known as a conservative newspaper, has done the American people a great service. I do not think anybody with a straight face could say they are part of some vast alleged right wing conspiracy.

Yesterday the Washington Post published a full page list of 94 witnesses who have either fled the country or taken the fifth amendment in relation to the Clinton White House scandals. There has been a pattern of nearly total noncooperation by this administration.

The White House delays and stonewalls, and then complains that the investigation is taking too long. Witnesses flee the country or refuse to testify, and then the White House accuses investigators of being on a witch hunt. Attorney General Janet Reno expands the investigation, and then the White House blames Judge Starr for spending too much money. White House aides suddenly experience massive memory loss and cannot recall any relevant facts about important events.

Mr. Speaker, the American people deserve better than this.

CONGRESS, NOT THE FCC, SHOULD SET TAXES

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

Mr. CANNON. Mr. Speaker, the most exciting technological development of the past decade is the Internet. This truly global network is a conduit for communication and commerce and is rapidly transforming business, government and virtually every other part of our society.

Not surprisingly, Congress in the Telecom Act 2 years ago moved to push the Internet into our schools. The concept was that deregulation would push down phone rates, allowing for some of the savings to be channeled into connecting schools to the Internet.

That was the intent. The reality has been much different. Starting July 1, every AT&T customer will begin paying a 5 percent surcharge on every long distance call. MCI customers will be burdened with a 5.9 percent markup.

Should every American school have access to the Internet? Yes. Should every American child have the opportunity to tap the wonders of the electronic highway? Clearly, yes. But should every American be forced to pay up to 5.9 percent of their current phone bill in order to funnel funds into a new Federal bureaucracy with the charge to disburse billions of dollars to schools that beg appropriately? The answer to that is no.

The power and authority to levy taxes is clearly vested in Congress. We, not the FCC, should be shaping policy in this area.

EXPRESSING SYMPATHY TO MARY-ALYCE JONES ON THE PASSING OF HER MOTHER

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

The SPEAKER pro tempore (Mr. DUNCAN). Without objection, the gentleman from Ohio is recognized for 1 minute.

There was no objection.

Mr. TRAFICANT. Mr. Speaker, I take this time today to notify Members of the House that we could be expressing our condolences to Mary-Alyce Jones on the death of her mother this past Sunday.

Many in the Congress will recognize Mary-Alyce as a longtime employee of the Clerk, whose professional attitude and quiet dignity here on the floor serves as a model for all employees to follow, and Members as well.

□ 1130

So on behalf of all the Congress to not only notify them, we say to Mary-Alyce Jones and the family to please accept our deepest sympathy and know that our thoughts and prayers are with you and your family on this day of loss.

BANKRUPTCY REFORM ACT OF 1998

Mr. MCINNIS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 462 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 462

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the

House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 3150) to amend title 11 of the United States Code, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with section 303(a) of the Congressional Budget Act of 1974 are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. The committee amendment in the nature of a substitute shall be considered by title rather than by section. Each title shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against the amendments printed in the report are waived. The chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

UNFUNDED MANDATES POINT OF ORDER

Mr. NADLER. Mr. Speaker, pursuant to section 426 of the Congressional Budget and Impoundment Control Act of 1974, as amended by the Unfunded Mandates Reform Act of 1995, I make a point of order against consideration of the rule, House Resolution 462.

Section 425 of that same act, as added by the Unfunded Mandates Reform Act of 1995, states that a point of order against legislation which, one, imposes an unfunded mandate in excess of $50 million annually against State or local governments or, two, does not publish prior to floor consideration a CBO estimate of any unfunded mandates in excess of $50 million annually for State and local entities or in excess of $100 million annually for the private sector.

Section 426 of the Budget Act specifically states that the Committee on Rules may not waive this point of order. On page 2, lines 13 through 15 of House Resolution 462, all points of order are waived against the committee amendment in the nature of a substitute. Therefore, I make a point of order that this rule may not be considered pursuant to section 426 as added by the Unfunded Mandates Reform Act of 1995.

The SPEAKER pro tempore (Mr. DUNCAN). The gentleman from New York makes a point of order that the resolution violates section 426(a) of the Congressional Budget Act of 1974.

In accordance with section 426(b)(2) of the act, the gentleman must specify precise waiver language in the resolution on which he predicates his point of order. Having met this threshold burden, the gentleman from New York and a Member opposed each will control 10 minutes of debate.

Pursuant to section 426(b)(3) of the act, after debate the Chair will put the question of consideration; to wit: Will the House now consider the resolution?

The gentleman from New York (Mr. NADLER) will be recognized for 10 minutes, and the gentleman from Colorado (Mr. MCINNIS) will be recognized for 10 minutes.

The Chair recognizes the gentleman from New York (Mr. NADLER).

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

Mr. Speaker, we have been complaining for months that this bill was being rushed through without proper consideration. We asked that this bill not be voted on in committee until we got a CBO score, until they told us how much this bill would cost the Federal Government and the taxpayers, until we found out how much this bill would cost in unfunded mandates on the private sector.

Yesterday, we received the CBO score which told us that this bill will impose a cost on the Federal Government of $214 million at least. Interestingly enough, the committee report that was filed by the Committee on the Judiciary, filed hastily without proper study, said there was no fiscal impact on the Federal Government. The CBO report said there was at least a $214 million fiscal impact on the Federal Government.

About an hour ago, just in the nick of time, we received the CBO report on unfunded mandates in the private sector. Let me read from that report. It says, ''Certain provisions in H.R. 3150 that incorporate means testing in the bankruptcy system would impose new private sector mandates as defined in the Unfunded Mandates Reform Act with costs that exceed the statutory threshold of $100 million in 1996 annually adjusted for inflation.''

It goes on to list what some of those costs are. Then in the next page, page 2 of the report from CBO, we read, ''CBO estimates that the direct cost of the private sector of complying with mandates in H.R. 3150 would exceed the statutory threshold in the Unfunded Mandates Reform Act in each of the first 5 years that new mandates were effective.'' It goes into what those costs would be.

Then it says the following. ''Some estimates of increased costs for attorneys and private trustees in Chapter 7 filings have been several hundred dollars per case. Chapter 13 filings have ranged from several hundred dollars to over a thousand dollars per case per year. More than 1.3 million bankruptcy filings occurred in 1997. Because reliable national data on the cost of the bankruptcy system are lacking, CBO does not have sufficient information to place a reasonable upper bound on its estimate.''

So we do not know what the upper bound is, but we can say the following: Several hundred dollars per case at a minimum to a thousand dollars per case at a maximum, at 1.3 million cases, that means a minimum cost to the private sector of $260 million and a probable maximum cost of $1.3 billion in unfunded mandates to the private sector.

Who pays for this? We are told that Americans are losing large sums of money because deadbeats are deadbeating, not paying their debts; and we have to crack down on this bill and make them pay their debts. This will take $290 million minimum, $1.3 billion maximum out of the sum of money from which people can pay their debts. So the creditors will be out between $260 million and $1.3 billion by the administrative burdens of this bill.

Mr. Speaker, in 1995, with great fanfare as part of the Contract with America, the Republican majority in this House passed the Unfunded Mandates Reform Bill, a bill that said, and I remember all the rhetoric on the floor and I am sure my friend from Colorado remembers it too, Congress should not be in the business of imposing unfunded mandates on private sector businesses and individuals. We should not do it.

That is why the act says you can raise a point of order against a bill that imposes such mandates as this one does. It imposes such costs on innocent individuals, in this case, on creditors in the private sector. That is why the bill provides for a vote on the point of order.

The idea, the Unfunded Mandates Reform Act, was that if we are going to impose a mandate that we are not going to pay for, we ought to stand up and vote for it and say so.

I am putting everybody on notice, if my colleagues vote against the point of order, they are voting for two things. They are voting that contrary to the act, it is fine for Congress to place $1.3 billion unfunded mandates on creditors in the private sector.

I voted against the Unfunded Mandates Reform Act. But anybody who voted for that act and is in this Chamber today, who votes against this point

of order, is saying either that he was not being honest when he voted for that bill or that he changed his mind since then. People are entitled to change their minds.

But that is what we are saying, either that my colleagues never believed in the purpose of the Unfunded Mandates Reform Act or that they no longer believe in the purpose of the Unfunded Mandates Reform Act.

I never believed in it. I voted against the bill. I am going to vote for the point of order, because I think we ought to uphold the law. That is what is involved here.

CBO tells us that this bill will impose a cost of $260 million to $1.3 billion on the private sector in unfunded mandates. According to the Unfunded Mandates Reform Act that the majority Republican passed, that is something that Congress should never, never, never, ever do. So I anticipate that most of our friends on that side of the aisle will vote in favor of that order.

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

The SPEAKER pro tempore. The gentleman from Colorado does have the right to close the debate on this point of order.

The Chair recognizes the gentleman from Colorado (Mr. MCINNIS).

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

Mr. Speaker, the gentleman from New York kind of surprises me. I am listening very carefully to his points about the private sector unfunded mandates. While the gentleman was speaking very artfully, I might add, I was looking up the voting record 2 weeks ago. The gentleman who today, as he said, feels and speaks very strongly against mandates on the private sector voted against, voted against the Mandates Information Act which was the Republican Party majority's way of trying to avoid mandates on the private sector.

I guess, as the gentleman said, we are entitled to change our mind. He has changed his mind in the last 2 weeks. Welcome on board.

Let us talk about the facts of what we have today; and that is the Congressional Budget Office, which, again, the gentleman very eloquently spoke of, but he did not quite include all of the facts.

One of my favorite things I like to listen to is Paul Harvey. He has got a little thing: ''And now for the rest of the story.'' Well, let us talk about the rest of the story. I quote from the CBO study, ''H.R. 3150 contains no intergovernmental mandates as defined by the Unfunded Mandates Reform Act.''

There is a possibility, a remote possibility about some type of unfunded mandate on the private sector out there; but, of course, we could have eliminated even this type of concern a couple of weeks ago with the assistance of the gentleman from New York, which we did not receive.

I think that this point of order is not appropriate.

Mr. Speaker, I reserve the balance of my time

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

Mr. Speaker, apparently the gentleman from Colorado did not listen to what I said. I said I voted against the Unfunded Mandates Reform Act because I do not have a problem personally with unfunded mandates on the private sector being enacted by Congress for good and proper purposes.

I did not agree with that act then. I do not agree with it now, but it is the law. What I am saying is that, if you vote yes on proceeding today, you are voting against the purpose of that law.

I am going to vote no because I think it is a terrible bill. I think that we ought not to be conceit doing that. I think that, if we pass a law, we ought to obey it. If I had my way, I would repeal the law. I did not vote for it. But I think that if it is on the books, we ought to obey the law, which is why I am going to vote against proceeding and urge my colleagues to do so.

I do not know what the gentleman was reading from a moment ago about government. That was probably yesterday's report of CBO. But today's report of CBO is about private sector mandates. Yesterday's report said at least $214 million unfunded mandate on the Federal Government. Today says somewhere between $260 million and $1.3 billion unfunded mandate on the private sector, which will come out of the money available for repayment of creditors.

I think that, frankly, as I said, the bill was rushed through. I do not think that the sponsors of the bill anticipated this effect and ought to go back for further study and amendment.

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

□ 1145

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

Mr. Speaker, I include for the RECORD a letter from CBO and a report of CBO.

The material referred to is as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 10, 1998.

Hon. HENRY J. HYDE,
Chairman, Committee on the Judiciary, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office (CBO) has prepared the enclosed summary review of H.R. 3150, the Bankruptcy Reform Act of 1998, for private-sector mandates. CBO completed a federal cost estimate and an assessment of the bill's effects on state, local, and tribal governments on June 5.

If you wish further details on this review, we will be pleased to provide them. The CBO staff contact is Matt Eyles.

Sincerely,

JUNE E. O'NEILL,
Director.

Enclosure.

H.R. 3150—Bankruptcy Reform Act of 1998

Summary: H.R. 3150 would make many changes and additions to the federal bankruptcy laws. By amending the bankruptcy code, the bill would affect consumer debtors, business debtors, secured and unsecured creditors, bankruptcy trustees, attorneys, debt relief counselors, and other entities in the private sector. Certain provisions in H.R. 3150 that incorporate means-testing in the bankruptcy system would impose new private-sector mandates, as defined in the Unfunded Mandates Reform Act UMRA) with costs that exceed the statutory threshold ($100 million in 1996, adjusted annually for inflation). Specifically, new enforceable duties would be imposed on private trustees who administer bankruptcy cases, attorneys, debt relief counselors, and utilities, as defined in the bill. H.R. 3150 would also impose additional duties on parties who file for relief under the bankruptcy system, although new requirements for bankruptcy filers would not be considered new mandates for purposes of UMRA. Furthermore, H.R. 3150 contains provisions that could impose costs on certain categories of creditors who receive distributions from bankruptcy estates by delaying payments to creditors and by raising administrative costs. Increased administrative costs would reduce the pool of funds available for creditors.

Private-Sector Mandates and Effects: H.R. 3150 would establish a system of means-testing provisions for determining the eligibility of consumers for relief under the bankruptcy system. Participants in consumer bankruptcy proceedings would be most affected by the bill. Under current law, most individual debtors who seek bankruptcy relief have two options: liquidation (Chapter 7) or reorganization (Chapter 13). H.R. 3150 would institute a ''needs-based system'' for relief under Chapter 7 by requiring individuals (and households) who file for bankruptcy to seek debt relief under Chapter 13 if they earn a regular income equal to or greater than the national median income (adjusted for household size) and could pay at least 20 percent of their unsecured debts and $50 per month. In addition, H.R. 3150 would amend other provisions in federal bankruptcy law, including those covering family farmers and municipalities, collection of bankruptcy data, single-asset real estate debtors, the treatment of certain taxes, and cross-border bankruptcy cases.

CBO estimates that the direct costs to the private sector of complying with mandates in H.R. 3150 would exceed the statutory threshold in UMRA in each of the first five years that new mandates were effective. The lion's share of costs would be imposed on private trustees who administer bankruptcy estates, providers of debt relief counseling services, and attorneys. Most mandate costs would stem from new requirements to investigate and verify financial information provided by bankruptcy filers. Costs would be imposed on debt relief counselors by enacting new consumer protection regulations. Some estimates of increased costs for attorneys and private trustees in Chapter 7 filings have been several hundred dollars per case, and estimates for Chapter 13 filings have ranged from several hundred dollars to over $1,000 per case per year. More than 1.3 million bankruptcy filings occurred in 1997. Because reliable national data on the costs of the bankruptcy system are lacking, CBO does not have sufficient information to place a reasonable upper bound on its estimate.

CBO's estimate excludes: financial transfers between debtors and creditors that would result from enacting H.R. 3150; costs that could result from delaying distributions from bankruptcy estates to certain creditors; and potential reductions in debtor repayments if the costs of administration for the bankruptcy system rise by more than payments by debtors.

Attorneys and trustees in Chapter 13 cases would be able to recoup most mandate costs.

Administrative costs in Chapter 13 cases, which include attorneys' and trustees' costs, receive priority treatment in Chapter 13 cases and, therefore, those costs would likely be offset by increased payments from bankruptcy estates. Mandate costs for Chapter 7 trustees, however, would reduce trustee income because provisions are lacking for reimbursement for increased trustee costs from Chapter 7 debtor estates.

To the extent that the bill would delay payments from liquidated or reorganized bankruptcy estates, the bill could impose costs on certain creditors. However, by increasing the number of debtors who are required to file under Chapter 13, the bill would likely increase the pool of funds available to creditors, which would benefit creditors. Again, offsetting a portion of the benefits to creditors would be the higher costs of administering a bankruptcy system that uses means-testing. As a result, some creditors could ultimately receive smaller distributions.

Estimate Prepared By: Matt Eyles.

Estimate Approved By: Arlene Holen, Assistant Director for Special Studies.

The SPEAKER pro tempore (Mr. DUNCAN). The gentleman from New York (Mr. NADLER) is recognized for the balance of his time.

Mr. NADLER. Mr. Speaker, the issue on this point of order is very simple. This House, under Republican leadership, passed the bill. They said we should not impose unfunded mandates on the private sector. Some of us did not agree with that, but that is the law.

This bill, according to the Congressional Budget Office, by whose judgment we are bound, imposes an unfunded cost on the private sector of somewhere between $260 million and $1.3 billion per year. That will come out of the money available to pay creditors.

We should not proceed. The sponsors of this bill I am sure did not anticipate this. The committee report says it does not impose any costs. That is wrong. It obviously does.

We have said for a long time that this bill was rushed through, that the proper research was not done, the implications were not understood. It is now clear that that is true. I would urge that on the substantive grounds that when we legislate, we ought to legislate knowing what we are doing, understanding the implications and all the pros and cons and effects of the bill. We ought to put this aside and come back to it another day.

On the legal mandate of the Unfunded Mandates Reform Act, we should not proceed to impose such a mandate on the private sector because that is the law that the gentleman on the other side of the aisle imposed on us. Therefore, I urge a no vote, which I am told is how we have to go in order to proceed.

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

The SPEAKER pro tempore. The gentleman from Colorado (Mr. MCINNIS) is recognized to close debate.

Mr. MCINNIS. Mr. Speaker, I think what the gentleman from New York has said, and I will quote him here in just a moment, is the very clear definition of the difference between the Republican Party and the Democratic Party. The gentleman from New York very ably states the Democratic Party position. That is, they do not have a problem with unfunded mandates on the private sector.

The Republican Party has a big problem with unfunded mandates on the private sector. The gentleman should keep that in mind. There is a distinct difference between his side of the aisle and our side of the aisle. We do not think we ought to be putting unfunded mandates on the private sector.

I will quote the gentleman from New York (Mr. NADLER), and this is him speaking, ''I do not have a problem with unfunded mandates on the private sector.'' I do. I think the people are out there working, trying to make a living. By the way, they fund us. They are the taxpayers. We work for them.

For us to continue to go back to the private sector and continue to hammer them and hammer them and hammer them with more taxes, and that is what unfunded mandates are, more taxes and more taxes and more taxes, we are going to break the bank. We are going to break the bank. We have to get off the shoulders of the working people out there. It is a clear distinction between gentleman's party and ours.

Now, on the point of order, I realize the gentleman diverted us from the point of order. Let me make it clear that the point of order does not fit the claim that the gentleman was making.

I wish the gentleman could have been in attendance at the Committee on Rules last night. We would have been happy to discuss with the gentleman, previous him to coming to the floor and tying us up for an hour or so with this point of order, that while I think the point of order certainly is put forward with good intent, it is not right. It is out of order. It just does not fit. It is not fitting the claim. The gentleman's argument, the puzzle does not come together.

Under the rules that we have here, the point of order cannot be sustained, in my opinion, because, and I do not want to say it does not make sense, because that sounds derogatory, and I do not intend to be derogatory to the gentleman from New York, but it certainly falls short of the standards that need to be met.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. SOLOMON), chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I am in the middle of a meeting of the Committee on Rules upstairs, but when I saw my good friend, the gentleman from New York (Mr. JERRY NADLER) make a point of order against an unfunded mandate, I could not constrain myself and I had to come down here on this floor.

Let us set the record straight. If there was an unfunded mandate in this bill, I would be raising the point of order, the gentleman would not have to, or anybody else, as I did the other day when there was an unfunded mandate on this floor and I raised the point of order.

Mr. Speaker, it seems to me that the gentleman from New York knows as well that we have a good track record since we established the unfunded mandate points of order against the public sector when unfunded mandates were brought on the public sector, and then on the rule change that we made the other day, applying that to the private sector, we intend to carry that out. I can assure the Members as chairman of the Committee on Rules, if there is ever an unfunded mandate on a bill, I will be down here raising that point of order. I wanted to make that straight.

I just have to raise this point, that my good friend, the gentleman from New York (Mr. JERRY NADLER) has recognized, and he admits that he is one of the most liberal members of this House. He votes just about for everything where you are going to spend more money, and he votes yes on everything and no on nothing when it comes to spending money. But I respect him, because that is his philosophy.

Again, Mr. Speaker, I just want to assure the gentleman, there is no unfunded mandate in this bill. The Congressional Budget Office will verify that.

Mr. NADLER. Mr. Speaker, will the gentleman yield?

Mr. MCINNIS. I yield 15 seconds to the gentleman from New York.

Mr. NADLER. The question for the two gentlemen, and I do not know who wants to answer it, the gentleman from New York says there is no unfunded mandate in here. The gentleman from Colorado says that the puzzle just does not fit.

I simply ask, the CBO report says, ''Certain provisions in H.R. 3150 would impose new private sector mandates as defined by the Unfunded Mandates Reform Act with costs that exceed the statutory threshold.'' Why does the gentleman say it does not fit?

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

Mr. Speaker, the point of order lies against the public sector. I think what is critical here and what the chairman has come down to say from the Committee on Rules, he came out of the Committee on Rules because he saw this on television, that is to reemphasize the difference between this side of the aisle, the Republican side of the aisle, and the gentleman's side of the aisle. That is, we do not buy into this unfunded mandates stuff.

I know, and I will approach the gentleman again, this is the gentleman's quote from just a couple of minutes ago, that the gentleman does not have a problem with unfunded mandates on the private sector. Once again, on the Republican side of the aisle, we have a heck of a problem with unfunded mandates on the private sector. As I said

earlier, how much more burden can we put on these people?

I just came from my office where I met with some people out there that are in small business. Their main discussion is that we continually put it on top of them, we continually hit them with these mandates, more regulations, more rules. It is appalling for me to come over here to the floor.

Mr. Speaker, the rest of the story is that the Republicans are not going to buy into unfunded mandates. These people in my office, these are not wealthy people, these are small business people. In fact, several of them were having difficulty coming to Washington, just being able to afford the lodging over here. They talk over and over again about how crushing, how crushing the Federal Government can be to small business with a lot of these kinds of mandates.

I realize that we are on the point of order. As I said to the gentleman, with all due respect, I think his point of order, while offered in good intent, does not fit the claim he is making.

I think the gentleman then kind of moved the point of order into a discussion on mandates, and the gentleman's position is, he does not mind mandates, Federal mandates on the private sector, unfunded mandates, by the way.

Let me explain what the ''unfunded mandate'' means. That means a regulation by the Federal Government, often an order by the Federal Government, on a small businessman, ordering them to perform something, or in an intergovernmental way, it can be intergovernmental, on a State government, ordering them to do something but not paying for it. That should not happen. It should not be.

That is why, and it is pretty easy to focus on, and that is why it is not too often, but this morning, anyway, we have been able to draw a clear distinction between the Republican side and the Democratic side. But boy, if there is one this morning, here it is right here, unfunded mandates. We are not going to go into it. We do not support them.

This kind of legislation we are talking about, I wish we would have had some of the points that the gentleman made in this kind of debate 2 weeks ago when we had the bill, the Information Act. That would have been a lot of fun to have that kind of debate.

Let us wrap it up. The way to wrap it up is really quite simple. Number one, the Republicans will not, contrary to what the gentleman from New York's policy is, we do not support these kinds of unfunded mandates. We do have a big problem with unfunded mandates. As the chairman from the Committee on Rules said, he would be the first one down here pushing this point of order if in fact he felt there was an unfunded mandate on governmental units.

Mr. Speaker, the second issue that we should summarize on is, hey, let us stop this unfunded mandate stuff. This point of order is not in order. It should be ruled on by the Chair.

The SPEAKER pro tempore. All time has expired.

The question before the House is: Will the House now consider House Resolution 462?

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. MCINNIS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to—

The SPEAKER pro tempore. Does the gentleman from Colorado (Mr. MCINNIS) recognize that the noes prevailed on the pending vote?

Mr. MCINNIS. I am a little confused as to the order.

POINTS OF ORDER

Mr. NADLER. Mr. Speaker, we continued. The vote is over.

Mr. MCINNIS. I have the floor, Mr. Speaker, and I make a point of order to that point.

The SPEAKER pro tempore. The gentleman from Colorado (Mr. MCINNIS) has the floor.

Does the gentleman from Colorado object to the vote?

Mr. MCINNIS. Yes, I do, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Colorado (Mr. MCINNIS) objects to the vote on the ground that a quorum is not present and makes the point of order that a quorum is not present.

A quorum is not present. Under the rule, the yeas and nays are ordered. Those in favor will say aye——

Mr. NADLER. Mr. Speaker, business intervened. Speech intervened. He did not ask for the vote or object to the quorum until the Chair asked about it. I object to this. He had gone on, all right.

The SPEAKER pro tempore. The gentleman from Colorado (Mr. MCINNIS) objected to the vote. The gentleman from Colorado (Mr. MCINNIS) objected to the vote.

Mr. NADLER. Mr. Speaker, business intervened. Before he objected to the vote, he started saying he asked 30 minutes for speaking time, et cetera. We had already progressed. He did not object to the vote.

The SPEAKER pro tempore. There was no business that intervened. The gentleman from Colorado (Mr. MCINNIS) did not have the floor for debate since the pending voice vote was against consideration.

The gentleman from Colorado (Mr. MCINNIS) did not have the floor for debate. The gentleman from Colorado objected to the vote.

Mr. MCINNIS. That is correct, Mr. Speaker. I had the floor. I was on my feet and had the floor.

The SPEAKER pro tempore. The Chair will repeat, the gentleman from Colorado (Mr. MCINNIS) has objected to the vote on the ground that a quorum is not present.

Mr. NADLER. Mr. Speaker, I appeal the ruling of the Chair.

The SPEAKER pro tempore. The gentleman makes the point of order that a quorum is not present.

Mr. NADLER. Mr. Speaker, I object on the ground that the RECORD will show, if the Clerk will read the RECORD, that the gentleman had gone on to another subject, had already started talking about something else, and did not, did not object on the ground that a quorum is not present until the Speaker asked him, do you not want to object that a quorum was not present?

The vote was already over and cannot be continued at this point. I make a point of order.

□ 1200

The SPEAKER pro tempore (Mr. DUNCAN). The gentleman from Colorado (Mr. MCINNIS) had not been recognized to debate the resolution since the House had not voted to consider the resolution. Therefore, no intervening business had been transacted.

Does the gentleman from New York (Mr. NADLER) insist on appealing the ruling of the Chair?

Mr. NADLER. Mr. Speaker, no, I do not.

The SPEAKER pro tempore. The gentleman from New York (Mr. NADLER) has withdrawn his appeal of the ruling of the Chair.

The gentleman from Colorado (Mr. MCINNIS) has objected to the vote. That objection was made on the grounds that a quorum was not present, and the gentleman has made a point of order that a quorum is not present.

Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The Chair reminds all Members of the Speaker's announcement today. Based on the request and the order of the Speaker, this will be a strictly enforced 17-minute vote.

The vote was taken by electronic device, and there were—yeas 248, nays 166, not voting 19, as follows:

[Roll No. 216]

YEAS—248

Aderholt	Camp	Dunn
Archer	Campbell	Ehlers
Armey	Canady	Ehrlich
Bachus	Cannon	Emerson
Baesler	Cardin	English
Baker	Castle	Everett
Ballenger	Chabot	Ewing
Barr	Chambliss	Fawell
Barrett (NE)	Chenoweth	Foley
Bartlett	Christensen	Forbes
Barton	Coble	Fossella
Bass	Coburn	Fowler
Bateman	Collins	Fox
Bereuter	Combest	Frank (MA)
Bilbray	Cooksey	Franks (NJ)
Bilirakis	Cox	Frelinghuysen
Bliley	Cramer	Frost
Blunt	Crane	Gallegly
Boehlert	Crapo	Ganske
Boehner	Cubin	Gekas
Bonilla	Cunningham	Gibbons
Bono	Davis (FL)	Gilchrest
Boswell	Davis (VA)	Gillmor
Boucher	Deal	Goode
Boyd	DeLay	Goodlatte
Brady (TX)	Deutsch	Goodling
Bryant	Diaz-Balart	Gordon
Bunning	Dickey	Goss
Burr	Dingell	Graham
Burton	Dooley	Granger
Buyer	Doolittle	Greenwood
Callahan	Dreier	Gutknecht
Calvert	Duncan	Hall (TX)

Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (RI)
Kim
King (NY)
Kingston
Kleczka
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Lewis (CA)
Lewis (KY)
Livingston
LoBiondo
Lucas
Maloney (CT)
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryun
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauscher
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wolf
Young (AK)

NAYS—166

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Carson
Clay
Clayton
Clement
Clyburn
Condit
Costello
Coyne
Cummings
Danner
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dixon
Doggett
Doyle
Edwards
Engel
Ensign
Eshoo
Etheridge
Evans
Fattah
Fazio
Filner
Ford
Furse
Gejdenson
Gephardt
Green
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lipinski
Lowey
Luther
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Mollohan
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Schumer
Scott
Serrano
Skelton
Slaughter
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Wise
Woolsey
Wynn
Yates

NOT VOTING—19

Borski
Conyers
Cook
Farr
Gilman
Gonzalez
Harman
Houghton
Inglis
Klug
Leach
Linder
Lofgren
McDermott
Moakley
Oxley
Pickett
Sensenbrenner
Young (FL)

☐ 1219

Mr. DICKS, Ms. MCCARTHY of Missouri, and Messrs. OBEY, JEFFERSON, and BISHOP changed their vote from ''yea'' to ''nay.''

Mr. GIBBONS and Mr. ROTHMAN changed their vote from ''nay'' to ''yea.''

So the question of consideration was decided in the affirmative.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. MCDERMOTT. Mr. Speaker, I was unavoidably delayed at the White House and missed rollcall vote number 216 regarding House Resolution 462. Had I been present, I would have voted ''no.''

PERSONAL EXPLANATION

Mr. GILMAN. Mr. Speaker, During Rollcall Number 216 I was unavoidably detained and missed the vote. If I had been present I would have voted ''aye.''

The SPEAKER pro tempore. The gentleman from Colorado (Mr. MCINNIS) is recognized for 1 hour.

Mr. MCINNIS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 462 is a structured rule providing for consideration of H.R. 3150, the Bankruptcy Reform Act of 1998, a bill that will improve bankruptcy practices and restore personal responsibility and integrity to the bankruptcy system.

House Resolution 462 provides for 1 hour of general debate, equally divided between the chairman and ranking member of the Committee on the Judiciary. The rule also waives section 303(a) of the Congressional Budget Act against consideration of the bill.

Mr. Speaker, the rule provides that the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill be considered as an original bill for the purpose of amendment.

House Resolution 462 provides that the committee amendment in the nature of a substitute shall be considered by title and that each title shall be considered as read. The rule also waives all points of order against the committee amendment in the nature of a substitute. The rule provides that no amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the Committee on Rules report.

Each amendment may only be offered in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment.

The rules also waives all points of order against amendments printed in the report.

This rule also allows the Chairman of the Committee of the Whole to postpone recorded votes and to reduce to 5 minutes the voting time after the first of a series of votes, provided that the first vote is not less than 15 minutes.

This provision will provide a more definite voting schedule and will help guarantee the timely completion of this important legislation. House Resolution 462 also provides for one motion to recommit with or without instructions, as is the right of the minority.

Mr. Speaker, we face a bankruptcy crisis in America today in which the needs of the debtor and the rights of the creditor are no longer in any kind of equilibrium. The balance between the debtor and the creditor has been lost and reform is clearly necessary. Basically we are asking that people assume personal responsibility, that they pay their bills when their bills are due, that they not give their word when they do not intend to keep their word.

We need to reestablish and preserve the original balance of the bankruptcy code in areas of which it has lost its fairness and modernize the sections of the code which have become outdated. H.R. 3150 achieves these goals.

When we consider the need for bankruptcy reform, it strikes me that we should simply look at some of the more startling statistics. The number of bankruptcies has increased more than 400 percent since 1980, more than 400 percent since 1980. This year there are expected to be more than 1.4 million bankruptcies, more than one bankruptcy in every 100 American households.

This extraordinary increase comes during a time of economic prosperity, not a period of recession that usually would bring more people into the bankruptcy court. Instead the increase is largely due to bankruptcies of convenience. Let me repeat that, bankruptcies of convenience.

We have the healthiest economy we have ever faced in the history of this country, yet our bankruptcies are exploding. Why? Because it is the convenient thing to do. It is the easy street. It is the easy way out.

This increase of bankruptcies of convenience is simply a ploy that is used by some people that owe money and

their bankruptcy attorneys to avoid paying all or most of their debts, even though they are financially capable and able to do so.

Bankruptcy was always intended to be for a person who ran into unintended consequences who could not pay their bills to give them a new chance on life. Now what we have seen is we have seen that overwhelmed by the bankruptcy of convenience. These bankruptcies of convenience, initiated, by the way, from abusers of our bankruptcy laws, are having a very harmful impact on our Nation's competitiveness. The current system is unfair to all people who are fiscally responsible, who are penalized in the form of higher prices, credit card rates, interest rate increases. In other words, the people who do pay their bills have to carry the load for those who do not pay their bills.

To reduce these costs, we must end the widespread abuses of the system. This bill is sensitive to the fact that people may lose their job, have a medical crisis or they may come upon hard times, real hard times, realistic hard times, not artificial hard times. However, what we are finding in many cases is that a growing number of people who file for bankruptcy relief under Chapter 7 actually have the capability to pay at least some of their debts. In fact, a study by Ernst and Young showed that 15 percent of the people who filed under Chapter 7 could have repaid 64 percent of their unsecured debts.

This bill repairs a system that rewards abuse of the system. In other words, the current system rewards one to abuse the system. This bill changes that. This bill makes bankruptcy really applicable to those people that need it and takes it out of the reach of those people who abuse it or use it as convenience.

At the heart of these reforms is implementation of a needs-based mechanism that ensures that those debtors who can afford to repay some of their debts simply repay what they can afford to repay. At the same time, H.R. 3150 preserves the right of bankruptcy relief for those in true financial straits by targeting only those who have the ability to repay. Contrary to what we will hear certainly and what I would expect today in the floor debate, this bill provides that none of the reforms will adversely impact the priority treatment accorded to child support claims. That is a critical issue for me. That an important issue for me.

In fact, H.R. 3150 incorporated additional safeguards to enhance the existing protections for family support.

□ 1230

H.R. 3150 represents another example of this Congress's efforts to encourage individual responsibility. The Republican Party feels that individual responsibility is a basic and fundamental standard that we should all accept. The current system promotes fiscal irresponsibility and gives people a loophole that encourages mismanagement of individual finances. Bankruptcy was designed to serve as a last resort to be utilized only in the most desperate circumstances. That is not what is happening today. In fact, today we see bankruptcy kind of synonymous with the word convenience. We see personal responsibility for some reason not politically correct to talk about. With the changes in this bill, we will renotify people that they do need to be held accountable for their debts that they have accumulated. We will remind them about keeping their word. We will remind them to not go out and spend money that they do not have. Accept personal responsibility.

I actually am optimistic that the country is taking a turn, it is going back to the fundamentals of this country, basic responsibility, strong education, et cetera, et cetera. But any formula you look at for the success of this country has to incorporate within its terms personal responsibility.

With regard to the consideration of amendments, the Committee on Rules has done its best to accommodate Members who filed amendments with the Committee on Rules. We have been more than fair in permitting six Democrat amendments, five Republican amendments, and one bipartisan amendment. We faced numerous duplicative amendments in the Committee on Rules and we did our best in the Committee on Rules to allow a wide variance of amendments on a number of key issues. In reviewing the amendments provided to the Committee on Rules, we also noted that there are those Members who simply do not wish to see any changes in the bankruptcy laws. We have some Members that want this to continue to be a tool of convenience. We have some Members who for some reason have put personal responsibility aside and use this charade of the current bankruptcy system as the policy that ought to be in place.

This rule is a fair rule, Mr. Speaker, and I urge all of my colleagues to support it so that we may proceed with general debate and consideration of amendments and the merits of this important bill.

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

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman from Colorado for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

(Ms. SLAUGHTER asked and was given permission to revise and extend her remarks.)

Ms. SLAUGHTER. Mr. Speaker, I rise in strong opposition to this rule. I oppose the hasty process this rule embraces, I oppose the breach of faith that this rule embodies, and I oppose the damage to America's children this rule refuses to address.

Last year, more than 1 million American families went through bankruptcy, leaving millions of creditors without full payment for their goods and services. Is the record number of bankruptcies a serious problem? Yes. Is this bill a real answer to the problem? No one knows. Some claim that it will result in fewer bankruptcies, but others believe it is a giveaway to the very creditors whose profligate lending may be the chief cause of increased bankruptcies.

Article I, Section 8 of the United States Constitution requires the Congress ''to establish uniform Laws on the subject of Bankruptcies throughout the United States.'' Beginning in 1792, the Congress has taken this responsibility seriously, carefully weighing creditors' rights against a new start for the debtor.

The precedent is that the House crafts bankruptcy legislation carefully, and on a bipartisan basis. At yesterday's Committee on Rules hearing, we learned that in 1978, the last time that fundamental changes to the bankruptcy code were proposed, a National Bankruptcy Commission proposed the outline of the changes, the House held 38 days of hearings, and the Senate held 24 days of hearings.

Compare that careful deliberation with this bill's consideration. Again we had recommendations from a National Bankruptcy Commission, but this bill ignores them, and in major instances includes ideas expressly rejected by the Commission. The House held only 4 days of hearings, and the Committee on the Judiciary's markup was so rushed that germane amendments offered by committee members were not even considered. In fact, the gentleman from Illinois (Mr. HYDE), the committee chairman, received unanimous consent to report this bill only after he promised to recommend that the bill would be considered on the floor under an open rule, so that additional amendments could then be debated.

Unhappily, today's rule is proof that this House's leadership did not follow the recommendation of the gentleman from Illinois. The chairman of the Committee on Rules explained to us that the gentleman from Illinois did not have enough experience as the chairman to realize that he could not make a commitment about floor debate. From my personal observation, I would say that in his 23 years in the House and 8 years in the Illinois House of Representatives, the gentleman from Illinois has proved himself a master of procedure. In reality, the gentleman from Illinois' failing is his belief that the Committee on Rules, and this House's leadership, would respect him enough to honor his recommendation as chairman of the Committee on the Judiciary.

So instead of the open rule, we have this rule that makes in order only 12 of the 40 amendments that were submitted to the committee. Why this curtailed consideration? Apparently after months of doing nothing on the floor of the House, the House leadership decided that only 6 hours could be spent

considering landmark legislation affecting the lives of millions of families filing for bankruptcy, and millions of creditors, many of them small businesses.

Mr. Speaker, I oppose this rule because it will not allow us to consider amendments which might have cured this bill's flaws, and allowed a bipartisan House to support it. I am particularly concerned about the 125,000 children who are owed child support from a parent who declared bankruptcy.

In its current form, this bill will have a devastating impact on the parents and children who are owed child support and alimony. It will take us back to the days when the bankruptcy code gave child support and alimony no greater priority than a television set or jewelry purchased with a credit card.

Just 4 years ago, I introduced the Spousal Equity in Bankruptcy Amendments to give priority to child and spousal support payments in bankruptcy proceedings. That legislation became law as part of the Bankruptcy Reform Act of 1994. Thanks to those and other child support enforcement reforms, child support collections have increased by 68 percent since 1992. Nevertheless, we have far to go, as America's children are still owed $34 billion a year in child support.

This bill could reverse the progress we have made in recent years. By making large amounts of consumer debt nondischargeable in bankruptcy, this bill would place money owed on a credit card at the same level as alimony and child support obligations. Under this bill, after a debtor goes through bankruptcy proceedings, he or she will still have credit card and other types of consumer debt left to pay, and those debts will compete with child support and alimony for the limited resources of the post-bankruptcy debtor.

Proponents of the bill claim that they have repaired the damage that the bill does to child support. However well intentioned, those repairs are only cosmetic. They ignore the reality that, after bankruptcy proceedings are over, the bankrupt debtor will be left with additional credit card and consumer debt. When aggressive credit card collection agencies are calling, it will be easier to pay them than the former spouse or the powerless child.

The Committee on Rules was schizophrenic on the child support issue. Some in the majority claimed the problem never existed or had been fixed by amendments, and yet had heard testimony from a Member of the majority that likened the post-bankruptcy situation to a shark joining the sardines. That Member argued that without a procedure for enforcing the post-bankruptcy priority that the bill claims to establish, credit card companies will greatly overpower the competing claims of children needing support. Clearly this issue is not resolved.

The rule does make in order an amendment by the gentleman from Florida (Mr. SHAW) on this subject. But early analysis from bankruptcy experts shows the Shaw amendment is unworkable for both creditors and those claiming child support. It will inevitably cause children who are owed child support to lose the payments that they are owed.

Several of my colleagues and I tried to offer an effective amendment to solve the problems that this bill creates for women and children. The amendment we sought to offer would have clarified the status of child support and alimony. It would have ensured that child support and alimony would be paid before unsecured debt. It would have protected against abusive reaffirmation agreements that have an adverse effect on a debtor's family. It would have prevented new kinds of credit card and consumer debt from being made nondischargeable, and thereby competing for the debtor's limited post-bankruptcy funds against child support, alimony and other priority payments. It would have provided an enforcement mechanism for the bill's protections for child support. However, we were not allowed to have our amendment on the floor.

Mr. Speaker, the bill in its current form is opposed by children's rights advocates and women's groups, who are concerned about the damage it will do to a family in crisis. It is opposed by victim's rights groups, such as Mothers Against Drunk Driving, who are concerned about the way the bill will endanger settlements owed to victims of crime; it is opposed by consumer groups, such as the Consumer Federation of America and Consumers Union; and it is opposed by judges and scholars such as the National Conference of Bankruptcy Judges, who are concerned about the integrity of the bankruptcy process.

I support efforts to reform our bankruptcy laws to make debtors responsible for the debt they incur and indeed agree that something must be done. A full floor debate such as that contemplated by the chairman and the Committee on the Judiciary would perhaps have addressed many of the problems. But the Committee on Rules chose to disregard the Committee on the Judiciary's wishes and forbid the offering of the primary amendment to cure its most obvious flaw. We should not and cannot allow the bill to turn back the clock on the progress we have made in the past few years to ensure that women and children in crisis receive the support they are owed.

Mr. Speaker, I urge my colleagues to oppose this rule. America's children are too precious for this Congress to put their future at risk. We should not allow an artificially imposed time limit to preclude a full discussion of the child support question and the other important issues raised in the bill.

By defeating the rule, we will instruct the Committee on the Judiciary to reconsider the bill and its unintended consequences, to complete its deliberation on all relevant amendments, and then bring the bill back to the full House in a perfected form.

I also notify my colleagues that I will call for a vote to defeat the previous question. If the previous question is defeated, I will offer an amendment to the rule to allow the Jackson-Lee, Slaughter, Nadler, Blumenauer Family Support Protection amendment to be considered by the full House. Our Nation's children deserve at least an hour of time on the House floor to discuss whether this bill adequately protects their interests. If we could be sure of that protection, many of us could support this bill.

Mr. Speaker, a vote for the previous question and this flawed rule means that the House is unwilling to spare an hour to make sure our children do not suffer for lack of food, clothing and shelter that child support provides. Defeat the previous question and defeat the rule.

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

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Harrisburg, PA (Mr. GEKAS), a member of the committee and one of the most distinguished and respected Members of this body.

Mr. GEKAS. Mr. Speaker, I thank the gentleman for recognizing my birthplace and for yielding me the time.

Mr. Speaker, I rise in support of the rule which does allow for ample time to debate the most vital issues that face bankruptcy and bankruptcy reform.

I am a witness to the fact that the chairman of the Committee on Rules and the Committee on Rules were eminently fair in the composition of the rule which is before us here today, because the chairman and the Committee on Rules rejected one or two of my own offerings for amendments to be made in order. If anything shows balance on the part of the chairman and the committee, it is that the author of the bill and the chairman of the relevant subcommittee offered amendments which the Committee on Rules rejected. One of them, by the way, I thought was going to go automatically accepted by the Committee on Rules which I crafted in accommodation to what the gentleman from Massachusetts (Mr. FRANK) and I had agreed on a certain portion of single asset, an arcane portion of the bankruptcy bill. But the point is that a rule which allows full debate on the most significant issues facing bankruptcy is one that will give us full opportunity to vent all sides of those issues.

If the minority will recall, and the gentleman from New York (Mr. NADLER) could, I think, substantiate it, in the Committee on Rules, I offered to the chairman and the Committee on Rules that we would be happy to allot whatever time is necessary for the substitute measure by the minority to be placed for debate in the full question of bankruptcy reform. So we support the rule and urge everyone to vote ''yes.''

In the meantime, the three main issues that I think will be raised during the course of the debate are A, B and C which I just want to outline and prepare the Members for a full discussion of them. One is the gateway system that we have prepared in H.R. 3150 which tests out the debtor's ability to repay some of the debt right at the first instance at the application being made for bankruptcy, the original means-test system that we have in place. That is one contentious issue. The second is, that is raised over and over again, almost to bore me at least to tears, is the one that it is the credit card and lenders that are at fault for this whole mess that we find ourselves in with 1,400,000 filings in 1997 and more bankruptcies being recorded every day even as we speak, into unheard of numbers. That is another one that we meet head-on in our discussion, because we are talking about the debtor who comes to bankruptcy. We are not talking about how he got there. It could be gambling, it could be divorce, it could be a variety of things. So the so-called fault of the lenders, which will be one of the attacks made on our bill, will be a second important issue. The third is one that is almost preposterous in its formation, having to do with somehow that our bankruptcy reform bill militates against support obligations for the children. That is simply not the case.

□ 1245

But to make doubly certain of it, we also have amendments that will raise the priority of support payments to No. 1 on the list on the bankruptcy to supplement the already existing State and Federal statutes that guarantee that support payments will have utmost priority.

With that I reiterate, let us support the rule, let us debate the amendments as they appear, and then in the final analysis let us support a sweeping change in bankruptcy reform dedicated to the proposition that personal responsibility has to be returned to our society through a change in the bankruptcy laws.

Ms. SLAUGHTER. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. NADLER).

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

Mr. NADLER. Mr. Speaker, as the gentlewoman from New York (Ms. SLAUGHTER) mentioned, this bill has been rushed to the floor beyond all prudence, and unfortunately we have not been permitted most of the important amendments. The House leadership decided that the one thing this bill did not need was close scrutiny or open debate, so they choose not to allow debate in the most important amendments offered by the minority.

The gentleman from Pennsylvania says the Committee on Rules was fair. We gave the Committee on Rules, we told them we had 12 priority amendments. One of those 12 was made in order. The American people are being cheated because they will not get the open debate and open votes on issues affecting the finances of millions of American families that they deserve.

Have credit card companies been lending recklessly? The data indicates they have. In fact, every American family's mailbox tells the same story. How many pre-approved credit card solicitations have my colleagues thrown out last week?

We had an amendment to eliminate the claims of any lender who knowingly pushed the debtor over 40 percent of his annual income in unsecured debt. That goes on all the time. It undermines the carefully made loans of other creditors. Yet these lenders want the taxpayers to help them share in the corrections with responsible collectors. That is not right, but we will not be allowed to debate that today.

We have the amendment that would have eliminated the claims for debt incurred at ATM machines inside gambling casinos. Trying to lend thousand of dollars to gambling addicts in casinos at 18 to 22 percent interest is simply immoral. We know it destroys families and causes bankruptcies and leads to other responsible lenders not being paid. Yet although the amendment had the support of the Republican chairman of the subcommittee of appropriations, the gentleman from Virginia (Mr. WOLF) who has been a leader on this issue, we will not be allowed to debate this amendment today.

The gentleman from Massachusetts (Mr. KENNEDY) had a series of amendments to deal with unscrupulous practices by some lenders, but the sponsors of this bill, for all their talk of personal responsibility, do not want to debate irresponsible lending practices so we will not have an opportunity to debate those amendments.

The gentleman from Massachusetts (Mr. DELAHUNT) had an amendment to protect the hard-earned benefits paid to our veterans, and the Social Security benefits of retirees are paid for but we cannot talk about that on the floor today.

We will not get a chance to debate the amendments sponsored by my colleague from New York (Ms. SLAUGHTER) and myself along with the gentlewoman from Texas (Ms. JACKSON-LEE) the gentlewoman from Connecticut (Mrs. KENNELLY) and the gentleman from Oregon (Mr. BLUMENAUER) to protect child support collections from the terrible effects of this bill because the majority is afraid to have these issues come before the American people. Instead we will get another sham amendment crafted by the promoters of this legislation which will again pretend to fix the problem, the same problem they had first denied existed, then proclaim to have fixed in committee and will now try to fix again. But we will not be able to debate any real solution.

I did have an amendment made in order which implements changes recommended by the National Bankruptcy Conference of the Small Business Administration. The bill threatens to force thousands of small or medium-sized businesses into liquidation, out of business, bury the jobs, because they will be buried under a mountain of paperwork and bureaucratic rules and deadlines that will not apply to big business, only to small business. No, this bill's special ruse is small business. It will cost jobs and destroy the dreams of small business people.

How much time do we get to debate the future of small business in country? Five minutes on each side. That is all the Republicans think small businesses deserve before Congress buries the small businesses. But do not worry. The next time the majority wants to kill an environmental protection law, they will tell us they are doing it to save small business. Before we believe them we should remember what they did today.

I regret that we have not been able to work in a more bipartisan basis. I was pleased by the progress of negotiations which the staff conducted over several weeks which seem to be yielding a reasonable and principled compromise. But unfortunately that good work will not see the light of day. One day we were told suddenly the negotiations were off and everything we had talked about was off the table.

We are getting yesterday's news, the same wish list from the credit card companies. They have spent a bundle lobbying this one. As my colleagues know, the New York Times today says $40 million. I am not so naive as to think middle-class families on the brink can compete with a $40 million lobbying effort by the Nation's biggest banks and credit card companies.

Mr. Speaker, this is no way to rewrite the code. It is simply legislative malpractice. I believe this bill is not ready and the record is incomplete.

Mr. Speaker, I know how to count, and I know the majority has the votes to pass this embarrassment today. The minority will do what we ought to do, point out the weaknesses in the bill and suggest corrections. But I am under no illusions about the outcome. All I can observe is that this is a pretty shameful way to celebrate the centennial of the Bankruptcy Act, and that if, God forbid through some foolishness this bill makes it into law, we will hear a year or 2 from now the cries of the thousands and thousands of small businesses and middle-income and low-income people who will be buried by this bill, and then we will have to start undoing the handiwork we do today.

Mr. MCINNIS. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. DOOLEY).

Mr. DOOLEY of California. Mr. Speaker, I rise in support of this rule, and I rise in support of this bill, H.R. 3150.

Is it a perfect rule? No. But is it a responsible rule? Yes.

As my colleagues know, it is time for us to have fundamental reform of our

Nation's bankruptcy, and it should be guided by 3 basic principles: restoring responsibility, protecting consumers and then sharing fairness. H.R. 3150, which preserves a historic fresh start for those who truly need it is a solution.

Our Nation is witnessing an unsustainable soar in personal bankruptcies. Bankruptcies have increased by more than 400 percent since 1980 with one more million personal bankruptcies filed in 1996. Last year alone, despite a booming economy and low unemployment, a record 1.3 million people filed for bankruptcy, more than 1 in every 100 American households.

The overwhelming majority of Americans who pay their bills on time are the ones who are paying the price for this surge in bankruptcy. It takes approximately 33 Americans to pay for one bankruptcy, and bankruptcy will cost each American household an estimated $400 per year in higher prices for goods and services.

We must restore a sense of responsibility to our bankruptcy system and stop it from becoming a first step rather than a last resort. More and more people are choosing bankruptcy as a financial planning tool, and responsible Americans are the ones who are forced to pick up the tab from those who walk away from their debts.

Mr. Speaker, 3150 would restore personal responsibility and fairness to our bankruptcy system. The bill would amend the bankruptcy code and employ a needs-based approach where debtors in need get relief but only the relief that they need. Anyone earning an amount equal to or above the Nation's median income and are able to pay at least 20 percent of his or her unsecured debt over the course of 5 years would be forced to comply with Chapter 13 which requires a repayment plan rather than Chapter 7. H.R. 3150 provides tremendous flexibility, and in turn it needs, allows, the court to consider extraordinary circumstances such as medical costs or sudden loss of employment.

Most Americans agree that the time has come for meaningful and fair bankruptcy reform. Please join me in supporting this rule and this important piece of legislation so that our bankruptcy system can be approved for all Americans.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. Edwards).

Mr. EDWARDS. Mr. Speaker, I speak as someone who had hoped to support a bipartisan measure to deal with a problem of increasing bankruptcies in America. But I am disappointed in the result of this bill. Specifically this bill would undermine the Texas constitutional protection for family homesteads. It is disappointing to me that in a Republican-led Congress that has paid a lot of lip service to the concept of States' rights, this bill would run roughshod over the States' rights and the property rights of Texas and 5 other States: Florida, Kansas, Oklahoma, Minnesota and South Dakota.

Mr. Speaker, there can be no more personal property right that a State can try to protect than the right of one's own home, and I am deeply disappointed that the leadership in this House refused to recognize our 6 States' efforts to protect that important property right.

Let me say also, if this bill is about personal responsibility, it misses the mark because nowhere in it do I find any effort to ask multibillion dollar credit card companies to face their responsibility for having increased consumer debt by billions of dollars through unsolicited credit card mailings and through unsolicited increases in credit card limits.

I will finish with a personal note. When my mother, my 74-year-old mother, died 5 years ago, I went to her one-bedroom apartment in Houston to collect her things and found on the kitchen table letters from credit card companies on one hand saying, ''You are 2 to 3 months late in your payments,'' and on the other hand on the same table found those same credit card companies and others saying, ''Congratulations, we're increasing your credit card limit by thousands of dollars.'' I believe this bill failed in its responsibility to make not only American families but also American corporations face the responsibility for the serious problem that has been created.

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

Well, to my colleague from Texas (Mr. EDWARDS), I used to be a police officer, and I never recall ever being asked to respond to a situation where somebody claimed they were forced to use their credit card.

My colleagues know there is personal responsibility. Of course people, as we know, when we buy a car we always have people trying to sell us another car, but does that let us say, well, I do not need to pay for the car I originally bought because somebody else wants to sell me an additional car? I mean, it just does not make logical sense.

Because of the time restriction, let me go on to a couple other points, and, Mr. Speaker, I control the floor. To the previous remarks made on the amendments submitted, let us talk about the fairness of the Committee on Rules. I think there has been a little misdirection here. We had 39 amendments, 39 amendments submitted to the Committee on Rules. The chairman of the Committee on Rules has said repeatedly he wants to make it as fair as possible, but he also has to manage this rule. Of the 39 amendments, 11 Republican amendments, 27 Democratic amendments, 12 amendments were made in order.

Now several of the amendments were repetitive. Of the 12 amendments that were made in order, 5 of them were Republican, and by the way the Republicans control the majority of this committee, and 6 of them by the minority of the committee were made in order for the Democrats. In other words the Democrats got one more amendment than the Republicans did, and then one bipartisan amendment was made as well.

The other issue that I think is critical is that the gentleman from New York stood up, and frankly I question about some of the whining because I think this has been a very, very fair approach. His statement was that the Democrats had 12 priority amendments and that the Republicans only made one in order. I do not know where he was. I thought he was in the committee. Physically he was at the committee last night, but that is not what occurred in his presence. In his presence what occurred is that the Democrats had 7 priority amendments, and we made 3 of them in order, 3 of them. And let me add again that the Democrats have one more amendment in order on this bill than do the Republicans.

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

□ 1300

Ms. SLAUGHTER. Mr. Speaker, I yield 30 seconds to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, I hope the American people heard the gentleman point out on this floor that he does not consider the credit card companies in any way responsible for the billions of dollars in debt that have been increased, to a large extent because they have sent out easy credit cards, unsolicited credit cards, to teenagers and senior citizens. According to his philosophy of personal responsibility, I guess drug dealers should not be held responsible for the drug problem in America, because nobody forced those people in America to use drugs. If that is the kind of personal responsibility that is behind this bill, I do not want any part of it.

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

Mr. Speaker, I take it from the comments of the gentleman from Texas (Mr. EDWARDS) that he associates small business people, which I have a lot in my district, with drug dealers. Is that what the gentleman is saying, because they came and charged in the store for some reason, it is the store merchant's responsibility? It is the small businessman in my district's responsibility if somebody comes in and charges something in their store and does not pay for it?

I would say to the gentleman from Texas (Mr. EDWARDS), there is a time in this country to accept personal responsibility. If you cannot afford it, do not buy it; and if you do buy it and you cannot afford it, do not blame it on the merchant.

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

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, nothing needs to be said about this bill, other than it is a bankrupt bill and it is bankrupting America.

I stand to oppose this rule for the children of America. 325,000 bankruptcy filings are based upon child support and alimony payments. This rule and this particular legislation disregards the importance of protecting our children at risk. What it does is it takes the multibillion-dollar credit card companies and it puts them at equal level to those parents trying to fight every day to keep their doors open and their children alive. Yes, it is just that bad.

We tried in the Committee on Rules to present to the Republican members of the Committee on Rules an amendment, an omnibus child support amendment. The gentlewoman from New York (Ms. SLAUGHTER) has been a leader on this issue, yet that amendment has been rejected.

What do they have in its place? Something unsatisfactory. They have something that says oh, that is okay. You can put the credit card debt equal to the child support. What does that mean? Do you have time to sit and make 12 and 15 calls a day, like the multibillion-dollar credit card companies, harassing people in order to get payments? No, you do not.

So there is no equality here. We wanted to protect child support and alimony payments, so that hard-working Americans could keep their head above water.

Let me tell you what the real issue is, 3 billion contacts every day to Americans asking them to take this credit card and this credit card. I believe in personal responsibility. I want people to pay their bills, and Americans pay their bills. Today they wait when the debt is 125 percent of income. They do not recklessly go down to the bankruptcy courts. In fact, no one throws a party on their neighborhood block when they have to go to the bankruptcy court.

I tell you, this bill should go back to committee, with only five hearings. We were promised an open rule in committee, it is on the record, yet we did not get one.

This is a bad rule. Vote it down, vote for Americans, vote for working people. This is a bad, bad bill.

Mr. Speaker, I come to the floor of the House to oppose this rule. The function of the House Rules Committee is to examine amendments and make germane amendments in order, not to try to defeat the bill in the Rules Committee before it reaches the floor. This is a bad way to run this House and it undemocratic.

I appeared, before the Rules Committee with the recommendation that four of my amendments to H.R. 3150 be made in order, because I seriously question whether this bill, as it is now written, will accomplish its goal of reforming our present bankruptcy system without causing significant harm to many innocent parties. Sure, I believe that the bill in its philosophical approach and legislative function, appears to unnecessarily burden the rights of the bankrupt debtor, but in the end, my objections to this bill are much deeper than that. As a member of the Judiciary Committee's Subcommittee on Commercial and Administrative Law, who has dealt with this legislation since its inception, I have several serious reasons why I believe there should have been more of an inclusive rule for H.R. 3150. This is a bad rule and this is not democracy.

I am not shy to say that Chairman HYDE promised an open rule to the Democrats in Committee. That is exactly why the Democrats did not offer more amendments in the Judiciary Committee. Then we go to the Rules Committee with an assurance that we would get an open and inclusive rule and what we have here is a restrictive and exclusive rule. This is no way to legislate, no way to make policy, no way to run this house. It is bad for collegiality of the House, and most importantly it is bad for the country. This is a bad rule . . . and this is not democracy.

I was prepared to offer an amendment, cosponsored by Rep. SLAUGHTER of New York, a Member of the Rules Committee which would have completely corrected certain serious problems in the bill. First of all, the amendment would protect child support and alimony payments in a Chapter 7 or Chapter 13 bankruptcy proceeding by excluding these payments from the definition of ''current monthly income'' in the bill. Secondly, the amendment would ensure that all priority payments like child support and alimony would be paid before any unsecured creditors, whether it is mandated as a part of the means test or as a nondischargeable credit card debt in Chapter 7 or in Chapter 13 repayment plans. Third, the amendment would strike all sections of the bill that make unsecured or credit card debt competitive with child support and alimony payments. And finally, no presumably nondischargeable debt owed to a credit card or credit lending institution can be collected if in good faith it is believed that its collection would impede upon an individual's ability to meet child support or alimony obligations. These provisions, in particular, would finally make H.R. 3150, a ''woman and child'' friendly, rather than, a ''woman and child'' adverse piece of legislation.

The only amendment allowed to be offered on the floor of the House which remotely speaks to child support is the Boucher-Gekas amendment which does not accomplish as much as the Jackson-Lee/Slaughter amendment. While it moves child support and alimony obligations from seventh priority to first priority during the bankruptcy proceedings, the child support debts must still compete with the credit card debts, or unsecured creditors. Listen to me colleagues, the mothers and children must still wait in line for the big corporations to be paid, or compete with them since those debts have become non-dischargeable debt. This is a bad rule and this is not democracy.

That is why I am hoping that Members will vote for the Nadler/Meehan/Berman/Jackson-Lee Substitute amendment because it strikes Section 141 of the bill which would thereby eliminate new non-dischargeable status for these credit card and other debts which would compete with alimony and child support. This is bad rule and this is not democracy.

Now my colleagues, let me tell you a little about the Means Testing provision in this bill. It is not a means test, it is just a mean test. The bill's mean Means testing would bar anyone earning the nation's median income—about $51,000 for a family of four—from using Chapter 7 proceedings if they could pay off all secured debt, such as a home mortgage or car loan, and 20 percent of unsecured debt, such as credit card bills, over three to five years.

I offered an amendment with Chairman HYDE which passed that would make the Means testing more fair. This amendment was not made in order and not allowed to be offered on the floor. This is a bad rule and this is not democracy. First Lady Hillary Rodham Clinton said in a May 7th article:

> I have no quarrel with responsible bankruptcy reform, but I do quarrel with aspects of the bill (H.R. 3150) that would force single parents to compete for their child support payments with big banks trying to collect credit card debt. . . Any effort to reform the bankruptcy system must protect the obligations of parents to support their children.

This is a bad rule, and this is not democracy. I urge my colleagues to oppose this rule, and vote ''no'' on the rule for H.R. 3150.

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

Mr. Speaker, it amazes me to hear the gentlewoman from Texas talk in such a manner as she does. It takes all responsibility away from the person who goes in and purchases the product.

My question to the gentlewoman would be, has she ever been the recipient of a bankruptcy? In other words, has she ever been the creditor? I was.

When I first got out of school, I had my little business. I had three small children and my wife. My wife and I were struggling. We rendered the service. You know what? The person walked out on us, for a bankruptcy of convenience.

So you can give all these sorry stories and sob stories, but, let me tell you, there is the other side of the story. In your statement you need to be there and reflect on the other side of the story. And there is nothing, nothing wrong with personal responsibility in this country.

Now, for the second point made by the gentlewoman from Texas about the unfairness of this, how it ought to go back for more hearing. Let me say, I know the gentlewoman, to her credit, comes to the Committee on Rules on a regular basis. This bill has had over 60 witnesses. Every interest group I know has testified either in committee or had opportunities to testify somewhere in the process of this. This is not something that fell out of the sky.

There are a lot of people out there that are suffering. There are a lot of people that are suffering, not because they went and bought something they knew they could not afford. There are a lot of people who, on good faith on a person's word, sold them something, and the person did not keep their word.

Let me give you an example. Come to my office. I invite the gentlewoman

from Texas to my office, room 215, Cannon Building. You will see a bull elk in my office. Do you know where I go got that? I represented a woodsman, and this woodsman owed me about $5,000 personally. I loaned the money. He never paid me.

I told him, I said, ''You gave me your word.'' He said, ''I gave you my word.'' I said, ''Are you going to declare bankruptcy?'' He said, ''No, I am going to give you something of value.'' He brought me in this bull elk. He kept his word.

The other issue that is critical, and this is nothing but a diversionary tactic, is this child support thing. Let me repeat this very quickly. The President of the California Family Support Council says, ''H.R. 3150 contains a wish list of provisions which substantially enhances our efforts to enforce support obligation during the bankruptcy of a support obligor. It closes many of the loopholes which currently exist in bankruptcy and which greatly hamper our efforts to enforce support,'' speaking of child support, ''debts, when a debtor has other creditors who are also seeking participation in the distribution of the assets of the debtor's bankruptcy estate.''

That letter was sent to the chairman. I would be happy after their turn to yield a couple of minutes to the gentleman from Pennsylvania (Mr. GEKAS). I would like the chairman to go into a little more detail about that hearing a couple of minutes from now. Let us address that.

I do not want one diluting the importance of this bill by some diversionary tactic by saying, well, this takes away from child support. It does not. The rule is fair. We ought to pass the rule and pass the bill.

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

Ms. SLAUGHTER. Mr. Speaker, I yield 30 seconds to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, I appreciate the sincerity of the gentleman. But just as he has his beliefs, I have my facts. The facts are that the amendments do not correct the imbalance between credit card and child support. You have to fight the credit card companies to get your child support.

The other fact is that 60 percent of those who file bankruptcy have been unemployed in the last couple of months. We want personal responsibility. In fact, we have supported an amendment that would study why small businesses go bankrupt or are not being paid.

This bill needs to go back for hearing so that we can bring forth a true bipartisan bill that would answer your concern and truly commit us to personal responsibility.

Ms. SLAUGHTER. Mr. Speaker, I yield 2½ minutes to the gentleman from Texas (Mr. BENTSEN).

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

Mr. BENTSEN. Mr. Speaker, I rise against the rule. Once again, it appears that the average Members of the House, Republicans and Democrats, cannot be trusted to legislate, even though that is what we were sworn in to do. The Committee on Rules and the Republican leadership of have decided what amendments will be made in order. The gentleman from Colorado says the chairman of the Committee on Rules needs to have a managed rule so he can manage this bill through.

I am not sure what the hurry is. I guess because we have to get out for another recess. This has been a Congress more of recesses than a Congress of action, even on important issues like bankruptcy reform.

I actually agree with the gentleman on a lot of it. I actually would tell the gentleman on his situation, he probably would have done better to ask for a promissory note than a bull moose head for his wall. But, nonetheless, let us go forward.

The problem with this bill and the problem with this rule is the Republicans for so long, since I have been in Congress, have always been talking about returning powers to the States. But this bill in sections 181 and 182 preempt State law with respect to the State constitutions dealing with homestead, particularly in my home State of Texas.

Let me read a letter from the Governor of Texas, Governor Bush, along with the Lt. Governor Bullock and Speaker James E. ''Pete'' Laney. ''We strongly oppose Congress' effort to pass this legislation with the inclusion of the $100,000 homestead cap. The homestead cap is a clear violation of states' rights with regard to State private property laws. State and local government participation should be maintained in Federal bankruptcy law.''

Mr. Speaker, I will include the whole letter for the record.

Mr. Speaker, this is the whole point. Here we are talking about returning power to the States on one day, and then the next day we are taking it back away from them, whatever is most convenient for whatever our goals may be. To rush this legislation through, again, I agree with the gentleman on most of this, but for some reason, we cannot trust the 435 Members of this body to go through, spend the time, debate the amendments and bring up various amendments. We can all think. We all have the same power, or should have the same power to offer amendments.

But this leadership, which cannot figure out what direction it is going in, has now come up with the rule that mirrors the strategy of this leadership, whether it is busting the budget by $22 billion on the highway bill, or trying to craft a budget bill that is going nowhere fast, and then debating it in the middle of the night, when nobody except people in Hawaii would be paying attention.

Apparently this is just another example of the failed Republican leadership that cannot get anything done, and now wants to change the bankruptcy laws in the most significant way in the last 20 years, and wants to do it with 1 hour of general debate, 12 amendments, 10 minutes on what we are going to do with State homestead laws. I think that is ridiculous, and it is a real shame for this body to consider this.

STATE OF TEXAS,
OFFICE OF THE GOVERNOR,
Austin, TX June 2, 1998.

Hon. HENRY HYDE,
Chairman, House Judiciary Committee, Washington, DC.

DEAR CHAIRMAN HYDE: The House Judiciary Committee and Senate Judiciary Committee have included in their respective bankruptcy reform bills (S. 1301 and HR 3150) an amendment that would place a monetary cap of $100,000 on the amount of homestead equity individuals can protect from bankruptcy foreclosure proceedings. We are writing to express our opposition to the amendment and let you know how greatly it could affect Texas residents.

The Texas homestead provisions, included in the Texas Constitution, exempt a Texas resident's homestead in the event of a declared bankruptcy and place no monetary restrictions on that property. The Texas law does provide certain restrictions, such as limiting homestead property to one acre in urban area and 200 acres per family in a rural area. By placing a monetary cap of $100,000 on the amount of equity individuals can protect from foreclosure, the amendment to both bankruptcy reform bills would preempt the Texas Constitution.

We strongly oppose Congress' efforts to pass this legislation with the inclusion of the $100,000 homestead cap amendment. The homestead cap is a clear violation of states' rights with regard to state private property laws. State and local government participation should be maintained in federal bankruptcy law.

Thank you for your consideration.

Sincerely,

GEORGE W. BUSH,
Governor.
BOB BULLOCK,
Lt. Governor.
JAMES E. ''PETE'' LANEY,
Speaker.

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

The gentleman from Texas, I realize that late nights offend him because he would prefer to be at the golf course. But the fact is the reason the Republicans run these late nights is because we have got a lot of work to do, and the gentleman can participate in that work.

Second of all, in regards to the gentleman's comment about my bull elk head, I would be happy to take a promissory note from the gentleman for the amount, because I know he will pay. I know he will not take the bankruptcy for convenience.

I kind of assume the gentleman is going to ask me to yield time. I will preempt that and say no, the other side can yield the gentleman time if he would like.

Mr. Speaker, I yield 4 minutes to the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, while the gentleman from Texas is on his feet, I had informed him and reinformed him, as I know the gentleman is aware, that an amendment that we intend to offer will satisfy the complaint of the Governor of Texas as to the current exemption base that is listed in the bill. We are trying to accommodate the State of Texas and the State of Florida and others who want to retain their homestead exemption.

When the question occurs about whether or not our bill treats child support cruelly or handsomely, depending on the point of view, I must reiterate something that the gentleman from Colorado had begun to articulate. The support enforcement communities around the Nation, New York, California, Virginia and others, have stated that they are in full support of what we are attempting to do in 3150 with respect to the privatization of support payments.

Here is a letter from the California Family Support Council, to which the gentleman from Colorado has alluded. We have a letter from the City of New York which thanks us for the provisions that we have in 3150 as to support, making it easier for them to collect support.

What is left unsaid in all of this, which I am going to iterate and reiterate as often as I can, is that the vast majority, 95 percent, of child support issues are raised in a court order situation in which the court orders support payments to be made by X, and no matter what happens in bankruptcy court or any other court, they are enforced over the year with the marshals and the jails and the sheriffs and the bailiffs, a whole system to enforce the court orders on support.

□ 1315

Nothing that we will do over on the bankruptcy side is going to harm their ability to enforce support payments. But insofar as, through some happenstance, that the child support that escapes the court system that is set up to enforce child support leads to consideration of that same issue in bankruptcy, we take extra pains to prioritize the support payments even in those few cases comparatively that the bankruptcy court must deal with with respect to support.

The amendments that we are going to offer will even go farther and set the priority with which no one could quarrel on support.

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

Ms. SLAUGHTER. Mr. Speaker, I yield 30 seconds to the gentleman of Texas (Mr. BENTSEN) to explain the allegation he would rather play golf at night than work.

Mr. BENTSEN. Mr. Speaker, first of all, I do not play golf. Second of all, I was unaware you could play golf at night. I would in many evenings rather be home with my children. But I do not recall the gentleman being on the floor at 12:30 in the morning when we were debating the Republican budget resolution, because I was here debating against the $10 billion cuts my colleagues want to make in veterans programs and the cuts they want to make in education. I just wanted to clarify that.

To my colleague, the gentleman from Pennsylvania (Mr. GEKAS), and I would yield if I had the time, it would be unprecedented, I know, in my time in Congress that anybody would yield to the other, is that I do want to work with the gentleman, as I said. But the fact is it is unprecedented action that my colleagues are taking at preempting State homestead laws in this bill. For the record the Governor of Texas has said they are for the amendment, but they take no position on the bill.

Ms. SLAUGHTER. Mr. Speaker, I yield 1½ minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, as a general supporter of this bill, I did want to express my dismay at that attack on the gentleman from Texas. That remark about playing golf at night certainly does not grant this debate any reasonable weight.

Mr. MCINNIS. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. No, just as the gentleman, having made the attack on the gentleman, would not yield to him, I certainly would not yield at this point.

I do want to say to my colleagues, while I generally like the bill, I also wanted some amendments, but they are following the wrong course. What we should do, and we can still do it, offer these as amendments to the campaign finance bill, because the same Committee on Rules that would not allow amendments to the defense bill and shut off reasonable amendments to this bill, and I regret that as a supporter, this same Committee on Rules has made more amendments in order to the campaign finance bill than I think it has made in order for all other bills that have come up in this Congress.

So given what the Committee on Rules has done, the Committee on Rules is actually out shopping for nongermane amendments. So while we have to do this very important bill in a quick-time operation, Members who, like myself, had good amendments to this bill which were germane to this bill and were shut out, despite, in some cases, assurances that we would get them in, make them nongermane amendments to the campaign finance bill.

Follow this pattern. Go to the Committee on Rules. Make any amendment we want to bankruptcy a nongermane amendment to the campaign finance bill. Not only will it be made in order, but we will have unlimited debate time.

It does seem to me, when we are judging the seriousness of purpose and fairness of procedure, to compare these. Here is the campaign finance bill. Here is the bankruptcy bill. The bankruptcy bill is a very important bill. It will have a significant impact on this country, and I am generally in favor of it.

But we get amendments killed by the Committee on Rules, presumably on the direction of the leadership. We get amendments with only 10 minutes to debate. Then we get the campaign finance bill where amendment upon amendment, as far as the campaign finance bill is concerned, germane is Michael Jackson's brother.

The whole concept that has always been at the core of the House of Representatives that an amendment should be germane to the bill has been thrown out the window.

So I have to say I am particularly dismayed as a supporter of the basic concept of this bill to see a rule come forward which does violence to fair debate in this particular instance and then makes a mockery of it elsewhere. Then the gentleman from Texas is, I think, unfairly impugned for complaining about it. So I urge people to vote against this rule.

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

Mr. Speaker, to the gentleman from Massachusetts, let me tell him, the golf comment was preceded by a comment from the gentleman from Texas regarding recess period and a few other things. He speaks, on which is pretty typical with his approach, speaks on one hand for the microphone about bipartisanship and cooperation, and I want to help you, and then, on the other hand, spends the rest of his time attacking the Republican leadership and the Republican efforts to, in this particular bill, say, look, it is not wrong in this country to say you have to accept personal responsibility. It is not wrong in this country to say, if you are going to buy something, you have got to pay for it. It is not wrong in this country to say, when you owe somebody money, when you gave them your word, your word that you are going to pay for it, keep your word and pay your bills.

It is always this party that feels very strongly when we have somebody that comes up in a hardship case, let us say somebody gets a cancer, they are uninsured, they are down on their luck. I mean, that is what it is designed for.

But as is typical, the liberals have taken advantage of it, taken bankruptcy way beyond what its original intents were, and now we have a system of convenience. Look, go ahead, charge everything you want. Take every credit card you want. If you are worried about paying your bills, file bankruptcy. It does not matter. You are not shamed in the community. You do not have to worry about anything. That kind of behavior should not go on.

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

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Speaker, I thank the gentlewoman from New York for yielding to me.

Mr. Speaker, I guess I want to pick up on that theme of responsibility. We are going to hear, I am sure, much about responsibility today, personal responsibility.

But I also wanted to pick up on an observation made by the gentleman from New York (Mr. NADLER) in terms of congressional responsibility. There is no doubt that this particular proposal has rushed through the legislative process, unlike any proposal in my limited experience.

I dare say, as I talk to colleagues throughout and listen to the statements that have been made, there have been fewer hearings on this. The rush to bring this proposal to the floor was such that it is interesting to read the committee report in terms of the cost estimate. I want to take the time to read it. This is the majority report.

''The estimate of the Congressional Budget Office was not available at the time of this report. The committee believes that the enactment of H.R. 3150 will not have a substantial budget effect for the fiscal year 1999 and subsequent years.''

Well, guess what? They were wrong. They were wrong to the tune of $300 million over the course of the next 5 years. That is 300 million taxpayer dollars.

As the debate unfolded earlier on the issue surrounding the point of order, the ranking member, the gentleman from New York (Mr. NADLER), was correct when he said, in terms of the impact of these mandates under H.R. 3150 will cost the private sector over $1 billion, over $1 billion.

The gentleman from Colorado indicates his concern about private mandates. The CBO estimates that the impact on the private sector will be in excess of $1 billion over 5 years. But we are in such a rush to secure passage of this legislation that the point is bring it to the floor, get it done, limit debate.

This is not responsibility. This is not a responsible legislative process. We, too, have a collective responsibility. Let us call it congressional responsibility. I urge that the rule be defeated and the bill also be defeated.

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

Mr. Speaker, to the gentleman from Massachusetts, first of all, as a suggestion, I think he has got his, with good intent, but I think his facts are wrong. I would suggest that he visit with the gentleman from Ohio (Mr. PORTMAN) on our side, and the gentleman can talk to him about his concern he has got on unfunded mandates.

What especially bothers me, though, about the gentleman's comments, he talks about, in his short career up here, about how this bill has been rushed more than any other bill. I am not sure where the gentleman has been. I realize he is busy.

Let me tell the gentleman, there have been lots of hearings on this bill. Let me just read it. With regard to H.R. 3150 alone, the subcommittee held four hearings. Over the course of those hearings, more than 60 witnesses representing a broad cross-section of interest and constituents in the bankruptcy committee testified. Nearly every major organization having an interest in reform had an opportunity to participate in these hearings.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. GEKAS) if he would just comment about the comments just made by the gentleman from Massachusetts how this bill was rushed to the floor, no chance for input, and so on and so forth.

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I have been amused by listening to the litany of criticisms about how we rushed through it. Comparisons were made about what happened with the 1978 bill that finally became law.

Prior to 1978, the opposition is pleased to say, they had 5 years to work on a bankruptcy bill that became the bankruptcy bill of 1978. That subcommittee and that committee that worked on it for 10, 12, 15 days. After 5 years, they still had a markup with new ideas and new proposals to consider even through the markup stages of the subcommittee and the full committee. So even with the 5 years, they were not ready at the final moment to have a final bill, just like we did not.

We have new ideas, new circumstances occurring all the time. But the main themes of this bankruptcy reform bill were born of the 1,400,000 unexplained filings and our society being drenched in debt of individual debtors who, in some cases, could repay some of the debt. We believe that enough time has been devoted to it.

Moreover, even during the time that we had, we had the benefit of the Commission report, the Bankruptcy Commission. So we had a body that had worked on 2 years' worth of investigation and testimony and hearings on the bankruptcy. So we incorporated that.

All of a sudden, we can see, if the gentleman from Massachusetts will acknowledge, we already had, by adopting some of the recommendations of the Bankruptcy Commission, 2 years of work put right into 3150. That is not speeding up or rushing.

In addition to that, we had the hearings that the gentleman from Colorado has mentioned and the number of witnesses. But beyond that, we had tremendously intricate consultations with people in bankruptcy, from debt organization standpoint, from consumers standpoint, bankruptcy trustees, bankruptcy judges, conferences, Chambers of Commerce, you name it, credit unions.

The credit unions are anxious for the passage of this bill. Their whole system is being attacked daily by the number of filings that they see within their system. They want this bill passed, and so do we.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Mr. Speaker, the subject of bankruptcy should not be a partisan issue. It never has been in the history of this House. It should not be today or in the future. There should be no Republican perspective or Democratic perspective on this issue.

In 1994, Congress established a Commission to study and recommend changes to the bankruptcy law. The Commission issued its report last October. This bill comes to the floor today without the inclusion of the great, great majority of the recommendations of that Commission.

□ 1330

It comes with this many amendments having been offered before the Committee on Rules, a total of 45 proposed amendments, and it comes under a rule under which only 12 of those proposed amendments will have the benefit of debate in this House.

These are important proposed amendments that were left out. One excludes veterans' and Social Security benefits from the calculation of current monthly income for the purposes of bankruptcy or means testing under this bill.

One provides that a residential landlord would be required to seek relief from the automatic stay, as are other creditors seeking such relief, before being able to move to evict a residential tenant who is elderly or disabled or who is a veteran.

These are important amendments that the Committee on Rules has said to this House, we are not going to allow the democratic process to work its will. We are going to close off debate.

Ms. SLAUGHTER. Mr. Speaker, I yield 30 seconds to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. I think it is important to note, Mr. Speaker, for the record, in response to the chairman of the subcommittee, that upon an inquiry by me to the chairman of the National Bankruptcy Commission, I asked him about necessary data.

I said, and I am quoting, ''Every commission was frustrated by the absence of reliable data dealing with the bankruptcy process. Please communicate with the CBO, with the GAO, and get that data before you take action.''

I sent that letter, it was signed by other Members, and we are still waiting for that result. But here we are today, on the floor of the House without the evidence and the data that is necessary.

Ms. SLAUGHTER. Mr. Speaker, I yield myself the balance of my time.

(Ms. SLAUGHTER asked and was given permission to revise and extend her remarks and include extraneous material.)

The SPEAKER pro tempore (Mr. DUNCAN). The gentlewoman from New York (Ms. SLAUGHTER) is recognized for 30 seconds.

Ms. SLAUGHTER. I urge Members to vote no on the previous question, Mr. Speaker. If the previous question is defeated, I will offer an amendment to the rule that will make in order an amendment that will improve the bill's provisions that weaken child support, alimony, and victims' protections under bankruptcy.

Mr. Speaker, I urge a no vote on the previous question.

Mr. Speaker, I include for the RECORD information on the vote on the previous question and other material.

The material referred to is as follows:

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's *Precedents of the House of Representatives,* (VI, 308–311) describes the vote on the previous question on the rule as ''a motion to direct or control the consideration of the subject before the House being made by the Member in charge.'' To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that ''the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition'' in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: ''The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition.''

Because the vote today may look bad for the Republican majority they will say ''the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution * * * [and] has no substantive legislative or policy implications whatsoever. But that is not what they have always said. Listen to the Republican Leadership *Manual on the Legislative Process in the United States House of Representatives,* (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual: ''Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule * * * When the motion for the previous question is defeated, control of the time passes to the Member who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment.''

Deschler's *Procedure in the U.S. House of Representatives,* the subchapter titled ''Amending Special Rules'' states: ''a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate.'' (Chapter 21, section 21.2) Section 21.3 continues: ''Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon.''

The vote on the previous question on a rule does have substantive policy implications. It is the one of the only available tools for those who oppose the Republican majority's agenda to offer an alternative plan.

PREVIOUS QUESTION ON H.RES. 462—H.R. 3150—BANKRUPTCY REFORM ACT

At the end of the resolution add the following new sections:

''SEC. 2. Notwithstanding any other provision of this resolution, it shall be in order to consider the amendment specified in section 3 of this resolution as though it were after the amendment numbered 11 in House Report 105–573. The amendment may be offered only by Representative Jackson-Lee of Texas or her designee and shall be debatable for 30 minutes.

''SEC. 3. The amendment described in section 2 is as follows:

Page 6, line 11, insert the following before the 1st semicolon: ", but excludes (1) maintenance for or support of a child of the debtor, received by the debtor and (2) current alimony, maintenance, or support paid by the debtor for the benefit of a spouse, former spouse, of child of the debtor'';

Page 16, after line 25, insert the following (and make such technical and conforming changes as may be appropriate):

(A) in paragraph (2) by inserting ''before any unsecured claim is paid,'' after ''cash payments'';

Page 17, strike line 15 and all that follows through ''1326(b);'' on line 24, and insert the following:

''(i) that all claims entitled to priority under section 507(a)(7) are paid in full before any nonpriority unsecured claim is paid;

''(ii) that, to the extent not inconsistent with clause (i), payments to unsecured nonpriority creditors who are not insiders shall equal or exceed $50 per month of the plan;

''(iii) that, during the applicable commitment period, the total amount of plan payments on account of unsecured nonpriority claims shall equal the monthly net income of the debtor multiplied by the number of months in the commitment period less payments pursuant to section 1326(b); and

Page 18, line 14, strike ''(iii)'' and insert ''(iv)''.

Page 18, line 24, strike ''(iv)'' and insert ''(v)''.

Page 48, after line 13, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 119B. PROTECTION AGAINST REAFFIRMATION AGREEMENTS ADVERSELY AFFECTING CHILD SUPPORT.

Section 524 of title 11, United States Code, is amended by adding at the end the following:

''(i) Notwithstanding any other provision of this title, an agreement of the kind described in subsection (c) shall be void unless the court determines that such agreement will not have an adverse impact on the ability of the debtor to support a dependent of the debtor.''.

Page 54, line 15, insert '', but includes any tangible personal property reasonably necessary for the maintenance or support of a dependent child'' before the semicolon.

Beginning on page 65, strike line 16 and all that follows through line 25 on page 66 (and make such technical and conforming changes as may be appropriate).

Page 68, strike lines 8 through 23 (and make such technical and conforming changes as may be appropriate).

Page 72, strike line 2, and insert the following: at the end and inserting a semicolon; and

Page 72, strike line 9, and insert the following: port that are due after the date the petition is filed; and

''(8) the plan provides that all remaining debts to a spouse, former spouse, or child of the debtor, due before or after the date the petition is filed, for alimony to, maintenance for, or support of such spouse or child, or to a spouse, former spouse, or child of the debtor, to the extent such debt is the result of a property settlement agreement, a hold harmless agreement, or any other type of debt that is not in the nature of alimony, maintenance, or support in connection with or incurred by the debtor in the course of a separation agreement, divorce decree, any modifications thereof, or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, but not to the extent that such debt is assigned to another entity, voluntarily, by operation of law, or otherwise (other than debts assigned pursuant to section 408(a)(3) of the Social Security Act, or such debt that has been assigned to the Federal government, or to a State or political subdivision of such State, or the creditor's attorney) shall be paid before the payment of any other debt provided for in the plan unless the beneficiary of the payment waives the obligation that such payment be made before paying such other debt''.

Page 75, line 21, insert ''(a)'' before ''Notwithstanding''.

Page 76, line 12, insert ''and any debt of a kind described in paragraph (6), (9), or (13) of section 523(a) of this title,'' before ''shall''.

Page 76, line 14, strike ''or (14)'' and insert ''or (19)''.

Page 76, line 17, strike the close quotation marks and the period at the end.

Page 76, after line 17, insert the following:

''(b)(1) For purposes preserving the priority established in subsection (a), the holder of claim for a debt of a kind described in paragraph (2), (4), or (19) of section 523(a) of this title that is not discharged may not take any action to obtain payment or collection (including engaging in any communication with the debtor or with any person who holds property of the debtor) of such debt if such holder—

''(A) knew or should have known that taking such action, or obtaining payment of such debt, would impair the ability of the debtor to pay a debt that has priority under such subsection; or

''(B) failed to verify immediately before taking such action, by good faith means designed to identify all debts that have priority under such subsection, that the debtor does not then owe any debt that has priority under subsection (a).

''(2) If such holder violates paragraph (1), such holder shall be liable to any person injured by such violation for the sum of $3000, actual damages, and a reasonable attorney's fee.''.

Mr. MCINNIS. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Colorado (Mr. MCINNIS) for 1 minute remaining to close debate.

Mr. MCINNIS. Mr. Speaker, this rule should be passed and it will be passed, and then we are going to get to have debate, and that debate is all about

personal responsibility. No matter how the Democrats want to cut it, the fact is that it is about personal responsibility, about keeping our word, about not buying something if we do not have the money to pay for it.

The previous question vote itself is simply a procedural vote, Mr. Speaker, to close the debate on this rule and proceed to a vote on its adoption. The vote has no substantive or policy implications whatsoever.

Mr. Speaker, I include for the RECORD an explanation of the previous question.

The material referred to is as follows:

THE PREVIOUS QUESTION VOTE: WHAT IT MEANS

House Rule XVII (''Previous Question'') provides in part that: There shall be a motion for the previous question, which, being ordered by a majority of the Members voting, if a quorum is present, shall have the effect to cut off all debate and bring the House to a direct vote upon the immediate question or questions on which it has been asked or ordered.

In the case of a special rule or order of business resolution reported from the House Rules Committee, providing for the consideration of a specified legislative measure, the previous question is moved following the one hour of debate allowed for under House Rules.

The vote on the previous question is simply a procedural vote on whether to proceed to an immediate vote on adopting the resolution that sets the ground rules for debate and amendment on the legislation it would make in order. *Therefore, the vote on the previous question has no substantive legislative or policy implications whatsoever.*

Mr. MCINNIS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

This will be a 17-minute vote. As previously stated on orders by the Speaker, this will be a strictly enforced 17-minute vote.

Pursuant to clause 5 of rule XV, the Chair will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the resolution.

The vote was taken by electronic device, and there were—yeas 236, nays 183, not voting 14, as follows:

[Roll No. 217]

YEAS—236

Aderholt
Archer
Armey
Baesler
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dreier
Duncan
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Maloney (CT)
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Schaefer, Dan
Schaffer, Bob
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauscher
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—183

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Murtha
Nadler
Neal
Oberstar
Obey
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—14

Bachus
Berman
Brady (TX)
Brown (CA)
Dunn
Farr
Gonzalez
Goodling
Houghton
Inglis
Klug
Olver
Scarborough
Sensenbrenner

□ 1351

Mr. YATES and Mr. FROST changed their vote from ''yea'' to ''nay.''

Mr. HEFLEY changed his vote from ''nay'' to ''yea.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

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

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 251, nays 172, not voting 10, as follows:

[Roll No. 218]

YEAS—251

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey

Dicks
Dingell
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (RI)
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Maloney (CT)
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Minge
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauscher
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Young (AK)
Young (FL)

NAYS—172

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barrett (WI)
Becerra
Bentsen
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Brady (PA)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dixon
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Fattah
Fazio
Filner
Ford
Frank (MA)
Furse
Gejdenson
Gephardt
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennelly
Kildee
Kilpatrick
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Mink
Moakley
Mollohan
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Skaggs
Skelton
Slaughter
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Taylor (MS)
Thompson
Thurman
Tierney
Towns
Turner
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Wolf
Woolsey
Wynn
Yates

NOT VOTING—10

Berman
Brown (CA)
Brown (FL)
Farr
Gonzalez
Houghton
Inglis
Klug
Miller (CA)
Torres

□ 1402

Mr. SHERMAN changed his vote from ''yea'' to ''nay.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. DUNCAN). Pursuant to House Resolution 462 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3150.

□ 1404

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3150) to amend title 11 of the United States Code, and for other purposes, with Mr. MILLER of Florida in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Pennsylvania (Mr. GEKAS) and the gentleman from New York (Mr. NADLER), each will control 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Mr. Chairman, we are about to embark on one of the most momentous pieces of legislation that has come to the floor in a long time. And to signify the importance of the measure, we significantly begin by yielding to the gentleman from Illinois (Mr. HYDE), chairman of the Committee on the Judiciary, he being a leader of the committee and of the effort that brings us to this point in bankruptcy reform legislation.

Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. HYDE).

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

Mr. HYDE. Mr. Chairman, before I talk about the bill in chief, I would like to say parenthetically that I am a little disturbed at the controversy over whether or not I kept my word in asking for an open rule. I did ask for an open rule. It was not formally asked. It was down here at the desk to the chairman of the Committee on Rules.

I did not make a commitment that there would be an open rule because that is not my prerogative. That is up to the Committee on Rules. I suppose the fact that there were 43 amendments offered at the markup was a disincentive to have an open rule, but, nonetheless, I offered to use whatever force and effect I would have to get amendments that the gentleman from New York (Mr. NADLER) wanted that were serious amendments made in order. And, again, unfortunately, because of weather, I was in an airplane yesterday afternoon coming from Evansville, Indiana by way of Cincinnati, and planes were canceled. I was not here. I just hope nobody feels I did not live up to my commitment which was to ask for an open rule. I just wanted to state that.

Mr. NADLER. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from New York.

Mr. NADLER. Mr. Chairman, I just want to say, I do not doubt for a moment the integrity and the word of the gentleman from Illinois, the chairman of the committee. I am sure that he did exactly what he committed to do and asked the Committee on Rules for an open rule.

I assume he asked that the priority amendments that we asked for be made in order. I just regret that he was not more influential, perhaps, with the Committee on Rules and that they did not make more than one out of the 12 amendments that we had a priority on in order. I do not doubt for a moment nor would I ever cast aspersion on the integrity or the good word of the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I thank the gentleman very much. I can only say, one cannot overestimate my lack of influence with some of the institutions around here.

In any event, I am pleased that the Committee on the Judiciary, after a 3-day markup in May, favorably reported bankruptcy reform legislation designed to address deficiencies in current bankruptcy processes and mitigate adverse impacts of bankruptcy filings. We recognized the importance of responding to the many developments since the Bankruptcy Code's enactment a generation ago, including a burgeoning bankruptcy case load that reached a new high of over 1.4 million filings during the 1997 calendar year.

Last September, our colleague, the gentleman from Florida (Mr. McCollum), introduced H.R. 2500, the Responsible Borrower Protection Bankruptcy Act, a bill designed in part to implement the concept of needs-based bankruptcy.

In February the chairman of the Committee on the Judiciary Subcommittee on Commercial and Administrative Law, the distinguished gentleman from Pennsylvania (Mr. GEKAS), built on this approach by introducing H.R. 3150, the Bankruptcy Reform Act of 1998.

H.R. 3150 incorporated, with modifications and additions, most of H.R. 2500's consumer bankruptcy provisions while also addressing other bankruptcy related subjects.

Our committee sought to achieve an appropriate balance between debtor and creditor rights in endorsing a needs-based bankruptcy process that would increase creditor recoveries while offering relief to deserving debtors. Those who needed an immediate fresh start would get it, but those who could afford to pay a substantial portion of their obligations out of future income before getting a fresh start would be required to do so.

Under H.R. 3150 as reported, individuals or couples with income levels equaling or exceeding national median figures that take into account family size may be ineligible, depending on certain calculations, to be chapter 7 debtors. Chapter 7 offers a fresh start, without encumbering future income, to individual debtors who are prepared to give up all of their nonexempt assets. Those denied access to chapter 7 under the pending legislation generally will have the option of making payments under a chapter 13 plan for a number of years and qualifying for a limited discharge eventually.

The chapter 7 disqualification is more limited in scope as a result of committee action raising the income threshold for disqualification from 75 percent to 100 percent of national median income figures.

The higher cutoff point, endorsed by the committee, addresses a major argument of opponents of this legislation that the needs-based formula was too harsh in its treatment of people with very limited means.

Our committee sought to ensure that family support obligations would be protected under the reported version of the bill. It adopted an amendment that I offered to prevent any dilution of the priority treatment accorded claims of spouses, former spouses and children for alimony, maintenance, or support, and also adopted four family support related amendments offered by the learned gentleman from Virginia (Mr. BOUCHER). Although this legislation was never intended to derogate from the preferred treatment of family support obligations under bankruptcy law, the Committee on the Judiciary welcomed the opportunity to take action emphasizing, in a number of contexts, its firm commitment to facilitating the fulfillment of such obligations.

In addition, as a result of a provision in the manager's amendment, the priority in distribution for support related obligations is substantially enhanced compared with current law.

I wish to commend the gentleman from Pennsylvania (Mr. GEKAS) for introducing H.R. 3150 and conducting important hearings on bankruptcy reform in his subcommittee. He is performing, as he does so often, an important public service by serving as our floor manager for this bill.

The remedial legislation before us not only covers consumer issues but also addresses business bankruptcy, tax related issues in bankruptcy, and transnational bankruptcy. It merits the support of this body.

I hope in the months ahead we will be able to point to bankruptcy reform as one of the significant achievements on a bipartisan basis of the 105th Congress.

Mr. GEKAS. Mr. Chairman, H.R. 3150 is one of the most comprehensive legislative efforts to reform bankruptcy law and practice in the 20 years since the enactment of the Bankruptcy Code in 1978. The guiding principle of these reforms has been to restore personal responsibility and integrity in the bankruptcy system and to ensure that it is fair for both debtors and creditors.

This bill represents the culmination of more than three years of careful analysis and review of our nation's current bankruptcy system. In the past year, the Subcommittee on Commercial and Administrative Law, of which I serve as Chairman, has held nine hearings on various aspects of bankruptcy reform. With regard to H.R. 3150 alone, the Subcommittee held four hearings. Over the course of those hearings, more than 60 witnesses, representing a broad cross-section of interests and constituencies in the bankruptcy community, testified. Nearly every major organization having an interest in bankruptcy reform had an opportunity to participate in these hearings.

H.R. 3150's reforms pertain to consumer and business bankruptcy law and practice, and includes provisions regarding the treatment of tax claims and enhanced data collection. H.R. 3150 also establishes a separate chapter under the bankruptcy Code devoted to the special issues and concerns presented by international insolvencies.

Why do we need needs-based consumer bankruptcy reform? The answers are not only easy, but obvious. Last year, bankruptcy filings topped 1.4 million and even exceeded the number of people who graduated college in that same year. Nevertheless, literally thousands of people who have the ability to repay their debts are simply filing for bankruptcy relief and walking away from those debts without paying their creditors a single penny under the current system.

Why do we care about creditors? Again, the answer is easy and obvious. When they don't get paid, someone suffers a loss. The only way they can make up that loss is by passing it along to us—you and me—in the form of increased prices and higher interest rates. Besides being unfair to those of us who pay our debts, the current consumer bankruptcy system at best lacks balance, at worst lacks morality and is subject to abuse.

There are two extreme approaches to bankruptcy relief: No one is allowed any bankruptcy relief or bankruptcy relief is granted to anyone who requests such relief. Our current system has become dangerously close to the latter extreme and the enormous leap in the number of bankruptcy cases being filed appear to document that.

H.R. 3150's needs-based reforms will restore balance to consumer bankruptcy law while reducing its potential for abuse. Not only will everyone in the bankruptcy system benefit from these reforms, but people like us—the corner grocer who extends credit to his neighbors, the family who's buying its first home and trying to get the lowest rate of interest for financing that purchase, the single mother who's applying for credit for the first time—are the ones who will also benefit from H.R. 3150.

H.R. 3150 is our response. It offers a balanced approach to reform with regard to consumer as well as business bankruptcy reform. In addition, as reported from the Full Committee last month, H.R. 3150 fully protects the priority treatment accorded to child support claims and fully responds to the concerns that some have expressed about this issue.

H.R. 3150 creates a debtor's ''bill of rights'' with regard to the services and notice that a consumer should receive from those that render assistance in connection with the filing of bankruptcy cases. Through misleading advertising and deceptive practices, ''petition mills'' deceive consumers about the benefits and detriments of bankruptcy. H.R. 3150 responds to this problem by instituting mandatory disclosure and advertising requirements as well as enforcement mechanisms.

In all, H.R. 3150 represents a balanced approach to bankruptcy reform with the goal of reducing abuse, promoting greater uniformity, and restoring public confidence in the integrity of the bankruptcy system.

I include the following letters of support for H.R. 3150 in the RECORD.

NATIONAL FEDERATION OF INDEPENDENT BUSINESS,
Washington, DC, June 9, 1998.

Hon. GEORGE GEKAS,
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE GEKAS: On behalf of the 600,000 small business owners of the National Federation of Independent Business (NFIB), I am writing to urge your support for H.R. 3150, the Bankruptcy Reform Act of 1998.

Small business is concerned, as many are, about the rapid increase of bankruptcy filings over the last several years. Whether their customers are other businesses or individual consumers, small businesses feel the pain to their bottom line when their customers go bankrupt. As an unsecured creditor, most small businesses never even get a chance to get back what they are owed.

A recent poll found that 77 percent of NFIB members want to make the criteria for declaring bankruptcy more stringent. Small business owners feel current law is in desperate need of reform in order to curb the abuses of the current federal bankruptcy system.

H.R. 3150 goes a long way to fight the abuses to the bankruptcy system. Most importantly, the legislation strikes a fair balance by giving small business owners more of a chance to get back what is rightfully theirs, while still providing bankruptcy protection to those small businesses who truly need it.

I urge you to give small business a chance to get what is theirs. Support H.R. 3150, the Bankruptcy Reform Act of 1998.

Sincerely,

DAN DANNER,
Vice President,
Federal Governmental Relations.

NATIONAL CONSUMER BANKRUPTCY COALITION

STATEMENT ON THE HOUSE JUDICIARY COMMITTEE'S PASSAGE OF H.R. 3150

We are very pleased that the House Judiciary Committee today favorably reported The

Bankruptcy Reform Act of 1998 (H.R. 3150), clearing the measure for action by the full House. We also applaud Chairman Hyde and the Committee members for putting to rest any question about the priority status of child support and alimony payments in the bankruptcy process. The amendments adopted by the Committee specifically and categorically state that child support and alimony payments must be given priority in bankruptcy proceedings. There is no greater personal responsibility than meeting one's child support and alimony obligations, and we strongly support these measures to ensure that these payments are in no way affected by this legislation.

The result is that H.R. 3150 has emerged from the Committee even stronger in terms of personal responsibility and should enjoy strong bipartisan support on the House floor. We urge the full House to act upon this legislation at the earliest opportunity so that sensible, fair bankruptcy reform can be enacted in 1998. We are also pleased that the Senate plans to move forward next week on significant bankruptcy reform legislation.

H.R. 3150 will restore personal responsibility and fairness to our bankruptcy system. For too long now, our flawed bankruptcy law has provided complete debt relief to individuals who have enough income to repay at least some of what they owe. As a result, the overwhelming majority of Americans who pay their bills on time have been forced to pick up the tab—to the tune of about $400 per household—for those who walk away from their debts. This important legislation will correct this flaw by ensuring that bankruptcy filers receive only the amount of debt relief they need, no more and no less.

American Bankers Association; American Financial Services Association; America's Community Bankers; Bankruptcy Issues Council; Consumer Bankers Association; Credit Union National Association; Independent Bankers Association of America; National Retail Federation; U.S. Chamber of Commerce.

CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA,
Washington, DC, March 2, 1998.

Hon. GEORGE GEKAS,
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE GEKAS: The U.S. Chamber of Commerce—the world's largest business federation representing more than three million businesses of every size, sector and region—strongly supports bankruptcy reform legislation, specifically, H.R. 3150, the Bankruptcy Reform Act of 1998. We urge you to support this bankruptcy reform legislation sponsored by Chairman George Gekas, Representatives Bill McCollum, Rick Boucher and James Moran. H.R. 3150 will reform our bankruptcy laws and establish a ''needs-based'' system which aids all Americans who are affected by the abuses and misuses of the current code. The timing of this legislation could not be more critical.

The number of personal bankruptcy filings, which canceled approximately $40 billion in consumer debt last year, is rising precipitously. Early indications for 1997 suggest that we will see the number rise by 20 percent over the 1996 record and the amount of debt canceled rise by 33 percent. Given the strong performance of the economy during the past year, these staggering increases in filings suggest that our bankruptcy system must be reformed. Of course, the consumer debt taken off the books by the bankruptcy system is not really erased—instead, the cost is shifted to third parties such as households and businesses, in the form of higher prices and higher interest rates.

In addition to the creation of a ''needs-based'' system, the Chamber applauds the efforts by Chairman Gekas, Representatives McCollum, Boucher and Moran in addressing small business and farm bankruptcies, tax collections and single-asset realty cases, as well as inclusion of education-related provisions and protections for those who receive inadequate or improper counseling. These efforts could be key in providing the best climate in which small business can prosper.

We look forward to working with you and your colleagues on passing this legislation in this session of Congress.

Sincerely,

R. BRUCE JOSTEN,
Executive Vice President,
Government Affairs.

U.S. CHAMBER OF COMMERCE,
Washington, DC, June 8, 1998.

TO MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES: The U.S. Chamber of Commerce, the world's largest business federation, representing more than three million businesses of every size, sector and region, urges you to support passage of the ''Bankruptcy Reform Act of 1998,'' H.R. 3150. This important bipartisan legislation will reform our bankruptcy laws and establish a ''needs-based'' system that will aid all Americans who are affected by the abuses and misuses of the current code.

The number of personal bankruptcy filings, which canceled approximately $40 billion in consumer debt last year, is rising precipitously. Early indications for 1997 suggest that we will see the number rise by 20 percent over the 1996 record and the amount of debt canceled rise by 33 percent. Given the strong performance of the economy during the past year, these staggering increases in filings indicate that our bankruptcy system must be reformed. The fact is the consumer debt taken off the books by the bankruptcy system is not really erased. Instead, the cost is shifted to third parties such as households and businesses, in the form of higher prices and higher interest rates.

The U.S. Chamber of Commerce believes that this bill would close a number of loopholes in the law that encourages debtors to take advantage of our current system and avoid paying their debts. The legislation would steer debtors away from the more lenient ''Chapter 7'' filing, back to ''Chapter 13,'' where courts establish timely repayment plans for those that are able to repay a portion of their debts. Repeated use of bankruptcy laws to continually walk away from debts would be severely restricted.

Because of the importance of this legislation to the business community and consumers, we may include votes on or in relation to H.R. 3150 as key votes in the Chamber's annual How They Voted ratings.

Sincerely,

R. BRUCE JOSTEN.

NATIONAL FEDERATION OF INDEPENDENT BUSINESS,
Washington, DC, January 30, 1998.

Hon. GEORGE GEKAS,
Chairman, Subcommittee on Commercial and Administrative Law, Committee on Judiciary, U.S. House of Representatives, Washington, DC.

DEAR CHAIRMAN GEKAS: On behalf of the 600,000 small business owners of the National Federation of Independent Business (NFIB), I applaud your efforts to introduce real bankruptcy reform legislation.

Small business is concerned, as many are, about the rapid increase of bankruptcy filings over the last several years. Whether their customers are other businesses or individual consumers, small businesses feel the pain to their bottom line when their customers go bankrupt. As an unsecured creditor, most small businesses never even get a chance to get back what they are owed.

A recent poll found that 77 percent of NFIB members want to put more limits on people's ability to declare bankruptcy. Small business owners feel current law is in need of reform because the federal bankruptcy system has been abused.

The Bankruptcy Reform Act of 1998 that you and Congressman Moran have authored goes a long way to fight the abuses to the bankruptcy system. It will also give small business owners more of a chance to get what is rightfully theirs, while still providing bankruptcy protection to those who truly need it.

Thank you for your leadership on this issue. NFIB looks forward to working with you as this issue proceeds through your subcommittee.

Sincerely,

DAN DANNER,
Vice President,
Federal Governmental Relations.

U.S. DEPARTMENT OF JUSTICE,
UNITED STATES TRUSTEE, NORTHERN AND EASTERN DISTRICTS OF CALIFORNIA AND NEVADA,
San Francisco, CA, May 11, 1998.

Representative GEORGE W. GEKAS,
U.S. House of Representatives,
Washington, DC.

DEAR MR. GEKAS: The Small Business Proposal, a component of H.R. 3150, the ''Bankruptcy Reform Act of 1998,'' is not an untested concept and would codify the ''best practices'' of the United States Trustees. Since January 1, 1995, the field offices of Region 17 have conducted Initial Debtor Interviews in every chapter 11 case filed. In advance of the interview, we request the debtor supply detailed financial information to our office. At the interview, we use that information to focus on the debtor's business and work with the debtor to understand what is required to emerge successfully from chapter 11. We continuously monitor the debtor's financial progress during the pendency of the chapter 11 case with particular emphasis on the debtor's continuing viability. The result of this practice is quicker, and more likely successful, reorganization for chapter 11 cases.

Please contact me if you have any questions.

Sincerely,

LINDA EKSTROM STANLEY,
United States Trustee.

THE CITY OF NEW YORK
LAW DEPARTMENT,
New York, NY, April 15, 1998.

Hon. GEORGE W. GEKAS,
Chairman, House Subcommittee on Commercial and Administrative Law, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN GEKAS: The City of New York (the ''City'') would like to thank you for your leadership in drafting H.R. 3150, the Bankruptcy Reform Act of 1998. The legislation will be of great benefit to the City because it will strengthen the ability of local governments to collect ad valorem taxes. As your Subcommittee prepares for consideration of H.R. 3150, I would like to offer my comments and suggestions on key provisions of the legislation.

The City is especially supportive of ''Title V, Tax Provisions'', which will help ensure that local governments receive more of the tax debt they are owed. Title V will also make the bankruptcy process more predictable and stable for local governments. While these changes will be very beneficial to the City, it is critical that one provision of H.R. 3150 be clarified to avoid unintentionally increasing bankruptcy filings while reducing local government revenue.

As drafted, H.R. 3150 proposes a new section, Section 511 of the Bankruptcy Code, which provides for an Internal Revenue Code rate of interest on tax claims. This provision is problematic as it does not specifically identify or limit the types of taxes subject to the proposed interest rate. Were this section limited to excise tax claims or tax claims on or measured by income or gross receipts, the City would have minimal objection that the interest rate should be the ''statutory rate'' for such taxes. On the other hand, if the bill defines ''tax'' as including ad valorem taxes, the City would have a very strong objection, as the interest rate would be significantly less than that which is charged by the City, and would, in fact, encourage bankruptcy filings by real property owners in order to obtain this more favorable rate. H.R. 3150 should specifically exclude ad valorem taxes from the definition of ''tax'' under Section 511.

The City supports the language in the Bankruptcy Reform Act of 1998 that recognizes that ad valorem taxes must be paid ahead of other debts in bankruptcy cases. The City applauds your leadership on this critical revision of Bankruptcy Code Section 724 for the protection of local government budgets. Cities are non-consensual creditors and are in a unique relationship with debtors in bankruptcy. As such, cities should be paid before other creditors in bankruptcy cases.

The City strongly supports H.R. 3150's revisions to Section 505 of the Bankruptcy Code. The legislation would provide that a challenge to real property assessment may occur only if the period of time to contest such tax did not expire by operation of law. Section 505 of the Bankruptcy Code presently allows debtors to challenge any tax covering any period of time unless such tax had been contested and adjudicated prior to the commencement of the bankruptcy case. Thus, taxes may be contested in a bankruptcy proceeding even if the statute of limitations to challenge the taxes had expired under the relevant state law. This Section is patently unfair to taxing authorities. It fosters abuse by debtors who potentially can force a government to litigate taxes which were collected years ago and had not been timely challenged. It leaves municipalities in a fiscally precarious and vulnerable position. There is no legal finality to tax challenges or stability in local government finances. Since there is no statute of limitations as Section 505 of the Bankruptcy Code is presently drafted, the changes made by H.R. 3150 to Section 505 of the Bankruptcy Code are of enormous importance.

The City supports H.R. 3150's modifications to Section 342 of the Bankruptcy Code that would require a debtor to submit necessary information for creditors, such as taxpayer identification numbers, and parcel numbers for blocks and lots, and to list the appropriate department or agency for filing City claims. This information will enable the City to act more efficiently. However, the City would like clarification that governmental units are allowed to designate safe harbor mailing addresses for each department, agency or instrumentality of such governmental units. In addition, the City would like a clarification that ''notice'' to a particular department, agency or instrumentality of a governmental unit shall not constitute ''notice'' to other departments, agencies or instrumentalities of the same governmental unit.

Thank you again for your leadership on bankruptcy issues. H.R. 3150 can greatly improve the City's ability to collect debts owed by bankruptcy filers which will relieve revenue pressure on all other taxpayers. We appreciate your support for the changes outlined above, and with these clarifications support the prompt passage of H.R. 3150.

Sincerely,

MICHAEL D. HESS,
Corporation Counsel.

COMMONWEALTH OF VIRGINIA, DEPARTMENT OF SOCIAL SERVICES, DIVISION OF CHILD SUPPORT ENFORCEMENT

Richmond, VA, June 9, 1998.

Hon. JAMES P. MORAN,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN MORAN: As Director Nick Young is traveling, I am responding to your request for comments on child support-related portions of H.R. 3150. The inclusion of provisions in H.R. 3150 to improve child support collections when a debtor has filed for protection under the Bankruptcy Code would be very helpful to families in Virginia. Amendments proposed in Section 146 would substantially assist our efforts to enforce child support obligations during the bankruptcy of a child support obligor. Currently, there exist in bankruptcy a number of issues that make enforcement of child support debts difficult when that parent has other creditors also attempting to gain a position in the ranking for distribution of the debtor's bankruptcy estate.

While we have many valuable tools with which to enforce child support collections, bankruptcy can place the child support debt collection in competition with other creditors. This is not normally the case in the rest of our support enforcement tools; child support takes high precedence. In bankruptcy cases filed under Chapters 12 and 13, we must cease income withholding orders and add the child support debt into all the other financial obligations considered in developing the debtor's plan. This hardly puts children first!

Congressman Gekas' proposed amendments in section 146 would correct this situation, and ensure ''children first'' in bankruptcy situations where child support is involved. We most certainly believe these amendments are beneficial to Virginia's families and the larger welfare reform initiative across the country.

Sincerely,

BILL BROWNFIELD,
Legislative Coordinator.

CALIFORNIA FAMILY SUPPORT COUNCIL,

Sacramento, CA June 4, 1998.

Hon. GEORGE W. GEKAS,
House of Representatives, Washington, DC.

DEAR CHAIRMAN GEKAS: The California Family Support Council is an organization of district attorneys and other professionals in the State of California who represent the interest of the children of this state in the establishment and collection of support under the federal child support enforcement program (Social Security Act, Title IV-D). As president of the Council I wish to express the gratitude of our members for your inclusion of provisions in H.R. 3150 to improve child support collections when a debtor has filed for protection under the Bankruptcy Code.

In particular, section 146 of H.R. 3150 contains a veritable ''wish list'' of provisions which substantially enhances our efforts to enforce support obligations during the bankruptcy of a support obligor. It closes many of the ''loopholes'' which currently exist in bankruptcy and which greatly hamper our efforts to enforce support debts when a debtor has other creditors who are also seeking participation in the distribution of the assets of a debtor's bankruptcy estate.

Congress has already provided many tools which give us an enormous collection advantage over other creditors outside bankruptcy. We can, for example, intercept tax refunds; prosecute for criminal non-support or contempt of court; revoke, suspend or non-renew licenses; obtain income withholding order which, under federal law, have an absolute priority over other creditors' claims (42 U.S.C. § 666(B)(7); obtain penalties against employers who fail to honor income withholding orders; obtain such income withholding orders without leave of court; and obtain security bonds or guarantees for the payment of support. In addition nonpayment of support interstate is a federal crime. All of these collection techniques—and many more—are available at little or no cost to support obligees through the child support enforcement program.

During bankruptcy, however, many of these remedies must be reconciled with other bankruptcy code provisions which protect the debtor and place support obligees in competition with other creditors. What is worse, in cases filed under Chapters 12 and 13, income withholding must cease and the support debts must be structured to conform to the debtor's plan.

If the amendments you propose in section 146 of H.R. 3150 were enacted, the opposite would be true. Plans could not be confirmed or discharges granted unless all postpetition support payments were made; income withholding would not be affected by the filing of a bankruptcy petition; lingering issues relating to the dischargeability of certain support debts would be clarified; and distinctions between assigned and unassigned support would be eased. In short, your proposed amendments would make the effect of bankruptcy on a child support creditor negligible.

I have been informed that there is some opposition to H.R. 3150 based on the premise that support creditors would be worse off if certain credit car debts were made nondischargeable and credit card creditors and support creditors were in competition for the same post-discharge assets. I can only say that we are in competition with those creditors prior to bankruptcy now. We do not see such debts as impairing our ability to collect support, especially in view of the advantages child support creditors have under current state and federal law as outlined above. Our problems stem not from competition with credit card creditors outside bankruptcy, but from the disadvantages we incur as collectors of support under current bankruptcy law during bankruptcy. Your proposed amendments would give support creditors an enormous advantage over other creditors during bankruptcy and greatly aid us in the discharge of our support enforcement responsibilities.

I just want you to know that, on behalf of the public child support enforcement community in California, we enthusiastically support your efforts and look forward to the swift enactment of H.R. 3150.

Yours very truly,

JONATHAN BURRIS,
President.

BANK OF AMERICA

San Francisco, CA, March 11, 1998.

Hon. GEORGE W. GEKAS,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN GEKAS: I am writing to urge your support of H.R. 3150, the ''Bankruptcy Reform Act of 1998''.

Consumer bankruptcy reform is urgently needed to address the recent explosion in the number of personal bankruptcy filings. Last year, for the first time in history, more than 1 million personal bankruptcy petitions were filed. It is anticipated that as many as 1.4 million consumers will file for bankruptcy this year. This explosion in filings is most troubling given that it comes at a time when the American economy is strong and unemployment is low.

The rise in personal bankruptcies has an undeniable impact on Bank of America. However, it is consumers who are absorbing the heaviest burden. This year, approximately $40 billion in consumer debt will be written off as a result of personal bankruptcy filings. These losses translate to approximately $400 for every American household and are passed on to all consumers as higher interest rates and higher prices for goods and services. In effect, the vast majority of consumers who pay their bills on time are picking up the tab for those who do not.

Our flawed bankruptcy system allows this inequity to continue. The Bankruptcy Code allows individuals to erase all their debts even if they have the ability to repay some portion of them. Not surprisingly, the overwhelming majority of filers—70 percent—choose Chapter 7, which allows virtually all debts to be erased regardless of whether the debtor could repay some of what he or she owes. Recent research shows, in fact, that about 25 percent of Chapter 7 filers have the ability to repay their housing debt plus at least one-third of their remaining debts. One in twenty Chapter 7 filers has sufficient income to repay all debts, but receives complete relief anyway.

H.R. 3150 would change the law to ensure that individuals receive the amount of debt relief they need, no more and no less. It would allow those in the most serious financial difficulty to get the fresh start they need while requiring those with an ability to repay a portion of their debts to do so. It is a sensible solution to a serious problem.

I urge your support of H.R. 3150. This legislation represents important consumer bankruptcy reform that is necessary to stem the rising costs associated with personal bankruptcies, while making the bankruptcy system more equitable for consumers, creditors and debtors alike.

Sincerely,

JAMES G. JONES.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, DC, June 8, 1998.

Hon. GEORGE W. GEKAS,
Chairman, Commercial and Administrative Law Subcommittee of the House Judiciary Committee, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN GEKAS: The National Association of Counties (NACo) supports the Bankruptcy Reform Act of 1998 (H.R. 3150) as reported by the Committee on the Judiciary. We urge the House of Representatives to vote for H.R. 3150 when it is considered on the floor.

NACo particularly is pleased with provisions included in the bill reported by the Committee on the treatment of state and local government tax liens in bankruptcy proceedings. The provisions in H.R. 3150 are very important to states, counties, cities and school districts. The bill would change a number of sections in the Bankruptcy Code that have caused counties to lose millions of dollars in property tax revenues. Counties have to increase taxes, cut programs or find substitute funding to replace this lost revenue as a result of current federal bankruptcy law. We are pleased that the bill contains a majority of the provisions developed and proposed by the National Association of County Treasurers and Finance Officers, an affiliate of NACo.

If you have any questions about the position of the National Association of Counties, please call Ralph Tabor or our staff at 202–942–4254.

Thank you for your consideration.

Sincerely,

LARRY E. NAAKE,
Executive Director.

COLORADO COUNTIES, INC.,
Denver, CO, April 29, 1998.

Hon. GEORGE W. GEKAS,
Member, House Judiciary Committee, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN GEKAS: On behalf of Colorado's 63 county governments, I am writing to urge your continued support of H.R. 3150 also known as the ''Bankruptcy Reform Act of 1998.'' We understand that the House Judiciary Committee will be marking up the legislation in the next week, and we appreciate your leadership in assuring its provisions are considered favorably.

As you are aware, the National Association of County Treasurers and Finance Officers (NACTFO) has been an active participant in the ongoing discussions related to the priority of ad valorum tax liens in bankruptcy proceedings. The organization previously submitted to you a paper entitled ''Local Government Recommendations for Bankruptcy Code,'' and attended all public hearings of the National Bankruptcy Review Commission.

As H.R. 3150 is considered in the Judiciary Committee, we encourage you to consider the attached ''Specific Recommendations to Amend H.R. 3150'' dated April 10, 1998, as prepared by The Honorable Ray Valdes, Co-Chair of the Legislative Committee of the National Association of County Treasurers and Finance Officers. The recommendations include a number of provisions that we believe will make H.R. 3150 an even stronger reform measure.

If you have specific questions regarding the proposal, I encourage you to contact The Honorable Ray Valdes at 407.321.1130 or The Honorable Sandy Hume, Boulder County Treasurer, at 303.441.3500.

Thank you for your consideration.

Sincerely,

PETER B. KING,
Director.

NATIONAL ASSOCIATION OF FEDERAL CREDIT UNIONS,
Washington, DC, February 26, 1998.

Hon. GEORGE W. GEKAS,
Chairman, Commercial and Administrative Law, House Judiciary Committee, Washington, DC.

DEAR CHAIRMAN GEKAS: On behalf of the National Association of Federal Credit Unions (NAFCU), the only national trade association exclusively representing the interests of the nation's federal credit unions, I wish to commend you on your efforts to restore personal responsibility to the bankruptcy system.

NAFCU believes that the ''Bankruptcy Reform Act of 1998'' (H.R. 3150) will help to ensure that the system is fair for debtors, creditors and consumers. Because of the unique structure of member-owned credit unions all losses suffered by a credit union are passed down through the members in the form of higher loan rates, lower rates on savings and/or more stringent lending criteria. Credit unions take great pride in working with their members who encounter financial difficulties and your legislation is certainly a step in the right direction. NAFCU is pleased to endorse this legislation.

NAFCU would like the opportunity to testify and share with the Committee the impact bankruptcies have on member-owned cooperative credit unions, and the unique role credit unions can play in assisting those in dire financial straits.

Thank you for the opportunity to participate in this important effort. Please allow me to extend a special note of appreciation to the members of your staff, especially Dina Ellis, for their assistance and support.

We look forward to working with you on this and other challenging issues affecting credit unions and your credit union constituents.

Sincerely,

WILLIAM J. DONOVAN,
Senior Vice President, Deputy General Counsel.

NATIONAL MULTI HOUSING COUNCIL AND NATIONAL APARTMENT ASSOCIATION,
Washington, DC, February 2, 1998.

Hon. GEORGE GEKAS,
Chairman, Commercial and Administrative Law Subcommittee, House of Representatives, Washington, DC.

DEAR CHAIRMAN GEKAS: On behalf of the National Multi Housing Council (''NMHC'') and the National Apartment Association (''NAA''), I am writing to convey our strong support of your legislation, the ''Bankruptcy Reform Act of 1998.''

NMHC and NAA jointly operate a federal legislative program which provides a unified voice for the private apartment industry. Our combined memberships are engaged in all aspects of the ownership and operation of apartments, including finance, development, construction, and management.

Bankruptcy filings in the nation continue their upward climb. According to the most recent information from the U.S. Department of Justice's Administrative Office of U.S. Courts, the federal agency which oversees the nation's federal bankruptcy courts, bankruptcy filings during the 12-month period ending September 30, 1997, were highest on record at 1,367,364, representing over a 400 percent increase since 1980.

The National Bankruptcy Review Commission has spent considerable time investigating the cause of these bankruptcy filings, and while there is no single answer, it is clear that part of the problem lies in the abuses of the U.S. Bankruptcy Code. NMHC and NAA believe that your legislation will help to stem these abuses and provide a more level playing field between debtors and creditors.

NMHC and NAA commend you for your leadership in reforming the Code and look forward to working with you during the 105th Congress to pass the Bankruptcy Reform Act of 1998.

Sincerely,

SCOTT BELCHER.

[News release from the National Retail Federation]

NATIONAL RETAIL FEDERATION VOICES SUPPORT FOR BANKRUPTCY REFORM ACT OF 1998

BILL WOULD STEM SOARING FILINGS AND RESTORE COMMON SENSE TO BANKRUPTCY CODE

Washington, DC, February 3, 1998—The National Retail Federation, the world's largest retail trade association, today voiced its support for The Bankruptcy Reform Act of 1998, calling it a giant first step that puts responsibility and sensibility back into the bankruptcy code.

''We applaud Rep. Gekas and his colleagues for their leadership in crafting this commonsense approach to bankruptcy reform,'' said NRF President Tracy Mullin. ''This bill will ensure that those with real need get real relief.''

The bill, introduced by Reps. George Gekas (R–PA), Thomas Moran (D–VA), Bill McCollum (R–FL) and Rick Boucher (D–VA), addresses what NRF believes are fundamental flaws in the current bankruptcy code: that individuals with the ability to repay their debts are not required to do so, nor is there any mechanism to determine their ability to pay.

Mullin noted that the number of individuals filing bankruptcy has soared in recent years—up nearly 60 percent in two years—in

spite of a growing economy and low unemployment. A recent study also revealed that 25 percent of those filing Chapter 7 could repay at least one-third of their debts.

''That's just plain wrong,'' she said. ''The bottom line is the costs associated with bankruptcy don't disappear; everyone pays for those who walk away from their debts.''

Retailers lost billions last year in bankruptcy claims. The growth in bankruptcy filings—particularly Chapter 7 filings—costs the average U.S. household an estimated $500 in higher prices for goods and services.

''The Bankruptcy Reform Act of 1998 is a positive step forward to restoring common sense to the bankruptcy code,'' Mullin concluded.

The National Retail Federation (NRF) is the world's largest retail trade association with membership that includes the leading department, specialty, discount, mass merchandise and independent stores, as well as 32 national and 50 state associations. NRF members represent an industry that encompasses over 1.4 million U.S. retail establishments, employs more than 20 million people—about 1 in 5 American workers—and registered 1997 sales of $2.5 trillion. NRF's international members operate stores in more than 50 nations.

FLEET,
Horsham, PA, May 19, 1998.

Hon. GEORGE W. GEKAS,
Rayburn House Office Building,
Washington, DC.

DEAR CONGRESSMAN GEKAS: On behalf of Fleet Financial Group I urge you to support H.R. 3150, the ''Bankruptcy Reform Act of 1998'' which is scheduled to come to the House floor this week. H.R. 3150 was reported favorably by the Judiciary Committee last week and contains urgently needed reforms to the consumer bankruptcy system. The bill establishes a fair and equitable ''needs'' test that requires those that can afford to repay some or all of their debts to do so.

Consumer bankruptcy filings exceeded 1.3 million last year, an increase of 20% from 1996 and more than 350% from 1980. Contrary to popular belief, credit cards are not a leading cause. Credit card loans represent only 7% of total US consumer debt and less than 16% for bankrupts. Ninety-six-percent of credit card holders pay on-time and only one-percent end up in bankruptcy .

Surveys have found an increasing number of consumers view bankruptcy as an acceptable option with little or no stigma. The 5,000 petitions filed daily cost responsible debtors upwards of $400 per year, or the equivalent of one-month's groceries for a family of four. To protect these families, it is essential that the system be reformed as proposed by H.R. 3150.

Some opponents of this legislation have argued that it raises concerns about child support payments. However, the Judiciary Committee adopted several amendments last week designed to strengthen and clarify the priority given to child support payments in bankruptcy proceeding and to deal effectively with other issues raised. Current federal and state law, as well as H.R. 3150 as reported by the Judiciary Committee, make it clear that child support must be paid 100% before repayment of any unsecured debt, including credit card debt. In fact, the House and Senate both recently passed the Child Support Performance and Incentive Act of 1998 that strengthens current law by increasing penalties for nonpayment of child support. That bill is going to conference and is expected to be signed into law by the President soon.

Fleet Financial Group urges you to vote YES on H.R. 3150 when it comes to the House floor and to reject amendments that weaken the needs test or otherwise undermine this important legislation.

Sincerely,

JOSEPH W. SAUNDERS,
Chairman and CEO.

EXPERIAN,
Orange, CA, April 15, 1998.

Hon. GEORGE W. GEKAS,
Chairman, House Judiciary Subcommittee on Commercial and Administrative Law, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing on behalf of Experian, a leader in the consumer credit reporting industry, to express our support for your bill, H.R. 3150, the Bankruptcy Reform Act of 1998. Your bill represents a balanced approach to restoring personal responsibility to our federal bankruptcy system.

The proposal to require certain filers to repay at least some of their debt when seeking bankruptcy protection is a commonsense measure. The current bankruptcy system is flawed because it allows debtors that clearly have an ability to repay to walk away from their debts. Credit grantors deserve a chance to work out a payment schedule with consumers who have reasonable incomes.

At the same time, your proposal ensure that relief will be available for those who truly need bankruptcy protection. In addition, Experian supports the provisions of H.R. 3150 that promote consumer education and encourage debtors to fully explore alternatives to bankruptcy.

Now is the time for bankruptcy reform. The U.S. economy is stable and unemployment is low. Yet, last year 1.4 million individuals filed for personal bankruptcy, a record number that has more than doubled during the past decade. Personal bankruptcies costs the economy more than $40 billion each year, an amount that translates to about $400 per American family.

Please continue your leadership on this important reform measure.

Sincerely,

D. VAN SKILLING,
Chairman and CEO.

SENT TO ALL MEMBERS OF THE HOUSE JUDICIARY COMMITTEE, MAY 5, 1998

DEAR REPRESENTATIVE: We are writing in anticipation of the Committee's consideration of HR 3150, the ''Bankruptcy Reform Act of 1998.'' Our organizations urge the Committee to endorse a provision reported by the Subcommittee on April 23 to delete the $4 million cap from the definition of single asset real estate.

Single asset real estate is a form of real estate financing whereby the owner of a single piece of commercial real estate borrows funds from a lender and gives a mortgage on the property as collateral. The distinguishing feature of this arrangement is that the owner holds the property as an investment and does not conduct any business on the property. Therefore, arguments that this will cost jobs are baseless and erroneous. Rather, bankruptcies that cause property deterioration result in vacant buildings, tax losses to communities, economic decay and significant job losses.

Congress recognized that single asset entities should receive expedited treatment with the passage of the Bankruptcy Reform Act of 1994. However, during the final hours just prior to passage, a $4 million cap was arbitrarily inserted into the definition of single asset real estate. The presence of the $4 million cap is indefensible because there is no basis in fact, law, or commercial lending practice for the cap. To the contrary, the utility of the single asset provisions in avoiding or shortening futile Chapter 11 reorganization proceedings is greater, rather than less, for large properties with more secured debt. Therefore, the $4 million cap should be deleted to permit the efficient operation of the single asset provisions and the fulfillment of their purpose.

Finally, mortgages may be used to fund pensions, annuities and life insurance. They will be at risk in the next downturn of the economic cycle if defaulting single asset real estate owners are permitted to abuse the bankruptcy process.

For these reasons, we strongly support HR 3150, and specifically, the provision in the bill that would delete the $4 million cap from the definition of single asset real estate.

Sincerely,

AMERICAN BANKERS ASSOCIATION.
AMERICAN COUNCIL OF LIFE INSURANCE.
MORTGAGE BANKERS ASSOCIATION OF AMERICA.
NATIONAL ASSOCIATION OF REALTORS.
INSTITUTE OF REAL ESTATE MANAGEMENT.

HOUSEHOLD,
June 8, 1998.

U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE: Household International strongly supports passage of HR 3150, the Bankruptcy Reform Act of 1998, and we urge your support for the bill when it appears on the floor of the House later this week.

Household International, headquartered in Illinois with major facilities in California, Nevada and Virginia, is a leading provider of consumer finance and credit card products in the United States, Canada and the United Kingdom. Household Finance Corporation, one of Household's core businesses, is the oldest consumer finance company in the United States. Household Credit Services and Household Retail Services are two of the nation's largest issuers of general purpose and private-label credit cards. Our principal credit card products include the GM card and the AFL–CIO's Union privilege card. Household recently reached agreement to buy Beneficial Corporation and upon completion of that merger will have more than 1000 branches throughout the United States.

Despite a strong economy, personal bankruptcies are soaring and reached a record 1.3 million in 1997. Bankruptcies cost consumers about $40 billion last year, equal to about $400 per family working to pay its bills. HR 3150 does not have as a goal reducing the total number of bankruptcies, but it contains a mechanism to guide some 11% of filers who have the means to pay some of their debts into Chapter 13 bankruptcy where they will work with the court to create a repayment plan to pay a portion of the debts they have run up. Household believes it is only fair that those who can pay some of the debts do so, and according to a poll released by the National Consumer league, 76% of the public agrees that ''individuals should not be allowed to erase all their debts in bankruptcy if they are able to repay a portion of what they owe.''

Amendments to HR 3150 added at the full Committee mark-up raised the income level for the safe harbor provision of the bill and added protections for children and spouses receiving child support and/or alimony above those in existing law. We believe the bill is fair and needed. Household strongly urges your support for HR 3150.

Sincerely,

J. DENIS O'TOOLE,
Vice President, Government Relations.

MELLON BANK,
ONE MELLON BANK CENTER,
Pittsburgh, PA, June 8, 1998.

Hon. GEORGE W. GEKAS,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN GEKAS: I am writing to call your attention to a matter that is of vital interest to every bank, savings and loan, credit union and retailer across Pennsylvania. The issue is bankruptcy reform. There is currently a bill in the House that, in our view, addresses this growing problem and injects some common sense reforms into our outdated bankruptcy system. This bill, H.R. 3150, was recently reported out of the House Judiciary Committee and is scheduled for a vote on the floor this week.

As you know, filings for bankruptcy have skyrocketed in recent years to a point where it has become the option of choice for many who face financial difficulties. While we would never preclude the choice of a Chapter 7 filing for those truly in need of complete debt relief, we do take issue with those who possess the means to repay their debts but instead walk away from their obligations.

This abuse of the system does have a cost. At Mellon, in fact, we lost, on average, over $75 million in each of the last three years as a result of bankruptcy filings. We are forced to raise the cost of credit for our responsible customers to cover the losses we incur because of bad debt. For retailers, like department stores, losses are covered through higher prices on merchandise. But no matter how the losses are recouped, the end result is the same; people who pay their debts cover the cost of those who do not.

To correct this worsening problem, we are asking you to endorse ''needs-based'' bankruptcy reform legislation. H.R. 3150, we believe, provides a model reform measure for Congress to adopt and we think the ideas presented in this bill warrant your close inspection and your support.

Please vote ''yes'' on bankruptcy reform.

Sincerely yours,

MARTIN G. MCGUINN,
Chairman.

COMMUNITY ASSOCIATIONS INSTITUTE,
April 27, 1998.

Hon. GEORGE W. GEKAS,
U.S. House of Representatives,
Washington, DC.

DEAR CHAIRMAN GEKAS: On behalf of the 42 million Americans who live in the nation's 205,000 community associations—condominium associations, cooperatives and homeowners associations, I would like to thank you for supporting small but important changes to the Federal Bankruptcy Code.

Your willingness to include our changes in your amendment in the nature of a substitute to H.R. 3150 is greatly appreciated. These changes will obligate owners in homeowners associations, condominium associations and cooperatives who file for bankruptcy to pay association assessment fees as long as they—or their Trustees—maintain an ownership interest in their units. Community association assessments will also not be treated as executory contracts.

While changes to the Code in 1994 added important provisions dealing with the collection of post-petition assessments in certain condominiums and cooperatives, homeowners associations and commercial condominium associations were inadvertently omitted from the final legislation. Your inclusion of our language in your amendment will expand existing provisions to include homeowners associations and tie the responsibility for post-petition assessments to ownership.

Without this change, bankrupt owners could continue to avoid their assessment obligations whenever their units are vacant or occupied by people who do not pay rent—while all other association residents are left to pick up the tab.

Again, thank you for taking notice of the importance of this issue to over 42 million Americans. Please contact me by phone (703–548–8600), fax (703–684–1581) or email (cschneider@caionline.org) if CAI may be of assistance in any way.

Sincerely,

CORNELIA I. SCHNEIDER,
Issues Manager, Government & Public Affairs.

AMERICA'S COMMUNITY BANKERS,
June 9, 1998.

DEAR REPRESENTATIVE: America's Community Bankers (ACB) urges you to support H.R. 3150, which would provide much-needed reform for our nation's bankruptcy laws.

This legislation mandates that debtors who have the ability to repay a portion of their debts be required to do so, introducing the ''needs-based'' concept into the bankruptcy system. Under the ''needs-based'' system, debtors who truly need bankruptcy relief are provided a relatively quick and easy discharge in Chapter 7, while debtors who have the ability to repay are permitted to structure reasonable repayment plans in Chapter 13.

Further these revisions ensure that residential real estate mortgages cannot be ''crammed down,'' or reduced in priority, in bankruptcy. This rule, articulated by the Supreme Court in the 1993 Nobelman case, provides for fairness and certainty in mortgage-related transactions.

Moreover, it should be noted that any issues relating to child support and alimony have been resolved by the House Judiciary Committee. While H.R. 3150 did not alter existing law with respect to the priority of child support and alimony payments, the Judiciary Committee did adopt a series of amendments to address this issue. These amendments specifically and categorically provide that child support and alimony payments will be afforded priority over unsecured debts, both during and subsequent to the bankruptcy proceedings. Thus, child support and alimony payments are clearly protected under H.R. 3150.

H.R. 3150 creates an equitable system that balances the interests of both debtors and creditors. ACB and our members urge you to vote for H.R. 3150 because it will preserve and improve the bankruptcy system for all Americans.

Sincerely.

ROBERT R. DAVIS,
Director of Government Relations.

COUNCIL FOR CITIZENS AGAINST
GOVERNMENT WASTE,
Washington, DC, April 17, 1998.

Hon. GEORGE GEKAS,
U.S. House of Representatives,
Washington, DC

DEAR REPRESENTATIVE GEKAS: This letter is in response to your request for our opinion on H.R. 3150 (The Bankruptcy Reform Act of 1998). On behalf of the 600,000 members of the Council for Citizens Against Government Waste (CCAGW), I am pleased to support this important legislation. H.R. 3150 establishes fair and reasonable bankruptcy guidelines designed to protect debtors, creditors, and consumers while still holding debtors personally accountable.

In 1997, 1.33 million bankruptcy petitions were filed in this country, erasing an estimated $40 billion in consumer debt, which resulted in increased interest rates, set higher prices and increased layoffs. Each household will pay out an extra $400 this year to account for that consumer debt. H.R. 3150 ensures that responsible consumers will no longer be forced to shoulder such a large burden. By establishing a system that determines the amount of financial relief a debtor actually needs and requiring people to repay what they can, H.R. 3150 obligates debtors to take more responsibility for their situation.

H.R. 3150 also creates a ''Debtor's Bill of Rights'' which requires law firms and other consumer credit agencies to refund the full cost of representing a debtor if they do not adequately inform consumers of their rights and the potential harm bankruptcy can cause. Too often, debtors are not aware of options other than bankruptcy. The ''Debtor's Bill of Rights'' should reduce the amount of bankruptcy claims filed and therefore reduce the total amount of debt passed on to responsible consumers. Additionally, H.R. 3150 establishes a financial management training program that debtors may be required to complete in order to have his or her debts discharged. Educating debtors encourages them to become fiscally responsible and reduces the chance that their financial situation will again become unstable.

The Bankruptcy Reform Act of 1998 contains numerous provisions which protect all of those involved in a bankruptcy claim: the debtor, the creditor, and all consumers. In this time of economic prosperity, it is important that legislation be enacted that will help those in dire financial situations while protecting responsible consumers who unfairly shoulder the cost of bankruptcies. We encourage your colleagues to support H.R. 3150.

Sincerely,

THOMAS A. SCHATZ,
President.

THE BANKERS ROUNDTABLE,
Washington, DC, April 27, 1998.

Hon. HENRY J. HYDE,
Chairman, Committee on the Judiciary,
Washington, DC

DEAR MR. CHAIRMAN: The Bankers Roundtable, representing the nation's major banking companies, strongly supports the Bankruptcy Reform Act of 1998, H.R. 3150. As you are aware, studies have shown that the 1.3 million bankruptcies filed in 1997 have cost consumers over $40 billion. As a result, U.S. households have had to pay over $400 each in increased annual borrowing costs. A responsible approach to reform, such as H.R. 3150, would benefit the vast majority of Americans who properly use consumer debt as a tool to manage their household finance and repay their debts in a timely manner.

H.R. 3150's means-test would maintain Chapter 7 discharge of debts for poor or heavily indebted borrowers while requiring those with the capacity to repay all or some of their debts to do so. Further, the bill's other balanced measures to reduce fraud and abuse in bankruptcy filings would aid in ensuring that consumers continue to have access to credit at reasonable and affordable terms and rates.

Attached please find a copy of the Roundtable's Policy Statement on Consumer Bankruptcy Reform. The Bankers Roundtable asks for your support for H.R. 3150, including the concept of a means-test, and looks forward to working with you on this legislation.

Sincerely,

ANTHONY T. CLUFF,
Executive Director.

NATIONAL LEAGUE OF CITIES,
Washington, DC, June 3, 1998.

Hon. GEORGE W. GEKAS,
U.S. House of Representatives,
Washington, DC

DEAR REPRESENTATIVE GEKAS: The National League of Cities (NLC) urges your support in the passage of provisions of the

''Bankruptcy Reform Act of 1998'' (H.R. 3150) that would aid local governments. The inclusion of the Investment in Education Act, as passed by the Senate in November 1997 in H.R. 3150, recognizes the importance of payment of ad valorem taxes to local governments to support education. NLC strongly urges you to support these provisions and the amendments made by the House Judiciary Committee that would strengthen the Investment in Education Act.

This legislation is very important to local governments because it would change provision of the Bankruptcy Code that have caused local governments to lose millions of dollars in property tax revenues. As you know, property taxes are the bread and butter of the education budget for cities, towns, counties, and school districts.

Of the provisions included in this bill, it is most important that local governments are able to receive the local statutory interest rate on ad valorem tax claims associated with bankruptcies. Cites and towns are nonconsensual creditors and are in unique situations with their constituents. In New York City and some New Jersey, Texas, Illinois, and California cities and towns the local interest rate accruing on unpaid taxes should be double the I.R.S. statutory rate. Cities cannot afford to have their interest rate ''crammed down''. Clarifying that the local interest rate should be applied for unpaid ad valorem taxes would put an end to unnecessary favorable treatment for bankruptcy filers who have not paid their property taxes.

NLC strongly encourages you to pass the Investment in Education provisions in H.R. 3150 this year, to ensure cities and towns, vital revenues for their education budgets. NLC looks forward to working with you towards the passage of bankruptcy legislation. If you have any questions, please, please have your staff contact Kristin Cormier, NLC Legislative Counsel, at (202) 626–3020.

Sincerely,

BRIAN O'NEILL,
President, Councilman, Phildelphia, PA

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

Mr. NADLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, bankruptcy is a dull, boring and technical subject. Not many people pay detailed attention to it. And advocating that people behave responsibly and pay their debts, if at all possible, is attractive and unassailable.

□ 1415

I know that many people, seduced by that slogan, signed up to support this bill. But it was false packaging, an attractive wrapper to disguise one of the worst special interest bills we have considered in many years.

When you strip away the veneer and the verbiage, there stands, starkly revealed, a bill with one central purpose, to take large sums of money from middle- and low-income American families in distress and give it to the credit card companies; and, while we are at it, to take large sums of money from other creditors and give it to the credit card companies. This is a bill of, by, and for the credit card companies which have waged a long and expensive campaign for it.

Who benefits from this bill? The credit card companies. Who gets hurt by this bill? Middle- and low-income families who are in over their heads in debt because of a medical emergency, a lost job, gambling addiction; mothers rearing young children dependent on child support or spouse support; crime victims seeking victim's compensation; other creditors who cannot afford the high-priced lawyers of the credit card companies to compete for the collection and who will have to forgo repayment of the $260 million to $1.3 billion the Congressional Budget Office says this bill will add to administrative costs and which will come out of money to be recovered by the creditors; small business owners whose businesses this bill will force into liquidation instead of survival; and the taxpayers, who will have to foot the $214 million the CBO says this bill will add to the Federal budget.

Who supports this bill? The credit companies and the big banks. Who opposes this bill? The consumer groups, the AFL-CIO, the women's groups, the victims' rights organizations, the bankruptcy judges, the bankruptcy trustees, the National Bankruptcy Conference, the National Association of Chapter 13 Trustees, the National Association of Consumer Bankruptcy Attorneys, the Administration; in short, everybody who knows the bankruptcy system except the credit card companies and the big banks. In fact, this legislation is nothing more than a special interest favor to the big credit companies and the big banks. It will take American families in terrible economic straits and it will allow creditors to harass them with litigation. It will allow MasterCard and Visa to snatch child support from struggling families. It will clog our courts. It will invade the privacy of families by requiring them to make their tax returns public so that banks and other creditors can review the most private details of their lives, including medical expenses, and it will cost the taxpayers a bundle to collect the reckless debts of credit card companies who sent out more than 3 billion credit card solicitations last year to children, family pets and people already in over their heads.

Why do we need this bill? We have heard a great many extravagant claims about the reasons why more than 1.3 million Americans filed for bankruptcy last year. The underlying assumption of this legislation that millions of Americans are essentially deadbeats using the bankruptcy code to cheat unsuspecting and helpless megabanks is quite frankly a slander against the American people.

Mr. Chairman, we have been told that the reason we have increased bankruptcy filings is that social mores have changed, that there is no longer a stigma associated with bankruptcy, that people use it as a first financial planning option instead of as a last resort, that there is an easy availability of bankruptcy. But this does not make sense. The bankruptcy code does not cause people to go bankrupt. Lack of health insurance, downsizing, jobs moving abroad, family disintegration, the sort of problems you would hear about if you listened to your neighbors, that is what causes bankruptcy. What is really scandalous is that instead of dealing with the pressures on American families, this Congress chooses to go after the victims. In fact, the Committee on the Judiciary received testimony from academics, from people like Professor Ausubel of the University of Maryland, demonstrating a direct link between deregulation of interest rates, increased lending and the increase in bankruptcies. These findings are supported by the work of the FDIC and we are waiting for the completion of a Congressional Budget Office review of the data which it appears will also likely confirm these findings.

What we have seen is that although real interest rates, the costs banks pay for money, have dropped substantially over the last 20 years, credit card interest rates, the price American consumers pay to borrow money on their credit cards, have remained extraordinarily high. The result, credit card operations are now the most profitable of all banking operations, up to five times more profitable than noncredit card operations. If it were true, as we are told by the supporters of this bill, that it is changing social mores, lack of a stigma that are getting people to file for bankruptcy when they still can pay their debts before they are in over their heads when they would not have done so years ago, one would expect that the ratio of debt that people have to their income would have gone down, because people are now filing when they still can pay their debts, whereas earlier they did not.

But, in fact, look at this chart. It shows just the opposite. In 1983, the average debt-to-income ratio of a Chapter 7 filer, someone who filed for bankruptcy, was 87 percent. It went up consistently. It has doubled. Now it is 164 percent, which means it went up, not down. People are twice as deeply in debt today before they file for bankruptcy as they were in 1981. They are more desperate. They do not file easily. They wait as long as they can.

In fact, if you look at the rise in bankruptcies and you look at the rise in the debt-to-income ratio in people at large and how much debt people have which started increasing with the deregulation of credit card rates about 20 years ago, you find it tracks almost exactly. Look at this. As the debt-to-income ratio goes up, that is what causes the bankruptcy filings to go up.

It is the irresponsible lending by the credit card companies that is largely responsible for the increase in bankruptcy filings. In fact, if we wanted to do something about this, we should limit that irresponsible lending. But unfortunately, that amendment was not made in order. We should say that it is an objection to claim, that you cannot collect your debt if you lent the money after you knew that the person was already in over his head, after he

already had a debt to income ratio of 40 or 60, draw the line, percent, but that unfortunately the Committee on Rules did not make in order.

We know that credit card lending is very profitable today. In fact, if you look at the chart, you see the profitability of credit cards versus the profitability of the overall banking system. The overall banking system has remained at the same level of profitability for the last 25 years. The profitability of the credit card system, however, has doubled. We have to bail them out with this bill because they are losing some money on bad debts when their profitability is five times the profitability of all other parts of the banking system.

Credit card interest rates have stayed up. The cost of money has gone down from 14 percent, reduced by half to 6 percent, but the credit card interest rates have gone down from 18 to 16 percent. Then we are told that we will save $400 per American family if we pass this bill because the credit card companies will lower the interest rates to counter the fact that they are getting more money from deadbeats. Look at the record. If you believe that, there are a couple of bridges in New York, not just the Brooklyn Bridge, that I can sell you for only a couple of billion dollars.

The fact is that car loans have gone down, mortgages have gone down, the cost of money has gone down, the credit card interest rates stay up and that is why they are so profitable. If we pass this bill, they will be even more profitable, but it will not be passed through to the consumer by a nickel.

Having said all that, we agree, there are some people who abuse the system. There are people who are filing for Chapter 7 bankruptcy who can afford to repay their debts. Let us crack down on them. But that is what the Democratic substitute says. Let us crack down on them, but let us crack down on them through a reasonable test, a test that really looks at their ability to pay.

The administration in its statement of opposition says:

> The formulaic mechanism in H.R. 3150 will not distinguish accurately those debtors who have the capacity to repay from those that do not have that capacity. A properly structured system would give bankruptcy courts greater discretion to consider the specific circumstances of a debtor in bankruptcy.

That is what we want to do in this substitute. That is what we did in the bill that the committee refused to consider. The fact is if you look at the ability to repay, you will want to look at someone's income and his expenses, how much is he paying in rent, not as the bill before us would say, how much does the Internal Revenue Service think someone in the northeastern United States is probably paying for rent. Who cares what someone might be paying for rent, the average person. The question is how much is he paying for rent, how much is he paying for child care, for his medical expenses for his wife or his daughter or whatever. A formula does not work. We have to have a human being there, a judge, who can take a look at the situation to make a judgment, not a computer.

The majority brags about this bill, that you can put it into a computer and the result will be put out, no human discretion, no human sympathy, no human understanding and no facts, only theory, from the Internal Revenue Service, of all people. That is what this means-based test is. Even if you pass the means test, under this bill you will be harassed by creditor motions that are not permitted in the law now, by the threat of litigation, and it will lead to many people who meet the means test having to withdraw their petitions because they cannot afford to pay the lawyers to fight the banks' lawyers on these frivolous, dilatory motions.

The other thing this bill does, because its major function is to give a lot of money to the credit card companies, is that credit cards jump the line. They are going to be nondischargeable in bankruptcy. The administration says the bankruptcy code generally makes debts nondischargeable only where there is an overriding public purpose as with debts for child support and alimony payments, educational loans, tax obligations or debts incurred by fraud. What is the overriding public policy purpose for skipping the credit cards ahead of the secured debtor, ahead of priority debt and making it nondischargeable? There is no public policy purpose. What is the public policy purpose for saying that in a Chapter 13 workout plan, you cannot confirm the plan unless you pay $50, minimum monthly, to the credit card companies? So if your ability to repay is $75 a month, $50 goes to the credit card companies and $25 is left for everything else.

Credit cards uber alles. Why? Why should the other creditors take second fiddle, creditors who have security interests, creditors who may have done more due diligence? And if your ability to repay is $40, less than the $50 minimum, they cannot confirm a plan, so you are too rich for a Chapter 7 bankruptcy and you are too poor for a Chapter 13 bankruptcy and you fall right through the cracks. And because the purpose of this bill is in these ways, by nondischargeability and a $50 minimum under Chapter 13, to give the money to the credit card companies, it fouls up the child support, it fouls up the victim's collection of crime victim's compensation.

The sponsors of the bill say they fixed it in committee. First they denied it. Then they said they fixed it. Now they have an amendment to say they fixed it. But all the groups who deal with this, the women's groups, the child support groups, the administration, they say those fixes are cosmetic, they do not deal with the problem, and they do not.

What does it do to small business? For reasons I know not, this bill adds great paperwork requirements to small businesses, constricts the time limits in which they have to do things, adds in effect a mini confirmation hearing before the confirmation hearing, all of which will result, as the Small Business Administration tells us, in thousands and thousands of small businesses that go into Chapter 13 and Chapter 11 for workouts to restructure their debts, to reorganize and to come out of it, retaining the business, retaining their employees, they will not be able to meet it, they will liquidate, jobs are gone. Why should we do this to small business?

Finally, this bill is a budget buster. CBO tells us, the Congressional Budget Office, it will cost the taxpayers $214 million out of the Federal budget, and they tell us it is a private sector burden of $260 million to $1.3 billion. That is the effect this bill would have.

In summary, this bill affects negatively everybody except the credit card companies and the big banks. The bill is ill-considered, it is not ready to move, it is a budget-buster, it takes away the rights of debtors, and it will hurt many creditors as it aids the credit card companies in their search for greater profits. This bill is unworthy of this House and will cause misery to our neighbors and financial distress. This bill is in fact morally bankrupt and I urge my colleagues to reject it.

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

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume, only to say, to repeat as often as possible, that the support enforcement agencies of the country are happy with the provisions of H.R. 3150 with respect to collection of child support. We will spread on the record as we have time and time again letters from the California support people, New York and others who are blessedly happy with what we are trying to do on support matters.

Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. MCCOLLUM).

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

Mr. MCCOLLUM. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in strong support of this bill. I certainly respect the gentleman from New York (Mr. NADLER), but I disagree with a lot of his analysis and I want to go through it quickly.

First of all, we had a $44 billion loss in bankruptcies last year alone. We have seen an over 100 percent increase in personal bankruptcy filings from 1986 to 1996. And last year, the year in which the economy probably did better than any other time in the history of the Nation, bankruptcy filings were up some 20 percent in that year alone.

□ 1430

We have got a problem in this country, whatever the reason may be. Maybe some of that does belong because credit card companies send too many notices out to people, but by and large that is not the reason that we have the problem. It is because people are not exercising individual responsibility because they are not going to a payback plan when they could afford to pay back their debts as they once did, at least in larger numbers than they do now.

What our bill has tried to do is to help the consumer. The person who is responsible who does have credit card and other debt who does pay that debt back, help them to avoid the cost that they are paying because of the bad debt people who take advantage of pure bankruptcy and do not pay back the debt they are supposed to and could pay back.

The fact of the matter is that no credit card company or any other creditor is going to absorb the losses of the magnitude we are talking about. They are going to cost shift. They are going to pass that on. They do it in the cost of goods and services, fees and interest rates.

Will they all come down if we pass this bill? I do not know, but they sure as heck are going to go up if the rate of bankruptcies continue to climb the way they are now.

So our bill is a consumer protection bill. It creates a needs-based test, and it is a very simple formula. It says to take median family income, determine what that is. For a family of four that is about $51,000 last year. If they have less than a median family income, they can still file plain old vanilla pure bankruptcy under chapter 7, and do not worry about the means test and the needs test. But if they have over 50,000, they have got to go through this formula. Take monthly gross income, deduct from that monthly gross income the amount of secure debt payments, how much is being paid on the car. Then deduct from that the amount paid for child support, alimony, other court ordered support. Then deduct from that the monthly payments for other living expenses which are calculated under the Internal Revenue Service Code like we do for our taxes, for whatever they are, and if after doing that there is left over $50 a month or more and if by applying what there is left over they could pay off 20 percent or more of their unsecured debt over 5 years, then they have to file chapter 13 or a payback plan from a bankruptcy. Still get bankruptcy protection, but they have to file the kind where they actually pay back what they owe.

That is the basic premise of bankruptcy law. People who can afford to pay it back ought to be required to pay it back. That is the premise of this bill. There is nothing more and nothing less here, and I would certainly encourage my colleagues to recognize the fact that whatever else they think, this is a simple formula, it is not complicated, it is not expensive, it could be done with all the data that goes into bankruptcy courts anyway in the first place. We need to put personal responsibility back into the system again, and I encourage the adoption of this bill in the strongest of terms.

Mr. Chairman, I thank the gentleman for having yielded this time to me.

Mr. GEKAS. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. BOUCHER).

Mr. BOUCHER. Mr. Chairman, I want to commend the gentleman from Pennsylvania (Mr. GEKAS) for bringing H.R. 3150 to the floor today. It incorporates the core provisions of H.R. 2500 which the gentleman from Florida (Mr. MCCOLLUM) and I introduced last year. That measure was cosponsored by 185 Members of the House, including 40 Members on this side of the aisle, the Democratic side. These core reform measures are a part of H.R. 3150, and they truly have bipartisan support.

A central tenet of the reform is the needs-based test for chapter 7 that was just described in the statement by the gentleman from Florida (Mr. MCCOLLUM). That is the complete liquidation provision under the bankruptcy law. Under that approach bankruptcy filers who could pay a significant amount of their debts would no longer be able to get complete liquidation. If they wanted bankruptcy protection, they would be required to use chapter 13 and then make whatever payments they could afford under a court supervised repayment plan. And the needs-based reform is essential to this measure that we have before us and to achieving genuine bankruptcy reform.

During the 12-month period that ended on March 31, there were 1.37 million personal bankruptcy petitions filed across the country, and that was an increase of almost 25 percent over the previous year. That increase in personal bankruptcy filings occurred during the best economy that we have had in this country in decades, and so we would have expected exactly the opposite result, fewer bankruptcy filings rather than more. And yet in that 1 year period we had a 25 percent increase.

The dramatic increase is caused, I think, by several factors. First of all, an attitudinal change among many Americans who no longer view bankruptcy as a last resort but view it as a first opportunity and treat it today as a financial planning tool and today engage in bankruptcies of mere convenience. The bankruptcy system was never intended to function that way. The bill before the House would return chapter 7 to its intended use by making it available for those who need it and requiring that those who can pay their debts, we pay a substantial portion of those by filing under chapter 13.

Mr. Chairman, that change will benefit all consumers of goods and services and all responsible borrowers. Today about $44 billion in consumer debt is wiped out each year through bankruptcy filings. That wipeout of $44 billion in debt carries a hidden tax of about $400 on the typical American family. That reflects the higher prices that are charged for goods and services by merchants whose debt is wiped out in bankruptcy and reflects the higher credit cost, interest charges, that are imposed by lenders, many of whose debts are wiped out in bankruptcy as well.

The enactment of H.R. 3150 would significantly lessen that hidden charge, and it is my privilege to appear today in support of this measure, and I strongly encourage its passage by the House.

Mr. NADLER. Mr. Chairman, I yield 3½ minutes to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Chairman, as someone who has worked on bankruptcy revision as a lawyer in the past, I cannot stand here and say that the existing system is perfect. In fact it is not perfect, and there are areas in which reform is warranted. However, I do not believe that H.R. 3150, the bill before us, provides an acceptable answer to the defects that currently exist.

Much has been said about why we are seeing this increase in bankruptcy filings. It is clear that part of the reason is the massive increase in the amount of unsolicited and unwarranted credit that is being promulgated throughout our country.

Last week my little girl received an unsolicited, preapproved credit card application at home. I was of a mind to let her take the card since creditors cannot collect against minors in California, but instead we ripped it up.

Because of the problems of this bill, Congress has seen an unprecedented response from people who do not ordinarily become involved in legislative matters of this kind, including bankruptcy judges from all over the United States who have urged us to stop this process because of the bill's unintended consequences.

Much has been said about the impact on women and children, and I wanted to note as a member of the Committee on the Judiciary I did support the minor amendments made during committee mark-up to try to address the issue of child support, but they did not fix the problem. In fact, the National Organization for Women wrote after the markup, ''The Judiciary Committee adopted a number of amendments supposedly to cure the problem of having past due child support and alimony obligations compete with credit card debts, but careful analysis shows these changes are only cosmetic. There are still substantial problems with H.R. 3150.''

I believe that is why 20 women's organizations have contacted us to tell us they oppose this bill, including such organizations as the American Association of University Women, the Business

and Professional Women of the United States, Church Women United, the Older Women's League and the YWCA of the United States of America.

There is another issue that I think needs to be raised for those of us who come from high cost States, and that is the probably unintended, bias against certain parts of our country. Recently I was contacted by a bankruptcy attorney in Santa Clara County. This is a lawyer who teaches bankruptcy law, who represents creditors in addition to debtors, and he says that the nationwide income standard used in the qualifications test for chapter 7 would eliminate most residents of Santa Clara County, in fact most of urban California, from eligibility to file chapter 7.

Further, if an individual is able to meet the test, the housing allowance is a further disadvantage. Urban Americans will no longer be able to file for bankruptcy.

As someone whose family has lost income to someone who filed for bankruptcy, I do not like it, I understand that no one likes it, but there is a reason for bankruptcy law, and that is so that one can fail in America and yet continue to have a life. That is why bankruptcy is provided for in our Constitution, and I will quote the CEO of a high-tech company who said this to me and Chairman HYDE in Los Angeles a week ago. ''We innovate in this country because we have the freedom to fail. That is what our bankruptcy laws do. Do not change it, do not ruin it.''

Mr. GEKAS. Mr. Chairman, I yield myself such time as I might consume.

It is interesting; I bring this to the attention of the gentlewoman from California who has been in the forefront of expressing concern about the support quotient in 3150 wherein the California Family Support Council, which I assume is statewide in California, endorses enthusiastically the measure 3150 and all that it contains with respect to support. I commend that to her reading and ask her to consider voting for the bill.

Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, I am a lead sponsor of this measure because the bankruptcy system in this country is not serving the national interest. What used to be the option of last resort has too often become the preferred option of choice, and so a legislative fix is vital to distinguish between those who truly need and deserve a fresh start and those capable of assuming greater responsibility and making good on at least some of what they owe.

Mr. Chairman, unless steps are taken now to reform the bankruptcy system while economic times are good, we will not have the political resolve to fix it when the economy is not as strong. Today wages are up, unemployment is down, interest rates and inflation are low, but the rate of personal bankruptcies has increased dramatically. Last year personal bankruptcies rose 20 percent, reaching a record high of 1.4 million files. Think about it. More people filed for personal bankruptcy than graduated from college last year. What does that say about our country?

And while many would like to blame the credit card industry for the sharp increase in bankruptcy filings, it is important to note that the credit card industry is not the impetus for the current bankruptcy crisis. More than 96 percent of credit card holders pay bills as agreed to, and only 1 percent ever end up in bankruptcy.

According to a Federal Reserve Board survey last year credit cards account for a mere 3.7 percent of consumer debt, hardly large enough to cause the current bankruptcy crisis. While many may still want to vilify the shylocks of Shakespeare's day, the credit system of today is far more democratized. Creditors today include Main Street merchants who often sell products under installment plans, credit unions who include most Members of Congress and even State and local governments.

Mr. Chairman, I have a letter here that I got from Mattress Discounters. These people have a customer base that is almost exclusively moderate income families who need their purchasing installment plan. Now they tell me that they receive almost 3,000 consumer bankruptcy notifications each month, 36,000 a year, and the cost to the company has risen to over $30 million a year. The irony of this situation is that the average debtor filing for bankruptcy protection has assets exceeding $184,000. But because of this consumer bankruptcy, the company had to close 50 stores across the country, and that meant the loss of jobs in communities all over the country as well as the fact that their customer base of moderate income people does not have access to this line of credit.

□ 1445

People need that, and yet if we don't fix this system, we are foreclosing their credit opportunities.

Mr. Chairman, the key issue is that it is not fair for households who pay their debts to pay $400 a year in added expenses to compensate for the bad debts of their neighbors who do not pay their debts. I hope Members will support this bill.

Mr. NADLER. Mr. Chairman, I yield two minutes to the gentleman from Massachusetts (Mr. MEEHAN).

Mr. MEEHAN. Mr. Chairman, I come before the House today as a supporter of bankruptcy reform. It will enable creditors to collect some debt that is currently being discharged through bankruptcy and that would channel debtors who can afford to pay a substantial portion of their unsecured debts into Chapter 13 repayment plans.

Having said that, Mr. Chairman, let me now say that I come before the House today in opposition to this bill, H.R. 3150. There is nothing inconsistent about supporting pro-creditor bankruptcy reform and opposing H.R. 3150. The fact is, you can means test eligibility for Chapter 7 without relying on rigid IRS expense standards to evaluate a debtor's ability to pay his or her debts. You can means test without permitting aggressive creditors to target low and moderate income debtors with expensive and protracted and contentious litigation over their bankruptcy rights. You can address manipulation of the bankruptcy system by high income debtors without simply declaring large amounts of credit card debt to be exempt from discharge.

In short, you can replace H.R. 3150 with the Nadler-Meehan-Berman substitute. The result will be a balanced bankruptcy reform that enhances creditor recovery without drastically diluting the fresh start for financially strapped debtors or impeding alimony and child support collection.

On the other hand, voting yes on an unamended version of H.R. 3150 would send to the conference committee an unbalanced bill, and the Senate wants nothing to do with that and the Clinton Administration will veto this bill. That route is dangerous for the most vulnerable debtors and dangerous for the prospects of prompt bankruptcy reform.

I urge my colleagues to do the right thing and support the substitute and reject the unamended version, this bill, of H.R. 3150.

Mr. GEKAS. Mr. Chairman, I yield two minutes to the gentleman from Delaware (Mr. CASTLE).

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

Mr. CASTLE. Mr. Chairman, I thank the gentleman very much for yielding me time. I join the gentleman in his strong support for H.R. 3150.

Mr. Chairman, I must say that hearing these arguments, we need to understand that when anybody files for bankruptcy, somebody else has to suffer. Generally when you had it up, the entire United States of America suffers. We have heard some facts, but I think we need to repeat some of these facts as well as to what is happening in bankruptcy in the United States today.

It is incontrovertible in my mind that we are in a bankruptcy crisis in this country. Personal bankruptcy's have risen 400 percent since 1980. Over 1 million people filed for bankruptcy in 1997, which cost consumers $40 billion in higher prices and interest rates from the debts that was erased. That averages to $400 per household in the United States of America. Some studies estimate that 14 responsible borrowers are needed to support each irresponsible borrower who files for bankruptcy. Those are unbelievable figures in a time of perhaps the greatest economic prosperity in the history of the United States of America.

What we have here in this legislation is a very strong first step. This is not

an ultimate solution to the bankruptcy problems. There is wide disagreement and too few facts right now for Congress to fashion an omnibus bankruptcy reform act that pinpoints exact causes of bankruptcy, and we do not know what that is. We need to look whether or not it is credit cards, and there may be some evidence of that, or gambling or other debts that caused that. But this legislation allows us to do it and it strengthens the system.

First, it establishes a system of data collection in the Federal bankruptcy courts to determine who, when, where, why and how people file for bankruptcy. We absolutely need to have that information and that knowledge. We do not have it today.

Second, it forces debtors to receive private credit counseling before filing for bankruptcy and unloading their debts on American consumers. That also is needed. Perhaps people need to be told what they have to do.

Third, it forces people who have the ability, the ability to pay for their unsecured debts, to file under Chapter 13 of the bankruptcy code and repay their creditors. These are good things. We should do it and support this legislation.

Mr. Chairman, I rise today to express my strong support for H.R. 3150, the Bankruptcy Reform Act of 1998. The facts are incontrovertible that the United States is in a bankruptcy crisis. Personal bankruptcies have risen 400 percent since 1980. Over a million people filed for bankruptcy in 1997 which cost consumers $40 billion in higher prices and interest rates from the debt that was erased. That averages to $400 per household. Some studies estimate that 14 responsible borrowers are needed to support each irresponsible borrower who files for bankruptcy.

Congressional oversight of this issue is long past due, and I am pleased to see that the House Judiciary Committee, through the leadership of Representative GEORGE GEKAS, Chairman HENRY HYDE, and Representative RICK BOUCHER, has reported H.R. 3150 as a strong first step toward addressing the bankruptcy crisis.

I say ''strong first step'' because no one should be disillusioned that H.R. 3150 is the ultimate solution to the bankruptcy crisis. There is wide disagreement and too few facts for Congress to fashion a omnibus bankruptcy reform bill that pinpoints the exact causes of bankruptcy. Despite evidence that only 1 percent of credit card holders file for bankruptcy in any given year, some have suggested that credit card companies who overextend credit to irresponsible borrowers are to blame. Others point to casinos and gambling institutions as the principal cause. Still others blame our culture of consumerism and a lack of education about managing money and personal finance. The truth is we do not know the cause, but we know the problem is serious.

Herein lies the strength of H.R. 3150. The bill takes the only steps we can all agree on. First, it establishes a system of data collection in the Federal bankruptcy courts to determine who, when, where, why and how people file for bankruptcy. With this data, Congress in the years to come can address the root cause of bankruptcies with wisdom and confidence we do not have today.

Second, it forces debtors to receive private credit counseling before filing for bankruptcy and unloading their debts on American consumers.

Third, it forces people who have the ability to pay more of their unsecured debts to file under Chapter 13 of the Bankruptcy Code and repay their creditors over 5 years according to a court-approved repayment plan. According to the bill's means-testing formula, debtors whose income is greater than 100 percent of the national median family income must develop a plan to repay their unsecured creditors if they have the ability to pay at least 20 percent of their unsecured debt and have more than $50 in their pocket each month after paying their secured debts (car payments, home mortgage, etc.), priority debts (alimony, child support, back taxes, etc.), living expenses.

A recent Consumers League Poll reports that 76 percent of Americans believe that individuals should not be allowed to erase all their debts if they are able to repay a portion of what they owe. With such a groundswell of support from the American people the choice is simple. A vote against H.R. 3150 is a vote for irresponsible debtors and a vote against the 14 responsible consumers needed to pay for each bankruptcy filed. I urge you to vote in favor of H.R. 3150.

Mr. NADLER. Mr. Chairman, I yield 5½ minutes to the gentleman from Massachusetts (Mr. DELAHUNT).

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

Mr. DELAHUNT. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, we have heard a lot today about personal responsibility and that individuals must be held accountable. Now, no one disagrees with the principles of personal accountability and responsibility. The problem, however, with the rhetoric, is that there is no data, no evidence, no credible research. The gentleman from Delaware was absolutely correct. But there is no information to establish a link between the dramatic increase in personal bankruptcy and the change we are told that has taken place in people's attitudes about bankruptcy.

There is an additional issue of accountability and responsibility here, but it is one of corporate responsibility. Because while no one really knows the cause of the increase in bankruptcy filings, I submit it is more likely that the increase is the result of irresponsible lending practices by the credit card industry.

I agree with a noted consultant to the industry itself who stated, ''The principal factor in the increase of bankruptcies has been the dramatic lowering of loan standards over the past five years.''

A respected Wall Street analyst agreed with him and was quoted recently in the Congressional Quarterly. ''The bank and other credit card lending institutions brought this problem upon themselves. They shot themselves in the foot by using some of the weakest and most pitiful loan underwriting techniques that I have ever witnessed.''

Well, as others have said, we have all experienced the aggressive marketing tactics of the credit card industry. More than 3 billion solicitations were issued last year, 30 for every family in America.

Let us talk about responsibility. Let us look at just one of these solicitations. It is in the form of a check. It was sent to my daughter. Let me highlight some of the comments on the check.

''This $2,875 check is real. Your signature on the back is all that it takes to turn your live check into cash.''

Another observation: ''Book a terrific spring break vacation.''

Another comment: ''Treat yourself, your family or friends.''

Another statement: ''Need more than $2,875? Just call us if you want to make even bigger plans for this spring.''

There is a p.s. too. ''This offer expires May 18, 1998. Have a question about this offer? Just call.'' ''Just call.'' ''For your protection, please destroy this check if you decide not to cash it.''

Is this corporate responsibility? Is this sound responsible lending? Well, my daughter is a full-time student who lives at home and has no regular income. It is so ironic to hear representatives of the credit card companies and others here pontificate about personal responsibility.

You all know from your own personal responsibility that they are relentless in their pursuit of customers and profit, and that is good. But regardless of the target's age, lack of sophistication, vulnerability, and even bad credit history?

Let me just read a story for you for a moment from the Wall Street Journal of March of this year. ''Rick and Christie Fetterhoff of Harrisburg, Pennsylvania,'' and I think the Chair of the subcommittee is from Pennsylvania, I do not know if he knows this couple, but it has been reported, ''have been in Chapter 13 bankruptcy protection since November 1995. But within the last several months, they have received, among other pitches, $5,000 loan offer checks from Banc One Corporation and Capital One Corporation and the promise of $250,000 to $500,000 from New Century Mortgage Corporation if they would just sign up.

''I was going to try to send some in, admits Mrs. Fetterhoff, who has more than $160,000 in debt, but I said no, no. It is tempting.'' And the credit card industry preaches personal responsibility?

Now, few in this chamber are sympathetic to that sort of hypocritical argument when it comes from the tobacco companies or the liquor industry or the gaming interests. Well, we should not let the credit card industry get away with it either.

If this bill becomes law, the result will be the use of hundreds of millions of dollars of taxpayer dollars to create a publicly funded collection agency to increase the profitability of credit card companies. So let us focus on responsibility ourselves and defeat this bill.

Mr. GEKAS. Mr. Chairman, I yield three minutes to the gentleman from New Jersey (Mr. ROTHMAN).

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

Mr. ROTHMAN. Mr. Chairman, I thank the gentleman from Pennsylvania for yielding me time.

Mr. Chairman, there is something wrong with the following picture. Last year, in the midst of our country's greatest economic growth of this generation, America saw a record number of bankruptcies, 1.4 million. This year, as America's economic expansion continues, America will set a new record for bankruptcies. But record number of Americans are not going broke. They are simply taking advantage of a bankruptcy system that encourages people to avoid paying their debts. That is what is wrong, and we have to stop those abuses.

When people who can afford to pay their debts do not, guess who picks up the tab? Working and middle class families, because companies charge higher prices to make up for those losses.

We need a bankruptcy system to give truly needy Americans a fresh start. But it must be a bankruptcy system with integrity, designed to encourage personal responsibility, not to discourage it.

The new bankruptcy reform bill, H.R. 3150, will do just that. It still gives people who cannot afford to pay their debts the ability to declare bankruptcy and to get a fresh start. But it will require people who can pay back their debts to do so.

Make no mistake about it. Under this bill, any American who chooses to go bankrupt can still go bankrupt. But if the person has the means after they pay their child support and alimony, after they pay off their secured debts and living expenses, if they still can pay off 20 percent of their remaining debt, then they should be required to pay back that debt. It is simply good personal responsibility.

Hard-working middle-class taxpayers who play by the rules have a hard enough time paying their own bills. They should not have to pay the bills of those who run up debts they can afford to repay, but who simply choose not to repay the debts.

When I was practicing law, I worked with a great many small business people who were taken advantage of by someone or some company who owed them money, but who simply misused and abused the out-of-control bankruptcy system to make victims out of those small business people.

□ 1500

We need to protect the hardworking Americans and consumers who are the innocent victims of our present out-of-control bankruptcy system.

Therefore, I urge my colleagues to support the Bankruptcy Reform Act of 1998. It protects our families, it protects our small businesses, and it restores some measure of personal responsibility to our out-of-control U.S. bankruptcy system.

Mr. GEKAS. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. KELLY) with the promise that she will come back later.

Mrs. KELLY. Mr. Chairman, I thank the gentleman from Pennsylvania for yielding to me the time to clarify some very important provisions of this legislation.

Mr. Chairman, I rise today in strong support of H.R. 3150, the Bankruptcy Reform Act. Some of my colleagues would have us believe that this legislation would undermine alimony and child support. All arguments to this effect are pure distortion of the actual language of this bill.

This bankruptcy reform legislation before us today does nothing of the sort. In reality, it strengthens the Bankruptcy Code's protections for ex-spouses and children.

I will quote to my colleagues a May 13 nonpartisan Congressional Research Service memorandum: ''No provisions in H.R. 3150 would repeal the current protections that child support receives. The bill would reinforce the legal status of these payments in some ways.''

H.R. 3150 is quite clear that the child support and alimony must be paid first and in their entirety before a single dollar is paid out to nonpriority, unsecured creditors. This priority holds even where an ex-spouse who has the obligation to pay alimony has drawn on an unsecured credit line to pay marital obligations.

As a constant fighter for the rights of ex-spouses to have first priority to every cent of assets, I would vehemently oppose any legislation that would reduce the ability of women and children to receive support payments.

If people would take the time to read this legislation, they would see that H.R. 3150 will benefit, not harm, child support and ex-spousal support.

Members can speak to the possibility that future Congresses may change bankruptcy law, but let us keep the debate focused on the effects of this bill. H.R. 3150 strengthens the rights of ex-spouses and children to receive support before any other creditor.

Mr. NADLER. Mr. Chairman, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

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

Ms. JACKSON-LEE of Texas. Mr. Chairman, the best of all worlds would be that this is a distortion, that in fact we could conclude at the end of this debate that we were just spewing out words and in fact we could vote for H.R. 3150 as the right kind of legislation.

But might I share with my colleagues some of the facts that are real in this issue. We do all need and are committed to personal responsibility, each and every one of us. In fact, we teach it to our children. The last thing we want to get is a phone call at work saying we owe some money.

But let me share with my colleagues, Mr. Chairman, the real truth of the American public. Some years ago, the American public filed bankruptcy with only 70 percent debt. Today, the American public waits and strains themselves and only files bankruptcy when their debt is 164 percent of income. That is the average working man and woman who every day brings home under $50,000 a year and tries as they may to make ends meet.

This bankruptcy bill kicks them out of the courthouse and tells them, off to the curb with you, smother yourselves with debt. You are nothing but deadbeats.

H.R. 3150 could have been a bipartisan bill if we had the opportunity to have hearings and documentation of how best to treat this problem. There are 3 billion contacts with Americans every day promoting utilization of credit over and over again.

This is why I am against this particular legislation, because 300,000 people engaged in the bankruptcy filings of 1.3 million are divorcees and mothers and custodial parents seeking to get child support and alimony.

It does impact child support and alimony. It is not corrected by any of these amendments. Once the bankruptcy proceeding is over, once the prioritization has been made, when people have to pay their debts, credit card monies are equal to their child support.

While one is in the bankrupt situation, one is required and is responsible for paying both of them. Who has a greater leverage to force one to pay? That parent with the child who is trying to get their child support payments? Absolutely not. It is the credit card company and others who can call over and over and over again.

I have heard from my constituents in Texas and across this Nation how they have lost jobs because of the credit card companies who have sought to over and over again be able to repeat to them that they have not paid.

If this bill was the kind of bill that all of us could support, my colleagues can rest assured we would be right here, because we believe in the American system and the American way of doing what is right, making sure that small businesses are protected.

I support an amendment to study what happens to small businesses when they go into bankruptcy. But we have so many groups that are against this. We have the Lawyers for Children In America, Federally Employed Women, Legal Defense and Education Fund, the American Nurses Association, Women United for Action, Women's Policy Center, Church Women United. We have the Clearinghouse on Women's Issues, Coalition of Labor Union Women.

This is a bad bill. The administration is against this bill. I simply ask, send it back to committee. Let us do what is right for the country.

I am strongly opposed to H.R. 3150 and I encourage my colleagues to also vote against the bill. H.R. 3150 unnecessarily burdens the right of bankrupt debtors to have a fresh start by creating a formula which forces bankruptcy filers to involuntarily enter Chapter 13 if they meet certain arbitrary income qualifications.

This approach to bankruptcy reform has been opposed by the Executive Office of the President, 110 federal Bankruptcy Judges as well as a coalition of 57 well respected Bankruptcy Law professors.

This bill is not about personal responsibility, it is about the redirection of bankruptcy filers, to banks, credit card companies and credit lending institutions, and in turn, this bill will hurt a lot of women and children who are dependent on child and spousal support.

This bill subordinates the needs of support recipients to credit card companies like Master-card and Visa. As the First Lady said in a May 7 article, ''I have no quarrel with responsible bankruptcy reform, but I do quarrel with aspects of this bill that would force single parents to compete for their child support payments with big banks trying to collect credit card debt.

I have received numerous letters from my constituents in Houston, who are concerned about the effects of this legislation. One such letter is from a student graduate supporting a wife on a limited income, worried that with new changes in the code, he will not be able to adequately support his family. Another is from a debtor whose financial responsibilities became overwhelming and is concerned that he will be unable to support his children and his ex-wife and pay off his non-domestic creditors under the new code.

Any effort to reform the bankruptcy system must protect the obligations of parents to support their children. This bill is a new and catastrophic threat to our children who rely on child support.

According to a recent study by the U.S. Department of Health and Human Services, between 1978 and 1991, 21–28 percent of poor children in America did not receive any child support from their non-custodial parent, and child support is an issue critical to the well-being of our nation's children. During 1997, an estimated 300,000 bankruptcy cases involved child support and alimony orders. In about half these cases, women were creditors trying to collect alimony and child support from their bankrupt ex-husbands and others. In about half of these cases, women were forced to file for bankruptcy themselves as they tried to stabilize their post divorce economic condition. In the past five years, well over a million women collecting alimony and child support have been involved in bankruptcy cases.

In 1994, one in every four children lived in a family with only one parent present in the home. Half of all children in the United States spend at least a portion of their childhood in single-parent homes.

While these figures are truly striking in their own right, we cannot begin to truly understand their impact on our nation's children without considering the fact that half of the 18.7 million children living in single-parent homes in 1994 were poor, and 70 percent of African American children growing up in a single parent household lived at or below the poverty line. Poor children in single-parent families rely on child support from their non-custodial parent as a crucial source of income.

In 1997, I co-sponsored H.R. 2487, the Child Support Incentive Act, legislation which reformed the child support incentive payment plan and improved state collection performance. And today, I am speaking before you because children's access to child support is once again being threatened. We need to keep our children a priority.

According to records from the U.S. Department of Health and Human Services, 31 million children are currently owed over 41 billion dollars in unpaid child support. When credit card companies and children compete for the same money, we know that it is likely that the most aggressive and powerful creditors will succeed.

We must counter this potential disaster to children relying on their parent's continued support. We need to maintain the priority of those parents seeking to collect owed child support from a bankrupt debtor. This can be done without removing the tools needed for credit card companies to effectively root out fraudulent debtors. Our children are our future and when it comes to paying off debt, children and women should come first, and we must remember this when we are voting today.

Mr. GEKAS. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. CHABOT). I am glad to do that. The gentleman from Ohio (Mr. CHABOT) has produced innovative and powerful concepts in the work of the Committee on the Judiciary over a period of years, and I am glad to have his support on this legislation.

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

Mr. CHABOT. Mr. Chairman, I would first like to thank the gentleman from Illinois (Mr. HYDE) and the gentleman from Pennsylvania (Mr. GEKAS) for their hard work and leadership in putting this bipartisan, and it clearly is bipartisan, legislation together and moving it forth so expeditiously.

This important legislation will protect consumers and businesses from creditors who are capable of paying their debts but who choose to hide behind bankruptcy protection instead of paying. In particular, this legislation would reestablish the link between one's ability to pay and one's ability to discharge debt by instituting a needs-based reform in the bankruptcy system.

In a time of solid economic growth and low inflation and low unemployment, it is absolutely astounding that there were a record 1.4 million consumer bankruptcies in 1997. This represents a sevenfold increase in the number of consumer bankruptcies since 1978 when the bankruptcy laws were last reformed. These numbers are expected to increase even further this year.

The primary culprit for this dramatic increase in the number of consumer bankruptcies is a system that discourages personal responsibility. Our current bankruptcy laws often allow those who can afford to pay their bills to, instead, declare bankruptcy and walk away debt free.

When someone who can afford to pay their bills does not and they file bankruptcy, who pays? We all do. We all pay for it at about $400 a year per American family in higher prices; and it is, in essence, a tax on the American public, a tax on debt.

Mr. Chairman, I believe that H.R. 3150 makes significant steps in ending this practice, and I hope the President will sign this legislation quickly, although one never knows, so that we can give hardworking American families protection from those who abuse the bankruptcy system and leave others holding the bill. There clearly are many instances in which people truly need bankruptcy. But let us stop the abuses. That is what this legislation does.

Mr. NADLER. Mr. Chairman, could I inquire how much time I have remaining?

The CHAIRMAN. The gentleman from New York (Mr. NADLER) has 2 minutes remaining, and the gentleman from Pennsylvania (Mr. GEKAS) has 3½ minutes remaining.

Mr. GEKAS. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Mrs. TAUSCHER), but with the invitation to return to the floor later for an additional period of time.

Mrs. TAUSCHER. Mr. Chairman, I accept the gentleman's invitation.

Mr. Chairman, I rise to strongly support this legislation to reform bankruptcy. This legislation would change bankruptcy laws to promote personal responsibility, ensure that more of the people who file for bankruptcy repay at least a portion of what they owe.

If, after accounting for all reasonable household expenses each month, the filer has enough money to pay some of his debt, he will be required to do so. This fair and reasonable test protects the most needy while it insists on repayment by the most irresponsible.

The stigma that was once attached to bankruptcy has disappeared. The growing number of filers indicates that people today are less concerned about the social implications of bankruptcy. It is our job to replace that social stigma with legislation that fills the gaps in bankruptcy law and demands responsible behavior by individuals.

I urge my colleagues to support this important legislation.

Mr. GEKAS. Mr. Chairman, I must at the risk of boring the Chair ask how much time is remaining.

The CHAIRMAN. The gentleman from Pennsylvania (Mr. GEKAS) has 2½ minutes remaining. The gentleman from New York (Mr. NADLER) has 2 minutes remaining.

Mr. NADLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, everyone should remember that the debate in this House today is not over personal responsibility. The debate is not over whether people who can pay their debts should pay their debts. Everyone agrees to that.

The debate, Mr. Chairman, is over the measure of the test. That is the first debate. Should it be, as the bill

before us has it, an automatic test with no judge there? Should it be a test that looks not at actual expenses and actual facts, but at what the Internal Revenue Service says in its guidelines might be the facts, not at what your rent is, what your child expenses are, but what the Internal Revenue Service says that for an average person in the Northeast and Southwest of the country it might be?

I submit that this bill does not make sense in saying that we are going to decide how much someone can afford to pay off on his debts by looking at theories as to what his rent might be, what his child expenses might be instead of what they actually are. That is the first question.

The second question is that this bill jumps the line. It takes credit cards and puts them in preference to other debtors, says you cannot have a Chapter 13 plan confirmed unless you can pay $50 minimum for the credit cards. It puts it in preference in practical terms over the child support, over the victims, over the secured debt. It makes no sense except as a reflection of the lobbying and the campaign contributions by the banks and the credit card companies; and that is not the way we ought to distort the law.

Mr. Chairman, I would remind my colleagues that every bankruptcy association, the Bankruptcy College, the Bankruptcy Institute, the trustees, the Chapter 13 trustees, the judges, they all tell us this bill should be rethought and makes no sense.

I would also remind my colleagues the CBO says this is an unfunded mandate in the private sector between $260 million and $1.3 billion and on the public sector of $214 million.

I urge my colleague to think better of it and to vote against this bill.

The CHAIRMAN. The time of the gentleman from New York (Mr. NADLER) has expired.

The gentleman from Pennsylvania (Mr. GEKAS) has 2½ minutes remaining.

Mr. GEKAS. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee (Mr. BRYANT), who has been, whether he knows it or not, an unofficial consultant to me personally on the issues surrounding bankruptcy in all its phases.

□ 1515

Mr. BRYANT. Mr. Chairman, I thank the chairman for yielding time to me.

Mr. Chairman, on this issue of child support, let me reference a letter from the California Family Support Council which speaks directly to this point.

I have been informed that there is some opposition to H.R. 3150 based on the premise that support creditors would be worse off if certain credit card debts were made nondischargeable and credit card creditors and support creditors were in competition for the same post-discharge assets.

I can only say that we are in competition with those creditors prior to bankruptcy now. We do not see debts as impairing our ability to collect support, especially in view of the advantages child support creditors have under current State and Federal laws as outlined above. Our problems stem not from the competition with credit card creditors outside bankruptcy, but from the disadvantages we incur as collectors of support under current bankruptcy law during bankruptcy. Your proposed amendments would give support creditors an enormous advantage over other creditors during bankruptcy and greatly aid us in the discharge of our support enforcement responsibilities.

Mr. Chairman, I urge support of this bankruptcy reform.

Mr. GEKAS. Mr. Chairman, I yield the remainder of my time to the gentleman from Michigan (Mr. SMITH), and he and I will engage in a colloquy.

The CHAIRMAN. The gentleman from Michigan (Mr. SMITH) is recognized for 1½ minutes.

Mr. SMITH of Michigan. Mr. Chairman, I thank the gentleman for his efforts to pass comprehensive and common sense bankruptcy reform that will greatly benefit our economy and our taxpayers by lowering interest rates and increasing availability.

On a particular issue, many States such as my home State of Michigan have experienced a sharp increase in the number of long-term placements of children by court order. Tom Robison, the Eaton County, Michigan, probate court administrator, tells me that the cost of just one placement can be as high as $50,000 per year.

Federal courts have determined that when parents declare bankruptcy, they are currently allowed to discharge the debts owed to that particular court and the taxpayer for the costs of this long-term placement.

I introduced H.R. 3711 last April to specifically state in law that such expenses of caring for children could not be discharged by bankruptcy. I thank the chairman for agreeing to this provision we have asked for to make sure that debts owed to the State and municipality or State court of proper jurisdiction for this purpose are not dischargeable.

I wanted to clarify, however, that the definition of ''municipality'' is meant to include probate courts and other local governmental units that have to pay the cost of this care. For that purpose, I would like to enter into this colloquy with the distinguished chairman of the subcommittee, the gentleman from Pennsylvania (Mr. GEKAS).

Mr. Chairman, I would ask the gentleman from Pennsylvania (Mr. GEKAS), if the term ''municipality'' as defined by section 101 of the Bankruptcy Code includes State courts?

Mr. GEKAS. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Michigan. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. I thank the gentleman, Mr. Chairman, for bringing this issue to full debate here on the floor, and this colloquy. I agree that that is a correct interpretation of the law, and commend the gentleman for bringing the issue as far as it has come. We will work together to consider the full ramifications of the issue before conference.

Mr. SMITH of Michigan. Mr. Chairman, I thank the gentleman.

Mr. DAVIS of Florida. Mr. Chairman, I rise in support of H.R. 3150, the Bankruptcy Reform Act, which, although not perfect, is a strong step in the right direction. The principle behind this legislation is simple. If you can afford to repay some of your debts, you should be required to do so. The fact that in this booming economy there has been a meteoric rise in bankruptcy filings is simply unacceptable. Yes, there are credit companies which unscrupulously dangle credit in front of high-risk consumers; however, the individual must ultimately take responsibility for his or her spending habits.

Protecting the status quo is tantamount to telling all consumers, including low and moderate income families struggling hard to pay their bills, that they will have to continue to pay for the unpaid debts of others, even if those filing for bankruptcy are more affluent and actually capable of paying off some of those debts. Last year, a total of $44 billion in consumer debt was erased through bankruptcy filings. Of course, erasing these debts means transfering that burden to every other consumer—a burden which amounts to roughly $400 for every American household.

While I have concerns over certain provisions included in this legislation, such as the preemption of my home state's constitution with respect to the homestead exemption, I believe it is important to move this process forward and work with the Senate to craft a strong bi-partisan bankruptcy reform bill which returns a sense of personal responsibility to our Nation's bankruptcy system.

Mr. WOLF. Mr. Chairman. I want to express my extreme disappointment with this rule. Representative NADLER had an amendment to this bill which was not made in order. That amendment would have eliminated bankruptcy claims on debts incurred in or adjacent to gambling facilities, or debts that the creditor should have known were intended to be used by the debtor for gambling purposes.

A 1997 SMR Research Corporation study on personal bankruptcy, which I will include for the record, examined the high-risk activities which contribute to bankruptcy. The report reviewed three serious addiction problems in America—drugs, alcohol and gambling—and their effects on personal bankruptcies. Of gambling, the report said, ''It now appears that gambling may be the single-fastest growing driver of bankruptcy.'' It also showed a definite correlation between the presence of gambling facilities and a growth in personal bankruptcies.

The report made a number of recommendations for dealing with the rapid increase in personal bankruptcies related to gambling. The first was, ''Make it tougher for customers to obtain cash advances at gambling casinos.''

Mr. Chairman, Mr. NADLER'S amendment would have been a very important step in stemming the tide of gambling-related bankruptcy. But since it was not made in order, we have been denied the full and open debate that is crucial to better understanding this problem. Therefore, I will vote against this rule.

THE PERSONAL BANKRUPTCY CRISIS, 1997

DEMOGRAPHICS, CAUSES, IMPLICATIONS, & SOLUTIONS

Wild Growth In Filings: More Bad News Ahead.

Age, Income, Education, Population Density, & Geography.

Lawyer Advertising & The Loss Of Stigma.

Why The Tide Of Financial Catastrophes Is Rising.

New Ideas To Reduce Bankruptcy Losses.

THE PURPOSE OF THIS STUDY

In 1996, SMR Research issued a 56-page study on the causes of wildly rising personal bankruptcy filings. We knew the subject was timely, but little did we imagine the media coverage that would follow.

The 1996 study was mentioned in major newspapers and magazines across the land, on television, and even became the subject of two stories in the Wall Street Journal.

Fate is strange. Publicity is nice, but the 1996 study was not exactly a typical SMR production. The explosion in bankruptcies had caused a lot of demand for information from our lending industry clients, especially unsecured lenders. We put together the 56-page piece as a section of our 1996 annual credit card market study, and later offered the bankruptcy section by itself to non-credit card issuers.

Although 56 pages might look big to some folks, it was the shortest research study we have done since 1985. We found ourselves making conclusions in the 1996 study with some statistical backing, but not always definitive proof.

This study, by contrast, is indeed a standard SMR Research work. The scope is much greater, and allows us to cover the subject completely, with a meaty section on solving (or at least mitigating) the personal bankruptcy dilemma. Where the 1996 study focused solely on some of the core causes of bankruptcy, this study covers the full nature of the problem.

We look at the common misperceptions about bankruptcy and provide the statistics that show why they are such vast over-statements. Unemployment is not the primary driver of bankruptcy, nor is the overall consumer debt load. Lender marketing and easy credit also are not the prime cause.

In fact, there is no single prime cause of bankruptcy. In this study, you'll see coverage of many things that result in bankruptcy, with some quantification of which ones are the worst. The additional space allows us to cover things we couldn't cover last year, like the connection between bankruptcy and gambling—perhaps the fastest-growing problem of all.

In addition, this study, for the first time we know of, shows the demographics of bankruptcy, using our county-level statistical database that goes back to 1989.

Regarding solutions to the problem, they are not easy. The bankruptcy spike is based at least in part on serious, intransigent, worsening socio-economic problems. This underlying core puts upward pressure on filings, and the upward pressure really explodes when you throw lawyer advertising and bankruptcy's loss of social stigma into the mix.

Still, we are quite confident that there are steps available to creditors to help control their own bankruptcy loss exposure. We think the best solution of all may be the most radical, which is for creditors to adopt some of the risk-control techniques of the insurance industry. This would mean using actual geographic loss statistics as a supplemental aid in credit scoring, pricing, and marketing. This material appears starting on Page 157.

SMR has been following the bankruptcy subject, and has been building its databases of filings, for eight years. After all that time, we finally have created a research study that we believe addresses all the central issues in the bankruptcy crisis.

We appreciate your patronage and hope you get good value from the research.

STU FELDSTEIN,
President.

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GAMBLING AND BANKRUPTCY

It now appears that gambling may be the single fastest-growing driver of bankruptcy.

Once limited to Nevada and New Jersey, casino gambling has spread very rapidly through many states. Indian reservation casinos have been one new mode for this growth, and riverboat and coastal gambling boats have added more.

If you have not been tracking the spread of gambling, you may be in a shock about how pervasive gambling facilities have become.

Note that in the state of Nevada, there are only 17 counties (most of them very large). But across the nation, there are now 298 counties that have at least one major legal gambling facility; a casino, a horse or dog racing track, or a jai alai game. That's the count in one recent guide to U.S. gambling facilities, and it does not include such things as places where state lotteries or bingo parlors are available. The lotteries and bingo parlors tend to involve small-ticket gambling, whereas the other facilities obviously involve the larger dollars per customer.

THE THREE ADDITIONS & CHANGED MORES

When we published our shorter study on the causes of bankruptcy in 1996, we had suspicions about gambling. But we had not yet put together enough solid data and information to make conclusions, therefore we said little about the subject.

Actually, since we were looking at events that can cause insolvency, we were suspicious in 1996 about all three of the serious addiction problems in America: alcoholism and drug and gambling addiction. We remain suspicious about all three of those problems. But of the three, it's quite clear that gambling is the fastest-growing phenomenon.

For those who make and supply alcohol, drugs, and gambling, all are very large businesses. But you don't have to be a sociologist to see that societal mores are changing most rapidly on gambling. Over the last 20 years, state governments themselves have entered the gambling business with lotteries. We see no states as yet that have gone into the heroin trade or where the government itself advertises Jim Beam. So, the concept of gambling now has the tacit blessing of government.

Meanwhile, private entrepreneurs have created dazzling and sophisticated facilities that have eliminated the ''sleaze'' from gambling and turned it into a recreation. Las Vegas is now a city-sized adult theme park with attractions for the kids, too. American Indians, operating on reservations beyond the authority of state laws, have seized on casinos as a new method to generate cash and improve their standard of living. Cruise ships of all sorts have set up table games and slot machines.

Hard-bitten gamblers of old played poker at tables in a friend's kitchen or sat in cold bleachers to watch the horses. Today's gamblers enjoy the finest food, free drinks, the best entertainment, super-quality hotels, and the widest variety of gambling adventures that have ever been available. And, of course, all of this now happens at places much closer to most of the larger population centers. Gambling can indeed be fun these days—but some smallish percentage of gamblers do develop problems that translate into bankruptcy.

STATISTICS, GAMBLING, AND BANKRUPTCY

As in so many aspects of bankruptcy, perfect data related to the gambling problem don't exist. No one has asked all the bankruptcy filers if gambling contributed to their financial problems, and we strongly suspect that if filers were asked that question, many would be too embarrassed to answer honestly.

But we can look at evidence in many other ways. Recently, for example, we input into our county-level records the numbers of gambling places that exist in each county, if any. We obtained the information, covering more than 800 casinos, race tracks, and jai alai ''frontons'' from the 1997 edition of The Gaming Guide: Where to Play in the US of A, published by Facts on Demand Press of Tempe, AZ. The directory provides street addresses and zip codes for the gaming establishments. We used the zips against SMR's Zip Code/County Matching database to put the right numbers of facilities in the right counties.

Then, we aggregated the bankruptcy rates of those places and compared them to those of counties that have no gambling at all. The bankruptcy rate was 18% higher in counties with one gambling facility and it was 35% higher in counties with five or more gambling establishments.

This exercise probably understates the seriousness of the problem, since many counties that have gambling facilities also have very small populations and actually draw their customers from other places.

So, when we look only at counties with more sizeable resident populations and gambling facilities, we see even greater evidence of the problem.

A LOOK AT THE MAP

The effect of gambling on bankruptcy seems quite clear when you look at a map. Among all the counties in Nevada, for instance, we find that the closer you come to Las Vegas and Reno, the higher the bankruptcy rate.

In New Jersey, casinos are permitted only in Atlantic City—and that's also where the resident population has by far the highest bankruptcy rate. Generally speaking, the closer you come to Atlantic City, the higher the bankruptcy rate in New Jersey. One exception to this rule is Cape May County, just south of Atlantic City, where the bankruptcy rate is not so high. But Cape May also is a big retirement place with a high average age in the population. As shown in our demographics section, high-age populations do not have high bankruptcy rates.

In California, the two counties with the highest bankruptcy rates are Riverside and San Bernardino. They also happen to be the two counties closest to Las Vegas. The

fourth-highest bankruptcy rate in California is in Sacramento County, which is closest to Reno.

In Connecticut, the map hardly matters. Connecticut is so tiny that everyone has access to the gambling parlors in the middle of the state. This is a state that used to have a bankruptcy rate far below the national average. But Indian casino gambling is now huge and well-entrenched. The smaller of the Indian casinos, the Mohican Sun in Uncasville, boasts 3,000 slot machines. In Connecticut, the bankruptcy rate per capita has risen more than twice as fast as the national rate of increase since 1990.

WHAT THE EXPERTS SAY: SCOPE OF THE PROBLEM, AND THE CREDIT CARD CONNECTION

Aside from these observations, we set out this year to interview many of the leading U.S. experts on gambling, gambling addition, and the financial impact of gambling.

Their studies have suggested, fairly consistently, that more than 20% of compulsive gamblers have filed for bankruptcy as a result of their gambling losses. They also show that upwards of 90% of compulsive gamblers had used their credit card lines to obtain funds for gambline and then lost. The same studies show that problem gamblers have a lot of credit cards on which to draw.

''One of the things we know about problem gamblers is that they tend to have lots and lots of credit cards and those credit cards have been maxed out in terms of their credit limits,'' said Rachel Volberg, one of the leading researchers into problem gambling in the U.S. and internationally. Volberg is president of Gemini Research, a consulting firm in Roaring Spring, PA. She is a frequent ''expert witness'' on the problem in state legislative hearings and has done research under contract for various government units in Oregon, Colorado, New York, California, Michigan, Mississippi, Georgia, Louisiana, Iowa, Connecticut, and Canadian provinces.

Volberg is not the only researcher to note the connection with credit cards. ''It's not unusual for problem gamblers to have eight to 10 credit cards,'' adds Henry Lesieur, professor of criminal justice at the University of Illinois, Normal, another leading authority on compulsive gambling.

The amount gamblers owe is quite large. According to studies of Gamblers Anonymous members in Illinois conducted in 1993 and 1995 by Lesieur, the median average lifetime gambling debt of those surveyed was $45,000, and the median amount owed at the time they entered GA was $18,000. The median is the midpoint of a list of numbers, with 50% of the numbers being higher and the other 50% being lower.

However, the mean average debts of problem gamblers were far higher than the median amounts. The mean average lifetime gambling debt of those surveyed was $215,406, with three people saying they owed $1 million or more. The mean debt upon entering GA was $113,640, including one person who said he owed $1 million and another admitting to owing an incredible $7.5 million.

In another study dated April 1996 by the University of Minnesota Medical School, a survey of problem gamblers in Minnesota found the average lifetime gambling debt was $47,855, although individual amounts ran into the hundreds of thousands of dollars. The median amount was $19,000. Recent debts—those accumulated in the past six months—averaged $10,008, while the median amount was $4,500.

In late 1995, the Minneapolis Star Tribune examined 105 bankruptcy filings made in that city in which it was determined that gambling was a factor. The results of the study appeared in a five-part series that ran in the paper in December 1995.

The newspaper found that of the $4.2 million of total debt declared by the 105 filers, $1.14 million—or 27%—was comprised of gambling losses. Almost half of the 105 filiers—52, to be exact—claimed they had gambling losses. Their average debt was $40,066, which was more than the average annual income of $35,244. The average gambling loss was more than $22,000. Filers carried an average of eight credit cards, although many had 10 or 15 cards and one person had 25. And heavy debts were being carried on each card.

COUNTIES WITH GAMBLING HAVE HIGHER BANKRUPTCY RATES

Let's return to the county-level data. In the table that follows, we divided up the country amount counties with gambling facilities and those without. The differences in bankruptcy rates between them are striking. It's quite clear that those counties with legal big-ticket gambling have higher bankruptcy rates than those counties that don't have gambling, and those counties with many gambling houses have higher bankruptcy rates than those places with just a few.

We examined more than 3,100 counties. For the entire United States, the personal bankruptcy filing rate per 1,000 population in 1996 was 4.20. But the national rate for purposes of comparison to counties was 4.22 (using 1996 bankruptcies divided by 1995 populations; the 1996 county populations were not available when we did this analysis). For the 2,844 counties without gambling, the bankruptcy rate was lower, at 3.96.

According to The Gaming Guide, there were 298 counties that had legalized gambling within their borders. In these counties, the bankruptcy filing rate in 1996 was 4.67, or 18% higher than for those counties with no gambling. When we subdivide the universe of counties with gambling between those with five or more locations and those with four or less, we learn more. The places with the most gambling facilities have a much higher bankruptcy rate.

Of the 298 counties with gambling, 275 had only one to four facilities. Their combined 1996 bankruptcy filing rate was 4.53 per 1,000 residents, or 14% greater than the 3.96 rate among counties without gambling. However, in the 23 other counties with five or more gambling facilities, the combined bankruptcy rate was 4.33, a whopping 26% higher than the 4.22 national bankruptcy rate and 35% higher than at counties with no gambling at all. Many of these counties with 5+ gambline facilities are in Nevada, but most of them are not.

BANKRUPTCY FILING RATES IN U.S. COUNTIES WITH GAMBLING FACILITIES VERSUS COUNTIES WITH NO GAMING ESTABLISHMENTS

[Gambling facilities include land, tribal, and boat casinos; dog, horse, and harness race tracks, and jai alai frontons]

	No. of counties	Aggregate population	1996 bankruptcy filings	1996 filings per 1000
All Counties with Gaming Facilities	298	97,385,935	454,384	4.67
Counties with 5+ Gaming Facilities	23	16,391,661	87,435	5.33
Counties with 1–4 Gaming Facilities	275	80,994,274	366,949	4.53
Counties with No Gaming Facilities	2,844	166,526,572	658,724	3.96
All U.S. Counties	3,142	263,912,507	1,113,108	4.22

Again, these data tell only part of the story, since some gambling parlors (especially tribal casinos) are located in thinly populated places and draw almost all their customers from other places.

So, it's important to also look at more populous areas located very near to gaming facilities. Indeed, not only do many gambling facilities draw from other nearby population centers within the U.S., but in addition there are many legal casinos in several Canadian provinces. These often are located just beyond the U.S. border and cater to American gamblers in the Detroit area, upstate New York, and other northern states.

Thus, we believe many counties have high bankruptcy rates tied in part to gambling, yet the county doesn't register in our table as a ''gambling'' county. If we included counties contiguous to those places with legalized gambling, we're sure the numbers would show an even stronger correlation between high bankruptcy rates and gambling. The following mini study of the Memphis, TN, area illustrates our point.

LAS VEGAS EAST: WOULD YOU BELIEVE IT'S TUNICA COUNTY, MS?

In the table below, we show the 24 counties in the U.S. with the worst U.S. bankruptcy filing rates in 1996 (10.0 or more filings per thousand residents) and where the population is greater than 25,000.

A significant number of these worst places share one trait—all are within easy reach of major gambling casinos. This is true of just about all of the counties on the list that are located in Tennessee, Mississippi, and Arkansas.

Neither Tennessee nor Arkansas has legal casino gambling within its borders. In fact, neither state even has a lottery, for that matter. Yet, several of their biggest counties are located near the 10 major riverboat casinos in Tunica County, MS. Tunica is located in the extreme northwest corner of Mississippi, just south of Memphis, TN. According to The Gaming Guide, Mississippi has the largest amount of ''gaming area''—that is, square feet of casino gambling—in any state outside Nevada. And most of that gaming is centered in Tunica County. Major casinos are also located in the Biloxi-Gulfport area on the Gulf of Mexico.

The profusion of super-high bankruptcy rates among the counties located near the Mississippi River casinos in Tunica County is quite remarkable. Indeed, the counties in the tristate area within the Memphis metropolitan area have some of the highest personal bankruptcy rates in the nation. We view their close proximity to the Tunica casinos as very meaningful.

Shelby County, TN, where Memphis is situated, easily had the highest county bankruptcy rate in the nation in 1996, at 17.28 per 1,000 population—more than four times the national average. It's also by far the biggest county in terms of population among the most bankrupt counties. Memphis also happens to be the headquarters of Harrah's, one of the biggest casino operators.

Also on the list of worst counties are two Mississippi counties. DeSoto, with a December 1996 filing rate of 10.65, borders Tunica County. Marshall County, at 11.47, is adjacent to DeSoto. Tunica County itself, the

likely source of some of this trouble, has a population of just 8,132 souls, and a bankruptcy rate of just 5.78, less than the state average of 6.16.

Also high on the list of most bankrupt counties is Crittenden County, AR, at 11.16. It's the county located just across the Mississippi River from Shelby County. Tipton County, TN, at 10.96, is adjacent to Shelby County on the north. Madison County, TN, at 10.73, is located just east of Shelby. But other counties located near Shelby in Tennessee sport high bankruptcy rates, including Haywood, Lauderdale, Fayette, and Crockett, to name a few. These counties don't appear on our list of worst counties because their populations were less than 25,000.

The Tunica casinos aren't the only ones catering to Tennessee residents. There's also a casino located upriver in Caruthersville, MO, in the state's southeastern panhandle. It may be part of the reason for the 10.56/1,000 bankruptcy rate in Dyer County, TN, which is located just across the river. Also, Gibson County, TN, just east of Dyer, has a bankruptcy filing rate of 10.12. It's worth mentioning that both Dyer and Gibson Counties are also both within a two-hour drive of the Tunica casinos.

The next table shows that 9 of the 24 U.S. counties with the highest bankruptcy rates in 1996 also were places located very close to three gambling sites.

COUNTIES WITH HIGHEST BANKRUPTCY FILING RATES, 1996

[Minimum population 25,000]

County name	Code	Population	Filings	Filings per 1000
Shelby County, TN	1	865,058	14,952	17.28
Coffee County, GA		32,697	432	13.21
Jefferson County, AL		657,827	8,124	12.35
Bibb County, GA		135,066	1,912	12.33
Troup County, GA		57,882	705	12.18
Walker County, GA		60,654	705	11.62
Marshall County, MS	1	32,078	368	11.47
Crittenden County, AR	1	49,889	557	11.16
Clayton County, GA		198,551	2,209	11.13
Liberty County, GA		58,749	650	11.06
Coweta County, GA		72,021	789	10.96
Tipton County, TN	1	43,423	476	10.96
Murray County, GA		30,032	325	10.82
Madison County, TN	1	83,715	898	10.73
Baldwin County, GA		41,854	448	10.70
DeSoto County, MS	1	83,567	890	10.65
Dyer County, TN	2	35,900	379	10.56
Manassas city, VA		32,657	333	10.20
Gibson County, TN	2	47,728	483	10.12
Scott County, MS	3	25,042	253	10.10
Rhea County, TN		26,833	271	10.10
Talladega County, AL		76,737	774	10.09
Spalding County, GA		57,306	575	10.03
Ware County, GA		35,589	357	10.03

Key to Codes: [1] Located near casinos in Tunica County, MS; [2] Located near casino in Caruthersville, MO; and [3] Located near casino in Philadelphia, MS.

MORE EXAMPLES

Of course, scenarios like this can be seen in other areas of the country. Atlantic County, NJ, is a leading example. It is home to all of that state's legalized gambling casinos, and the 1996 bankruptcy rate was 7.10 filings per 1,000 residents. That was 71% higher than the state average bankruptcy rate of 4.16. And most of the time, counties located closest to Atlantic had higher bankruptcy rates than others further away.

Of course, Atlantic City draws customers from all kinds of places, including many from New York City. Our point is that the resident population in a gambling county has the easiest and most frequent opportunity to use the facilities, therefore we should expect to see some result in the per capita bankruptcy rate.

Similarly, the 1996 bankruptcy rate in Nevada is more than 50% higher than the national average. In Clark County, where Las Vegas is located and where more than half of the state's more than 300 casinos are based, we see the highest bankruptcy rate within the state. Nor is it surprising that the two counties with the highest bankruptcy rates in California are those just across the border from Las Vegas, San Bernardino (7.04) and Riverside (6.77). Those two counties also now have tribal casinos of their own.

Moving to Maryland, Prince Georges County has by far the highest bankruptcy rate among counties in that state—6.72 filings per 1,000 population in 1996, almost 50% higher than the state average of 4.57. By way of comparison, the next highest county bankruptcy rate in Maryland is 5.27, a significantly lower figure. What's going on in Prince Georges?

The answer is that Prince Georges is the only county in Maryland where casino gambling is legal. Legal casinos are located at charitable organizations, such as Elks and Knights of Columbus halls and volunteer fire departments. These casinos have strict limits on operating hours and betting and don't have the glitz of Las Vegas or Atlantic City, yet they do now exist and the casinos are used. Prince Georges County also has harness racing.

GAMBLING & LOW-BANKRUPTCY STATES: WOULD THEY BE EVEN BETTER WITHOUT IT?

All of the prior information is highly suggestive that gambling influences bankruptcy. Yet, as all the rest of this study shows, there are many other bankruptcy drivers. Therefore, the correlation between bankruptcy and the physical location of gambling facilities is certainly imperfect.

There are some states, for instance, where there are gambling facilities, yet the bankruptcy rates are reasonably low. These states include South Dakota, Minnesota, and Iowa—all located in the moderate bankruptcy ''corridor'' of the upper Midwest.

It's hard to tell in these areas whether gambling has no effect on bankruptcy, or if, on the other hand, bankruptcy would be even less of a problem without the casinos. The Minnesota university study referenced earlier in this section suggests that bankruptcies in that state are caused at times by gambling.

Indeed, the notion that gambling is a major negative for bankruptcy in all geographies is supported by information from our interviews and from a lot of local newspaper articles we have reviewed. The actual gambling debts may have become credit card debts prior to the filer entering bankruptcy court, but that doesn't change the cause of the financial trouble. The following material will add more from this review of experts and news articles.

QUANTIFYING THE PROBLEM: 10 PERCENT OF FILINGS MIGHT BE LINKED TO GAMBLING; 20 PERCENT OF PROBLEM GAMBLERS GO BANKRUPT

Articles we studied, often quoting attorneys who specialize in personal bankruptcy, suggested that about 10% of bankruptcy filings are linked to gambling losses. That figure could be higher depending on location. Most of the debt is racked up on credit cards.

According to the experts on compulsive gambling with whom we talked, no comprehensive national study on problem gambling has been conducted in the U.S. since the early 1970s. However, several state studies have been done, all concluding that 20% or more of compulsive gamblers were forced to file for bankruptcy protection because of the losses they had incurred.

In the April 1996 study of compulsive gamblers in Minnesota conducted by two professors at the University of Minnesota Medical School, the researchers reported that 21% of the people in the study had filed for bankruptcy. In addition, a disturbing 94% said they had at least one gambling-related financial problem in their lifetime. Furthermore, 9 out of 10 of the subjects said they had borrowed from banks, credit cards, and loan companies to finance their gambling. And, 77% said they had written bad checks to finance gambling sprees.

The University of Illinois in Normal conducted two surveys of members of Gamblers Anonymous in 1993 and 1995. The combined results found that 21% had filed for bankruptcy, and that another 17% had been sued for gambling-related debts. Additionally, 16% said their gambling led to divorce—another big driver of bankruptcy filings—and another 10% said it led to separation. Compulsive gamblers also have very high rates of attempted suicides, higher even than for drug addicts, the experts said.

Rachel Volberg, the Pennsylvania-based compulsive gambling consultant we referenced earlier, told us that a study in Wisconsin had found that 23% of compulsive gamblers had filed for bankruptcy, and that 35% of the gamblers said they had used credit cards for gambling money. She also said a study conducted in the Canadian province of Quebec found that 28% of problem gamblers there had sought bankruptcy protection.

One of the really scary things about these studies is that they are conducted only with people who had sought out professional help for gambling addiction. So, there may be other problem gamblers at risk, too.

According to several lawyers specializing in bankruptcy who were quoted in newspaper articles that we studied, 10% to 20% of their clients did so due to gambling debts they couldn't pay. These lawyers were located in

areas near casinos, so the 10% to 20% figures probably doesn't hold for the U.S. population at large. Nevertheless, its probably not a stretch to say that at least in those areas near major casinos, gambling-related bankruptcies account for a good 10% to 20% of the filings.

THE EXPLOSION IN IOWA

It's also not a stretch to say that the number of people with financial problems stemming from gambling is on the rise, tracking the spread of legalized gambling.

Tom Coates, executive director of the nonprofit Consumer Credit Counseling Service of Des Moines, IA, told us that 10% to 15% of the people his agency counsels have financial problems ''directly related to gambling.'' That's up dramatically from 2–3% when the agency opened its doors 10 years ago, before casino gambling was legalized in Iowa. Coates also told us that his service's business is up 30–40% over a year ago, at a time when Iowa's unemployment rate is at an all-time low and its economy stronger than the nation's at large. He blames gambling for much of the surge.

Probably, much of what we've reported about problem gamblers will not surprise the experienced credit executive. People with gambling addiction are rather obviously at risk to lose a lot of money. But how many such people exist? And how many gamble occasionally? Let's take a look at the numbers, below.

2.6 MILLION ADULTS MAY HAVE A GAMBLING PROBLEM

According to the most recent statistics released by the American Gaming Association, the casino industry's trade group, U.S. households made 154 million visits to casinos in 1995. That number was up 23% from the previous year and up an astounding 235% from 1990.

The AGA said 31% of U.S. households gambled at a casino in 1995, up from just 17% in 1990. ''Gaming households,'' as the AGA calls them, also made an average 4.5 trips to casinos in 1995, up from 3.9 times the year before and 2.7 in 1990.

Of course, it is difficult to pinpoint how many of these people have a problem or compulsion—terms that can be a matter of degree or interpretation. Most estimates range from 1% of the adult population to as high as 7%.

The University of Minnesota study estimated that 1% of the state's entire population were ''problem pathological gamblers,'' meaning that they lose control and continue gambling in spite of adverse consequences. If this 1% figure were true for the entire U.S. population, it would represent about 2.7 million people at risk.

The gaming industry itself says that 2% to 4% of practicing gamblers develop compulsion problems. Since 31% of households gambled at a casino in 1995, the 2% to 4% range would yield numbers very similar to the Minnesota study. (31% of 265 million people = 82.15 million 3% = 2.5 million compulsive gamblers.)

Needless to say, people don't become compulsive gamblers until they're first exposed to gambling. Therefore, the rapid spread of casino gambling right now is a major concern.

Coates, the credit consultant, told us that Iowa commissioned a study of problem gambling in 1989, two years before the state's first riverboat and Indian casinos opened. In that study, it was estimated that 1.7% of the state's adult population were compulsive gamblers.

In 1995, by which time many casinos had dotted the state, Iowa did a similar study. Using the same methodology, the second study found that 5.4% of the state's entire adult population—not just the population that gambles—were problem or compulsive gamblers, a more than tripling of the rate in just six years.

LOSING EVERYTHING IS COMMON

For creditors, another problem with gambling-driven bankruptcy is that it is highly likely to result in total loss.

Even though most bankruptcy filings will represent near-total loss of amounts owed to unsecured creditors, the gambling-driven bankruptcies may be the worst. That's because addicted gamblers tend to ''tap out'' completely on debt and deplete savings, leading them into Chapter 7 liquidation.

These are logical observations, but also are supported by findings in a July 1996 study conducted in Wisconsin. We reviewed this study.

DEALING WITH THE GAMBLING ISSUES

Like so many of the drivers of bankruptcy, gambling is a frustratingly tough problem to solve.

Casino gambling is spreading rapidly in part because so many people enjoy it. Most gamblers also are responsible and know their limits. People like gambling and most do it safely, so how do you argue against the further spread of casinos?

The central problem for bankruptcy is that gambling adds another socio-economic minority group to the high-risk mix.

Bankruptcy is always driven by socio-economic and demographic minority groups. Most people have health insurance, but the 40 million Americans who don't are a large high-credit-risk minority. Most people don't get divorced, but the 10% of adults who are divorced are a sizable at-risk minority. If there also are 2.6 million compulsive gamblers, this is just another high-risk group to throw in—and perhaps the most rapidly growing group. Bankruptcies are rising in part because, when you add up all these at-risk minority groups, you end up with a very large number that's no longer minor.

Still, we believe that much could be done by active creditors to combat the level of the risk. At the moment, if anything, creditors enable and even encourage the problem gambler to go too far. And some state governments seem even more eager than the casinos themselves to encourage irresponsible gambling behavior—as we'll see in a moment in New Jersey.

Here are some of out thoughts on combating the gambling/bankruptcy problem:

1. Make it tougher for customers to obtain cash advances at gambling casinos.

According to the gaming industry itself, more than half of the money that gamblers play with at casinos is not money they brought with them. It is money they obtained inside the casino or close by from automated teller machines, cash advances from credit terminals, and the like.

''It is no secret in the casino industry that patrons will continue to play a game until their cash runs out. What some operators have discovered, however, is if a consumer is provided with efficient and easy ways to access cash, often a 'last time' player will wager for longer than he or she originally planned,'' states a recent article about cash advances in International Gambling and Wagering Business, a gaming industry monthly magazine. In addition, the article says, ''credit customers tend to be more liberal money-users.''

Credit card issuers have been very accommodating to gamblers, making it easy for them to get their hands on large sums of money very quickly. And it may well be that most of this business is profitable for the card issuers. But that may be changing now. In an era of very rapidly increasing bankruptcies, it does not take long for the net losses from bankruptcy filers to exceed the profits from gamblers who responsibly use their cash advances.

Here is some admittedly over-simplified card issuer math: Let's hypothesize that 1,000 gamblers have used credit card cash advances to obtain $1,000 each. Total receivables for this group will be $1 million. At a 1.5% return on assets, this $1 million will generate $15,000 of net income.

But the gaming industry itself says that 2% to 4% of these gamblers have an addiction problem. If the average is 3%, then 3% of the 1,000 gamblers we've just looked at are very high risk. This will be 30 people. If, as the earlier data suggests, 20% of these 30 people will file for bankruptcy, then 6 of the original 1,000 gamblers will wind up in bankruptcy court. Against the $15,000 of net income, what will the loss be from the 6 bankrupt compulsive gamblers? Probably, it will be more than $15,000—or at least close enough to make this little piece of the credit card business insufficiently profitable.

This tells us that card issuers and the ATM associations they partially control may want to reconsider their placement of so many cash machines in casino hotels. Or, at least, card issuers may need to institute new early warning indicators specific to those locations. The heavy users of casino hotel cash machines should be the ones stopped sooner.

''If I were a credit guy, I would check better on the ATM transactions,'' said Edward Looney, executive director of the Council on Compulsive Gambling of New Jersey. ''Banks ought to immediately pick up on someone in trouble. You can tell just from the transactions.'' Coates was quoted in the Des Monies Register newspaper in late 1995 claiming that banking sources told him that eight of the 10 busiest ATMs in Iowa were located at the casinos.

2. Help defeat actions in states that would make it easier for gamblers to get credit card cash advances on casino floors.

Here is perhaps the craziest credit risk story yet.

In New Jersey last September, the state Casino Control Commission passed a regulation that would allow casino patrons to utilize ATM and credit card cash advance machines placed right at the Atlantic City gaming tables.

Previously, customers had to walk to a different part of the building to use these machines. Under the new proposal, borrowing for blackjack would be faster than ordering a drink from a cocktail waitress. Not even Las Vegas casinos allow this. And, the Atlantic City casinos themselves don't support the measure, which they believe would lead to increased gambling compulsion and would tarnish the industry's reputation.

In other words, the state government is more eager to push money into the gambler's hands than the casinos who would profit most in the short run. What's wrong with the New Jersey regulators—and why didn't the banking industry object?

So far, no Atlantic City casino has taken advantage of the rule change, nor is any likely to in the future, said Keith Whyte, director of research at the American Gaming Association, the industry's trade group.

''We definitely opposed in principle New Jersey's regulatory rule change that would let casinos put ATM card swipes right at the table. And in fact no casinos are doing that, and none will, I can almost guarantee you.'' Whyte told us. ''It wasn't a casino-initiated thing. Everybody [in the industry] realized that is probably not a step we would want to take.''

According to Looney, the New Jersey Compulsive Gambling Council chief, not a single credit card or banking industry representative raised any objection to this rule when it

was being debated. Yet, Atlantic City has the highest concentration of big casinos outside Las Vegas and serves millions of gamblers per year. You get the feeling no one in the credit community is paying close attention to gambling's effect on bankruptcy.

3. Maybe cash machines should be move out of the casino hotels entirely.

Many of the experts we talked to for this study agreed that the worst thing for a compulsive gambler to have is immediate access to cash when he's on a binge. To the extent that banks control or influence where cash machines are placed, it may be time to reconsider their currently wide availability around the casino hotels.

If the gambler had to walk down the street to get cash, no doubt some would. But some of the people we interviewed strongly contend that the walk itself would impose a ''cooling off' period that would stop some compulsive gambling losses.

''It's a vulnerable thing for a compulsive gambler to get credit,'' said Looney of the New Jersey council and himself a recovering gambling addict. ''They will be so focused on their gambling that they will gamble everything they can, including all the credit cards they have in their possession. It is important to have ATM and credit card terminal at least some distance form where gambling actually takes place. To some this might seem a small point, but to those of us who deal with compulsive gamblers, this is huge. For many compulsive gamblers, just being forced to walk a couple of hundred feet away from where the gambling is actually taking place is sufficient time for them to rethink whether they really want to gamble any further. That break from gambling is a crucial time for many.''

4. Challenge more aggressively those bankruptcy filings where it appears that gambling losses are the main reason why the person is filing.

Inside the bankruptcy court, at least some folks contend, creditors should be even tougher on gamblers than they already are.

''I think lenders should push for slightly different treatment [in bankruptcy court] for someone who has been shown to run up his debts for gambling,'' said Tom Coates, the Des Moines credit counselor. Credit card lenders would not only be helping themselves but doing the problem gambler a favor, too, he noted.

Coates, who recently testified before the National Bankruptcy Commission, tried to impress on the panel that discharging gambling debts through a bankruptcy filing doesn't do the gambler any good. ''I tried to impress on the Commission that the compulsive, problem gambler is living in a fantasy world and to go ahead and discharge this debt in bankruptcy court continues to propagate this atmosphere of fantasy land. It will abort the recovery process for that individual. The process of recovery is to bring that person our of their fantasy world into the world of reality, and by discharging those debts, none of it seems real to them.''

Indeed, in a recent article in the St. Louis Post-Dispatch about gambling and bankruptcy, one gambler was quoted counseling another with money troubles: ''Go file bankruptcy. Then you'll have money to gamble with.''

U.S. credit card issuers should consider lobbying to change U.S. bankruptcy laws to make it illegal for people to discharge gambling debts in bankruptcy court. That is the current law in Australia, according to Henry Lesieur, the University of Illinois professor. Of course, the care issuers would have to be able to prove that a card cash advance was used for gambling purposes, which might often be difficult. On the other hand, if the law were changed, perhaps filers who lie about gambling losses would risk penalties, so at least some might be honest.

5. Finance research into problem gambling and finance help for compulsive gamblers.

From time to time, creditors provide funds to all sorts of charitable outfits. If they helped finance research into compulsive gambling, such spending would play a dual role. It would be a public contribution, and it would help creditors learn more about the seriousness of the tie between gambling and bankruptcy.

Quite a bit of money is spent on alcohol and drug addiction research and rehabilitation. Both of those problems are viewed (at least by some people) as medical. Apparently, the public view toward gambling addiction is quite different. There's no drug involved, and little is spent on research or rehab. Yet, gambling addiction can indeed be viewed as a form of emotional or mental illness—and it's the one addiction that is growing most quickly in its impact on creditors.

In our research for this study, we found very little new research being conducted on compulsive gambling. The experts we interviewed said that no national survey of compulsive gamblers has been done in more than 20 years; only a handful of studies have been done by various states from time to time. Much of the available research has been done in academia with modest financial support, and it gets little followup attention.

Card issuers spend millions on sporting events, the Olympics, and even on the Smithsonian museums (Discover Card). These expenditures have a marketing value. A fractional amount diverted to gambling research could have an even better bottom line impact.

Ms. KILPATRICK. Mr. Chairman, I rise today in strong opposition to H.R. 3150, the Bankruptcy Reform Act of 1998. This legislation does nothing to address the aggressive marketing of credit cards, home equity loans, and other forms of credit to consumers. While we all support individual responsibility, this bill makes it even tougher for persons to eradicate their debts and get started on a new financial slate.

First of all, I must inform my colleagues that, many, many years ago, I had to file for bankruptcy. For me, the debate on the floor today is no hypothetical, nor theoretical, exercise. Fortunately, I was able to repay my creditors and get back into excellent fiscal standing. But having to go through the wringer of bankruptcy has helped me better form an opinion on how we can better serve both debtors and creditors. H.R. 3150 is not that bill. Among other things, H.R. 3150 includes a means-test to determine whether a family can file for bankruptcy protection that eliminates debts and gives families a fresh, new financial start, commonly referred to as ''Chapter Seven,'' or whether the family must enter into a stringent repayment plan, referred to as ''Chapter 13.'' Most of our constituents who have to file for bankruptcy will have this fact listed on their credit report for at least seven years. Although a family may have their debts eliminated, for the next seven years it is difficult, if not impossible, to rent a car, rent a house or apartment, buy a business, or sometimes get a job. Having a bankruptcy filing listed on your credit report is tough to remove and tough to live with.

During House Rules Committee consideration of this bill, I offered an amendment that was not made part of this debate. My amendment would have allowed consumers to keep those electronic entertainment items that were purchased three months before the filing of a bankruptcy, and has a value of $500.00 or less. Certainly, a person knows at least three months in advance of a bankruptcy filing that he or she is in severe financial straits. My amendment would have also allowed for the disposition to creditors of recently-purchased electronic entertainment goods that have a higher value. While my amendment did not recognize fax machines or personal computers into this equation, we certainly know the volatility of the prices of these electronic goods. A computer that was purchased a year ago for $3,000 is now worth less that half that. Along those same lines, computers purchased years ago are now worth less than $1,000, and in many instances, you cannot even give them away. My amendment sets a limit of $500 to be consistent with the rest of current bankruptcy law. Unfortunately, it was not accepted by the House Rules Committee.

Bankruptcy is a very personal, dehumanizing, and emotionally draining experience. Despite the great strides that our economy, in general, has made with record unemployment and a stock market soaring into the stratosphere, bankruptcies are hitting all-time highs. It is important that we protect consumers and creditors. Unfortunately, the Bankruptcy Reform Act of 1998 does not protect consumers or creditors, and the wisdom of Congress should prevail in the defeat of this onerous bill.

Mr. POMEROY. Mr. Chairman, my vote today on behalf of H.R. 3150 is a vote to advance the process of bankruptcy reform in this Congress. I strongly believe that there is a need to reform our nation's bankruptcy laws. Passage of H.R. 3150 will allow bankruptcy reform efforts to proceed in the Senate and will move us toward our ultimate goal of sensible, responsible bankruptcy reform. I am disappointed that my vote does not also represent wholehearted support for the bill before us, but I believe that a number of the provisions of H.R. 3150 are flawed and must be revisited as the process continues. If these flaws are not remedied in our negotiations with the Senate, I will be unable to support a final conference agreement.

My primary concern with H.R. 3150 is that it would endanger the payment of child support and alimony by those who have declared bankruptcy. While the bill does not directly reduce the priority of child support obligations, it does increase the rights of other creditors such as credit card lenders, setting up a competition for scarce resources between mothers and children owed support and commercial credit card companies. Under Chapter 7 proceedings, mothers and children entitled to alimony and child support will have to compete with new categories of nondischargeable debt. Under Chapter 13 proceedings, these individuals will have to compete with the required $50 monthly payment to non-priority unsecured creditors such as credit card companies. I fear that mothers and children will lose out in these contests.

Mr. Chairman, H.R. 3150 appropriately steps up the degree of personal responsibility that must be expected from those who engage in reckless spending and who seek to misuse the bankruptcy laws to escape the consequences of this conduct. I am concerned, however, that this legislation does not at the same time step up the degree of responsibility that must be expected from the credit card companies who today often facilitate this spending through aggressive marketing of

their cards. While we must ask individuals to be prudent with respect to their credit and spending behavior, we must also ask credit card companies to be prudent with respect to their lending behavior. These companies possess credit histories for those to whom they market and they should simply not be extending credit to individuals who they know to be financially overextended. I believe we must encourage credit card companies to exercise responsibility by making dischargeable credit card debt extended under these circumstances.

Mr. Chairman, it is my sincere hope that these issues will be remedied in the Senate and during any conference committee so that this Congress can truly achieve the goal of sensible, responsible bankruptcy reform.

Ms. CHRISTIAN-GREEN. Mr. Chairman, I rise today in opposition to H.R. 3150, the Bankruptcy Reform Act of 1998 because it supports creditors at the expense of the interest of women and children.

My colleagues, the Leadership Conference on Civil Rights in commenting on this bill points out, I think quite correctly, that it is economic discrimination which is suffered by disadvantaged groups in our society that often is the reason why such groups are forced to file bankruptcy.

In the case of women, for example, the cumulative effects of lower wages, reduced access to health insurance, the devastating economic consequences of divorce and the disproportionate financial strain of rearing children alone is often why women heads of households find themselves in bankruptcy.

Additionally, African-Americans and Hispanic families also suffering from discrimination in home mortgage lending and housing purchases and facing inequity in hiring opportunities, wages, and health insurance coverage, also turn to bankruptcy to stabilize their economic circumstances and protect the middle class lives they have struggled so hard to achieve.

Mr. Speaker, H.R. 3150 should be opposed because it would have a significant negative impact on these groups of economically disadvantaged Americans, all to the benefit of the credit industry. It is ironic that as the credit industry waged a high-profile campaign to rush this bill, which would punish debtors, to the floor of the House, total credit card profitability has grown. According to the Federal Reserve Board, credit card lending is now twice as profitable as all other lending activities.

H.R. 3150 should also be opposed, Mr. Speaker, because it places in jeopardy the ability of women and children who file for bankruptcy to receive child support and alimony payments. This will be devastating to children and women who rely on child care and alimony.

As a new member of the Small Business Committee I am particularly troubled that the Bankruptcy Reform Act of 1998 would also make it difficult for small businesses who are experiencing financial difficulties to get a fresh start. The small business provisions of the bill will impose massive new legal and paperwork burdens on small business and real estate concerns thereby increasing the potential for job loss.

Mr. Speaker, this isn't reform its deform. I urge my colleagues to join the Clinton Administration, the AFL-CIO, the National Bankruptcy Conference, the Leadership Conference on Civil Rights and countless other organizations in opposition to this bill.

Mr. BARCIA. Mr. Chairman, H.R. 3150, the Bankruptcy Reform Act of 1998, is not a perfect bill and I have reservations about the specific language. However, I am voting for the legislation because I strongly believe that people must take responsibility for their financial decisions.

Last year more than 1.33 million households filed for bankruptcy which amounted to over $44 billion. And when these consumers file for bankruptcy, the rest of us pay for it. We pay in the form of higher interest rates. We pay in the form higher credit card fees. We pay through a growing number of penalty charges for late payment even when the ''late payment'' is more the fault of the postal service than that of the consumer. I share my colleagues concerns about giving families a new beginning if they incurred debt beyond their control, such as high medical costs from an accident or recovery from a disaster. But when the reason for financial difficulty is a lack of personal financial responsibility and bankruptcy is viewed as an ''easy way out'' then the system has failed.

Our nation's bankruptcy laws play an important and necessary role in our society. We must ensure that our bankruptcy system does not unintentionally encourage those who can take responsibility for their financial obligations not to do so. Such an abuse of our bankruptcy laws is fundamentally unfair to those who play by the rules and take responsibility for their personal obligations.

As I said, this is not a perfect bill. As this bill progresses through the legislative process I will do all that I can to protect the innocent people from being caught up in the system and ensure that others are not taking advantage of an easy way out.

Mr. FILNER. Mr. Chairman, rather than reining in their own policies of ''easy credit,'' big banks and credit card companies want to come down on families who took their bait, and in many instances, began to rely on credit cards to pay for basic living expenses. This legislation before us would even allow credit card companies to make tragic victims of those who did not even rack up credit card debt—women and children who depend on alimony and child support payments to live.

There are many problems with this bill. The first is a rigid and arbitrary means test that would bounce many families into Chapter 13 without allowing judges to rule on the specifics of their cases, exposing their families to the potential of losing their family homes. Just as inhumane are the provisions that would make credit card debt non-dischargeable. This would place credit card debt on the same plane as child support and alimony payments and force women to fight credit card companies to maintain their right to receive payments for their families' sustenance.

H.R. 3150 would absolve credit card companies of problems largely of their own making. It would turn the bankruptcy system into a debt collection agency for credit companies—with taxpayers footing the bill! Our families, particularly women and children, deserve the right to fair bankruptcy laws, laws interpreted on a case by case basis by judges who *currently* have the power to ensure that children's needs are met first while the other debts are being repaid.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule by title, and each title shall be considered as read.

No amendment to the committee amendment is in order unless printed in the House Report 105–573. Each amendment may be offered only in the order specified, may be offered only by a Member designated in the report, shall be considered as read, debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question.

The chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment, and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

Mr. GEKAS. Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The text of the committee amendment in the nature of a substitute is as follows:

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

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

Sec. 1. Short title; table of contents.

TITLE I—CONSUMER BANKRUPTCY PROVISIONS

Subtitle A—Needs-Based Bankruptcy

Sec. 101. Needs-based bankruptcy.
Sec. 102. Adequate income shall be committed to a plan that pays unsecured creditors.
Sec. 103. Definition of inappropriate use.
Sec. 104. Debtor participation in credit counseling program.

Subtitle B—Adequate Protections for Consumers

Sec. 111. Notice of alternatives.
Sec. 112. Debtor financial management training test program.
Sec. 113. Definitions.
Sec. 114. Disclosures.
Sec. 115. Debtor's bill of rights.
Sec. 116. Enforcement.
Sec. 117. Sense of the Congress.
Sec. 118. Charitable contributions.
Sec. 119. Reinforce the fresh start.
Sec. 119A. Chapter 11 discharge of debts arising from tobacco-related debts.

Subtitle C—Adequate Protections for Secured Creditors

Sec. 121. Discouraging bad faith repeat filings.
Sec. 122. Definition of household goods.
Sec. 123. Debtor retention of personal property security.
Sec. 124. Relief from stay when the debtor does not complete intended surrender of consumer debt collateral.

Sec. 125. Giving secured creditors fair treatment in chapter 13.
Sec. 126. Prompt relief from stay in individual cases.
Sec. 127. Stopping abusive conversions from chapter 13.
Sec. 128. Restraining abusive purchases on secured credit.
Sec. 129. Fair valuation of collateral.
Sec. 130. Protection of holders of claims secured by debtor's principal residence.
Sec. 131. Aircraft equipment and vessels.

Subtitle D—Adequate Protections for Unsecured Creditors

Sec. 141. Debts incurred to pay nondischargeable debts.
Sec. 142. Credit extensions on the eve of bankruptcy presumed nondischargeable.
Sec. 143. Fraudulent debts are nondischargeable in chapter 13 cases.
Sec. 144. Applying the codebtor stay only when it protects the debtor.
Sec. 145. Credit extensions without a reasonable expectation of repayment made nondischargeable.
Sec. 146. Debts for alimony, maintenance, and support.
Sec. 147. Nondischargeability of certain debts for alimony, maintenance, and support.
Sec. 148. Other exceptions to discharge.
Sec. 149. Fees arising from certain ownership interests.
Sec. 150. Protection of child support and alimony.
Sec. 151. Adequate protection for investors.

Subtitle E—Adequate Protections for Lessors

Sec. 161. Giving debtors the ability to keep leased personal property by assumption.
Sec. 162. Adequate protection of lessors and purchase money secured creditors.
Sec. 163. Adequate protection for lessors.

Subtitle F—Bankruptcy Relief Less Frequently Available for Repeat Filers

Sec. 171. Extend period between bankruptcy discharges.

Subtitle G—Exemptions

Sec. 181. Exemptions.
Sec. 182. Limitation.

TITLE II—BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Provisions

Sec. 201. Limitation relating to the use of fee examiners.
Sec. 202. Sharing of compensation.
Sec. 203. Chapter 12 made permanent law.
Sec. 204. Meetings of creditors and equity security holders.
Sec. 205. Creditors' and equity security holders' committees.
Sec. 206. Postpetition disclosure and solicitation.
Sec. 207. Preferences.
Sec. 208. Venue of certain proceedings.
Sec. 209. Period for filing plan under chapter 11.
Sec. 210. Period for filing plan under chapter 12.
Sec. 211. Cases ancillary to foreign proceedings involving foreign insurance companies that are engaged in the business of insurance or reinsurance in the United States.
Sec. 212. Rejection of executory contracts affecting intellectual property rights to recordings of artistic performance.
Sec. 213. Unexpired leases of nonresidential real property.
Sec. 214. Definition of disinterested person.

Subtitle B—Specific Provisions

CHAPTER 1—SMALL BUSINESS BANKRUPTCY

Sec. 231. Definitions.
Sec. 232. Flexible rules for disclosure statement and plan.
Sec. 233. Standard form disclosure statements and plans.
Sec. 234. Uniform national reporting requirements.
Sec. 235. Uniform reporting rules and forms.
Sec. 236. Duties in small business cases.
Sec. 237. Plan filing and confirmation deadlines.
Sec. 238. Plan confirmation deadline.
Sec. 239. Prohibition against extension of time.
Sec. 240. Duties of the United States trustee and bankruptcy administrator.
Sec. 241. Scheduling conferences.
Sec. 242. Serial filer provisions.
Sec. 243. Expanded grounds for dismissal or conversion and appointment of trustee.

CHAPTER 2—SINGLE ASSET REAL ESTATE

Sec. 251. Single asset real estate defined.
Sec. 252. Payment of interest.

TITLE III—MUNICIPAL BANKRUPTCY PROVISIONS

Sec. 301. Petition and proceedings related to petition.

TITLE IV—BANKRUPTCY ADMINISTRATION

Subtitle A—General Provisions

Sec. 401. Adequate preparation time for creditors before the meeting of creditors in individual cases.
Sec. 402. Creditor representation at first meeting of creditors.
Sec. 403. Filing proofs of claim.
Sec. 404. Audit procedures.
Sec. 405. Giving creditors fair notice in chapter 7 and 13 cases.
Sec. 406. Debtor to provide tax returns and other information.
Sec. 407. Dismissal for failure to file schedules timely or provide required information.
Sec. 408. Adequate time to prepare for hearing on confirmation of the plan.
Sec. 409. Chapter 13 plans to have a 5-year duration in certain cases.
Sec. 410. Sense of the Congress regarding expansion of rule 9011 of the Federal Rules of Bankruptcy Procedure.
Sec. 411. Jurisdiction of courts of appeals.
Sec. 412. Establishment of official forms.
Sec. 413. Elimination of certain fees payable in chapter 11 bankruptcy cases.

Subtitle B—Data Provisions

Sec. 441. Improved bankruptcy statistics.
Sec. 442. Bankruptcy data.
Sec. 443. Sense of the Congress regarding availability of bankruptcy data.

TITLE V—TAX PROVISIONS

Sec. 501. Treatment of certain liens.
Sec. 502. Enforcement of child and spousal support.
Sec. 503. Effective notice to Government.
Sec. 504. Notice of request for a determination of taxes.
Sec. 505. Rate of interest on tax claims.
Sec. 506. Tolling of priority of tax claim time periods.
Sec. 507. Assessment defined.
Sec. 508. Chapter 13 discharge of fraudulent and other taxes.
Sec. 509. Chapter 11 discharge of fraudulent taxes.
Sec. 510. The stay of tax proceedings.
Sec. 511. Periodic payment of taxes in chapter 11 cases.
Sec. 512. The avoidance of statutory tax liens prohibited.
Sec. 513. Payment of taxes in the conduct of business.
Sec. 514. Tardily filed priority tax claims.
Sec. 515. Income tax returns prepared by tax authorities.
Sec. 516. The discharge of the estate's liability for unpaid taxes.
Sec. 517. Requirement to file tax returns to confirm chapter 13 plans.
Sec. 518. Standards for tax disclosure.
Sec. 519. Setoff of tax refunds.

TITLE VI—ANCILLARY AND OTHER CROSS-BORDER CASES

Sec. 601. Amendment to add a chapter 6 to title 11, United States Code.
Sec. 602. Amendments to other chapters in title 11, United States Code.

TITLE VII—MISCELLANEOUS

Sec. 701. Technical amendments.
Sec. 702. Application of amendments.

TITLE I—CONSUMER BANKRUPTCY PROVISIONS

Subtitle A—Needs-Based Bankruptcy

SEC. 101. NEEDS-BASED BANKRUPTCY.

Title 11, United States Code, is amended—

(1) in section 101 as follows:

(A) by inserting after paragraph (10) the following:

''(10A) 'current monthly total income' means the average monthly income from all sources derived which the debtor, or in a joint case, the debtor and the debtor's spouse, receive without regard to whether it is taxable income, in the six months preceding the date of determination, and includes any amount paid by anyone other than the debtor or, in a joint case, the debtor and the debtor's spouse on a regular basis to the household expenses of the debtor or the debtor's dependents and, in a joint case, the debtor's spouse if not otherwise a dependent;''; and

(B) by inserting after paragraph (40) the following:

''(40A) 'national median family income' and 'national median household income for 1 earner' shall mean during any calendar year, the national median family income and the national median household income for 1 earner which the Bureau of the Census has reported as of January 1 of such calendar year for the most recent previous calendar year;'';

(2) in section 104(b)(1) by striking ''109(e)'' and inserting ''subsections (b), (e), and (h) of section 109'';

(3) in section 109(b)—

(A) in paragraph (2) by striking ''or'' at the end;

(B) in paragraph (3) by striking the period and inserting ''; or''; and

(C) by adding at the end the following:

''(4) an individual or, in a joint case, an individual and such individual's spouse, who have income available to pay creditors as determined under subsection (h).'';

(4) by adding at the end of section 109 the following:

''(h)(1) An individual or, in a joint case, an individual and such individual's spouse, have income available to pay creditors if the individual, or, in a joint case, the individual and the individual's spouse combined, as of the date of the order for relief, have—

''(A) current monthly total income of not less than the highest national median family income reported for a family of equal or lesser size or, in the case of a household of 1 person, of not less than the national median household income for 1 earner, as of the date of the order for relief;

''(B) projected monthly net income greater than $50; and

''(C) projected monthly net income sufficient to repay twenty percent or more of unsecured nonpriority claims during a five-year repayment plan.

''(2) Projected monthly net income shall be sufficient under paragraph (1)(C) if, when multiplied by 60 months, it equals or exceeds 20 percent of the total amount scheduled as payable to unsecured nonpriority creditors.

''(3) 'Projected monthly net income' means current monthly total income less—

''(A) the expense allowances under the applicable National Standards, Local Standards and Other Necessary Expenses allowance (excluding payments for debts) for the debtor, the debtor's dependents, and, in a joint case, the debtor's spouse if not otherwise a dependent, in the area in which the debtor resides as determined under the Internal Revenue Service financial analysis for expenses in effect as of the date of the order for relief;

''(B) the average monthly payment on account of secured creditors, which shall be calculated as the total of all amounts scheduled as contractually payable to secured creditors in each month of the 60 months following the date of the petition by the debtor, or, in a joint case, by the debtor and the debtor's spouse combined, and dividing that total by 60 months; and

''(C) the average monthly payment on account of priority creditors, which shall be calculated as the total amount of debts entitled to priority, reasonably estimated by the debtor as of the date of the petition, and dividing that total by 60 months.

''(4) In the event that the debtor establishes extraordinary circumstances that require allowance for additional expenses or adjustment of current monthly income, projected monthly net income for purposes of this section shall be the amount calculated under paragraph (3) less such additional expenses or income adjustment as such extraordinary circumstances require.

''(A) This paragraph shall not apply unless the debtor files with the petition—

''(i) a written statement that this paragraph applies in determining the debtor's eligibility for relief under chapter 7 of this title;

''(ii) if adjustment of current monthly income is claimed, an explanation of what income has been lost in the 6 months preceding the date of determination and any replacement income that has been offered or secured, or is expected, and an itemization of such lost and replacement income;

''(iii) if allowance for additional expenses is claimed, a list itemizing each additional expense which exceeds the expenses allowances provided under paragraph (3)(A);

''(iv) a detailed description of the extraordinary circumstances that explain why each loss of income described under clause (ii) will not be replaced or each additional expense itemized under clause (iii) requires allowance; and

''(v) a sworn statement signed by the debtor and, if the debtor is represented by counsel, by the debtor's attorney, that the information required under this paragraph is true and correct.

''(B) Until the trustee or any party in interest objects to the debtor's statement that this paragraph applies and the court rejects or modifies the debtor's statement, the projected monthly net income in the debtor's statement shall be the projected monthly net income for the purposes of this section. If an objection is filed with the court within 60 days after the debtor has provided all the information required under subsections (a)(1) and (c)(1)(A) of section 521, the court, after notice and hearing, shall determine whether such extraordinary circumstances exist and shall establish the amount of the additional expense allowance, if any. The burden of proving such extraordinary circumstances shall be on the debtor.'';

(5) in section 704—

(A) by striking ''and'' at the end of paragraph (8);

(B) by striking the period at the end of paragraph (9) and inserting ''; and''; and

(C) by adding at the end the following:

''(10) with respect to an individual debtor, review all materials provided by the debtor under subsections (a)(1) and (c)(1) of section 521, investigate and verify the debtor's projected monthly net income and within 30 days after such materials are so provided—

''(A) file a report with the court as to whether the debtor qualifies for relief under this chapter under section 109(b)(4); and

''(B) if the trustee determines that the debtor does not qualify for such relief, the trustee shall provide a copy of such report to the parties in interest.'';

(6) in section 1302(b)—

(A) in paragraph (4) by striking ''and'' at the end;

(B) in paragraph (5) by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

''(6) investigate and verify the debtor's monthly net income and other information provided by the debtor pursuant to sections 521 and 1322, and pursuant to section 111, if applicable; and

''(7) file annual reports with the court, with copies to holders of claims under the plan, as to whether a modification of the amount paid creditors under the plan is appropriate because of changes in the debtor's monthly net income.''.

SEC. 102. ADEQUATE INCOME SHALL BE COMMITTED TO A PLAN THAT PAYS UNSECURED CREDITORS.

Title 11, United States Code, is amended—

(1) in section 101 by inserting after paragraph (39) the following:

''(39A) 'monthly net income' means the amount determined by taking the current monthly total income of the debtor less—

''(A) the expense allowances under the applicable National Standards, Local Standards and Other Necessary Expenses allowance (excluding payments for debts) for the debtor, the debtor's dependents, and, in a joint case, the debtor's spouse if not otherwise a dependent, in the area in which the debtor resides as determined under the Internal Revenue Service financial analysis for expenses in effect as of the date it is being determined;

''(B) the average monthly payment on account of secured creditors, which shall be calculated as of the date of determination as the total of all amounts then remaining to be paid on account of secured claims pursuant to the plan less any of such amounts to be paid from sources other than the debtor's income, divided by the total months remaining of the plan; and

''(C) the average monthly payment on account of priority creditors, which shall be calculated as the total of all amounts then remaining to be paid on account of priority claims pursuant to the plan less any of such amounts to be paid from sources other than the debtor's income, divided by the total months remaining of the plan;'';

(2) in section 104(b)(1) by striking ''and 523(a)(2)(C)'' and inserting ''523(a)(2)(C), and 1325(b)(1)'';

(3) by adding after section 110 the following:

''§ 111. Adjustment to monthly net income

''(a) Monthly net income for purposes of a plan under chapter 13 of this title shall be adjusted under this section when the debtor's extraordinary circumstances require adjustment as determined herein. Under this section, monthly net income shall be determined by subtracting therefrom such loss of income or additional expenses as the debtor's extraordinary circumstances require as determined under this section. This section shall not apply unless—

''(1) the debtor files with the court and, in a case in which a trustee has been appointed, with the trustee at the times required in subsection (b) a statement of extraordinary circumstances as follows—

''(A) a written statement that this section applies in determining the debtor's monthly net income;

''(B) if applicable, an explanation of what income has been lost in the six months preceding the date of determination and any replacement income which has been secured or is expected, and an itemization of such lost and replacement income;

''(C) if applicable, a list itemizing each additional expense which exceeds the expense allowance provided in determining monthly net income under section 101(39A);

''(D) if applicable, a detailed description of the extraordinary circumstances which explains why each of the additional expenses itemized under paragraph (C) requires allowance; and

''(E) a sworn statement signed by the debtor and, if the debtor is represented by counsel, by the debtor's attorney, of the amount of monthly net income that the debtor has pursuant to this subsection and that the information provided under this subsection is true and correct; and

''(2) until the trustee or any party in interest objects to the debtor's request that this section be applied and the court rejects or modifies the debtor's statement, the monthly net income in the debtor's statement shall be the monthly net income for the purposes of the debtor's plan. If an objection is filed with the court within the times provided in subsection (b), the court, after notice and hearing, shall determine whether such extraordinary circumstances asserted by the debtor exist and establish the amount of the loss of income and such additional expense allowance, if any. The burden of proving such extraordinary circumstances and the amount of the loss of income and the additional expense allowance, if any, shall be on the debtor. The court may award to the party that prevails with respect to such objection a reasonable attorney's fee and costs incurred by the prevailing party in connection with such objection if the court finds that the position of the nonprevailing party was not substantially justified, but the court shall not award such fee or such costs if special circumstances make the award unjust.

''(b) For the purposes of chapter 13 of this title, the statement of extraordinary circumstances shall be filed with the court and served on the trustee on or before 45 days before each anniversary of the confirmation of the plan in order to be applicable during the next year of the plan. Any objection thereto shall be filed 30 days after the statement is filed with the trustee. Whenever a statement is timely filed with the trustee, the trustee shall give notice to creditors that such statement has been filed and the amount of monthly net income stated therein within 15 days of receipt of the statement.'';

(4) in section 1322(a)—

(A) by striking ''and'' at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting ''; and''; and

(C) by adding at the end the following:

''(4) state, under penalties of perjury, the amount of monthly net income, which may be as adjusted under section 111, if applicable, of this title and the amount of monthly net income which will be paid per month to unsecured nonpriority creditors under the plan.''; and

(5) by amending section 1325(b)(1)(B) to read as follows:

''(B) the plan provides—

''(i) that payments to unsecured nonpriority creditors who are not insiders shall equal or exceed $50 in each month of the plan;

''(ii) that during the applicable commitment period beginning on the date that the first payment is due under the plan, the total amount of monthly net income received by the debtor shall be paid to unsecured nonpriority creditors under the plan less only payments pursuant to section 1326(b); the 'applicable commitment period' shall be not less than 5 years if the debtor's total current monthly income is not less than the highest national median family income reported for a family of equal or lesser size or, in the case of a household of 1 person, is not less than the national median household income for 1 earner, as of the date of confirmation of the plan and shall be not less than 3 years if the debtor's total current monthly income is less than the highest national median family income reported for a family of equal or lesser size or, in the case of a household of 1 person, is less than the national median household income for 1 earner, as of the date of confirmation of the plan;

''(iii) that the amount payable to each class of unsecured nonpriority claims under the plan

shall be increased or decreased during the plan proportionately to the extent the debtor's monthly net income during the plan increases or decreases as reasonably determined by the trustee, subject to section 111 of this title, no less frequently than as of each anniversary of the confirmation of the plan based on monthly net income as of 45 days before such anniversary; and

''(iv) nothing in subparagraph (i) or (ii) shall prevent the payment of obligations described in section 507(a)(7) at the times provided for in the plan, and the plan shall specify how payments to other creditors under subparagraph (ii) will be accordingly adjusted.''; and

(6) by striking section 1325(b)(2).

SEC. 103. DEFINITION OF INAPPROPRIATE USE.

Section 707(b) of title 11, United States Code, is amended to read as follows:

''(b)(1) After notice and a hearing, the court—

''(A) on its own motion or on the motion of the United States trustee or any party in interest, shall dismiss a case filed by an individual debtor under this chapter; or

''(B) with the debtor's consent, convert the case to a case under chapter 13 of this title;

if the court finds that the granting of relief would be an inappropriate use of the provisions of this chapter.

''(2) The court shall determine that inappropriate use of the provisions of this chapter exists if—

''(A) the debtor is excluded from this chapter pursuant to section 109 of this title; or

''(B) the totality of the circumstances of the debtor's financial situation demonstrates such inappropriate use.

''(3) In the case of a motion filed by a party in interest other than the trustee or United States trustee under paragraph (1) that is denied by the court, the court shall award against the moving party a reasonable attorney's fee and costs that the debtor incurred in opposing the motion if the court finds that the position of the moving party was not substantially justified, but the court shall not award such fee and costs if special circumstances would make the award unjust.

''(4)(A) If a trustee appointed under this title or the United States Trustee files a motion under this subsection and the case is subsequently dismissed or converted to another chapter, the court shall award to such party in interest a reasonable attorney's fee and costs incurred in connection with such motion, payable by the debtor, unless the court finds that awarding such fee and costs would impose an unreasonable hardship on the debtor, considering the debtor's conduct.

''(B) The signature of the debtor's attorney on any petition, pleading, motion, or other paper filed with the court in the case of the debtor shall constitute a certificate that the attorney has—

''(i) performed a reasonable investigation into the circumstances that gave rise to the petition and its schedules and statement of financial affairs or the pleading, as applicable; and

''(ii) determined that the petition and its schedules and statement of financial affairs or the pleading, as applicable, including the choice of this chapter—

''(I) is well grounded in fact; and

''(II) is warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law and does not constitute an inappropriate use of the provisions of this chapter.

''(C) If the court finds that the attorney for the debtor signed a paper in violation of subparagraph (B), at a minimum, the court shall order—

''(i) the assessment of an appropriate civil penalty against the attorney for the debtor; and

''(ii) the payment of the civil penalty to the trustee or the United States Trustee.''.

SEC. 104. DEBTOR PARTICIPATION IN CREDIT COUNSELING PROGRAM.

(a) WHO MAY BE A DEBTOR.—Section 109 of title 11, United States Code, as amended by section 102, is amended by adding at the end the following:

''(i)(1) Subject to paragraph (2) and notwithstanding any other provision of this section, an individual may not be a debtor under this title unless such individual has, during the 90-day period preceding the date of filing of the petition, made a good-faith attempt to create a debt repayment plan outside the judicial system for bankruptcy law (commonly referred to as the 'bankruptcy system'), through a credit counseling program offered through credit counseling services described in section 342(b)(2) that has been approved by—

''(A) the United States trustee; or

''(B) the bankruptcy administrator for the district in which the petition is filed.

''(2) The United States trustee or bankruptcy administrator may not approve a program for inclusion on the list under paragraph (1) unless the counseling service offering the program offers the program without charge, or at an appropriately reduced charge, if payment of the regular charge would impose a hardship on the debtor or the debtor's dependents.

''(3) The United States trustee or bankruptcy administrator shall designate any geographical areas in the United States trustee region or judicial district, as the case may be, as to which the United States trustee or bankruptcy administrator has determined that credit counseling services needed to comply with this subsection are not available or are too geographically remote for debtors residing within the designated geographical areas. The clerk of the bankruptcy court for each judicial district shall maintain a list of the designated areas within the district.

''(4) The clerk shall exclude a particular counseling service from the list maintained under section 342(b)(2) of this title if the United States trustee or bankruptcy administrator orders that the counseling service not be included in the list.

''(5) The court may waive the requirement specified in paragraph (1) if—

''(A) no credit counseling services are available as designated under paragraphs (2) and (3);

''(B) the providers of credit counseling services available in the district are unable or unwilling to provide such services to the debtor in a timely manner; or

''(C) foreclosure, garnishment, attachment, eviction, levy of execution, or similar claim enforcement procedure that would have deprived the individual of property had commenced before the debtor could complete a good-faith attempt to create such a repayment plan.

''(6) A debtor who is subject to the exemption under paragraph (5)(C) shall be required to make a good-faith attempt to create a debt repayment plan outside the judicial system in the manner prescribed in paragraph (1) during the 30-day period beginning on the date of filing of the petition of that debtor.

''(7) A debtor shall be exempted from the bad faith presumption for repeat filing under section 362(c) of title 11 if the case is dismissed due to the creation of a debt repayment plan.

''(8) Only the United States trustee may make a motion for dismissal on the ground that the debtor did not comply with this subsection.''.

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by sections 406 and 407, is amended by adding at the end the following:

''(g)(1) In addition to the requirements under subsection (a), an individual debtor shall file with the court—

''(A) a certificate from the credit counseling services that provided the debtor services under section 109(i), or a verified statement as to why such attempt was not required under section 109(i) or other substantial evidence of a good-faith attempt to create a debt repayment plan outside the bankruptcy system in the manner prescribed in section 109(i); and

''(B) a copy of the debt repayment plan, if any, developed under section 109(i) through the credit counseling service referred to in paragraph (1).

''(2) Only the United States trustee may make a motion for dismissal on the ground that the debtor did not comply with this subsection.''.

Subtitle B—Adequate Protections for Consumers

SEC. 111. NOTICE OF ALTERNATIVES.

(a) Section 342(b) of title 11, United States Code, is amended to read as follows:

''(b)(1) Before the commencement of a case under this title by an individual whose debts are primarily consumer debts, the individual shall be given or obtain (as required to be certified under section 521(a)(1)(B)(viii)) a written notice that is prescribed by the United States trustee for the district in which the petition is filed pursuant to section 586 of title 28 and that contains the following:

''(A) A brief description of chapters 7, 11, 12 and 13 of this title and the general purpose, benefits, and costs of proceeding under each of such chapters.

''(B) A brief description of services that may be available to the individual from an independent nonprofit debt counselling service.

''(C) The name, address, and telephone number of each nonprofit debt counselling service (if any)—

''(i) with an office located in the district in which the petition is filed; or

''(ii) that offers toll-free telephone communication to debtors in such district.

''(2) Any such nonprofit debt counselling service that registers with the clerk of the bankruptcy court on or before December 10 of the preceding year shall be included in such list unless the chief bankruptcy judge of the district, after notice to the debt counselling service and the United States trustee and opportunity for a hearing, for good cause, orders that such debt counselling service shall not be so listed.

''(3) The clerk shall make such notice available to individuals whose debts are primarily consumer debts.''.

(b) Section 586(a) of title 28, 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) on or before January 1 of each calendar year, and also within 30 days of any change in the nonprofit debt counselling services registered with the bankruptcy court, prescribe and make available on request the notice described in section 342(b)(1) of title 11 for each district included in the region.''.

SEC. 112. DEBTOR FINANCIAL MANAGEMENT TRAINING TEST PROGRAM.

(a) DEVELOPMENT OF FINANCIAL MANAGEMENT AND TRAINING CURRICULUM AND MATERIALS.—The Director of the Executive Office for United States Trustees (in this section referred to as the ''Director'') shall consult with a wide range of individuals who are experts in the field of debtor education, including trustees who are appointed under chapter 13 of title 11 of the United States Code and who operate financial management education programs for debtors, and shall develop a financial management training curriculum and materials that can be used to educate individual debtors on how to better manage their finances.

(b) TEST—(1) The Director shall select 3 judicial districts of the United States in which to test the effectiveness of the financial management training curriculum and materials developed under subsection (a).

(2) For a 1-year period beginning not later than 60 days after the date of the enactment of this Act, such curriculum and materials shall be made available by the Director, directly or indirectly, on request to individual debtors in cases filed in such 1-year period under chapter 7 or 13 of title 11 of the United States Code.

(3) The bankruptcy courts in each of such districts may require individual debtors in such cases to undergo such financial management training as a condition to receiving a discharge in such case.

(c) EVALUATION.—(1) During the 1-year period referred to in subsection (b), the Director shall evaluate the effectiveness of—

(A) the financial management training curriculum and materials developed under subsection (a); and

(B) a sample of existing consumer education programs such as those described in the Report of the National Bankruptcy Review Commission (October 20, 1997) that are representative of consumer education programs carried out by the credit industry, by trustees serving under chapter 13 of title 11 of the United States Code, and by consumer counselling groups.

(2) Not later than 3 months after concluding such evaluation, the Director shall submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate, for referral to the appropriate committees of the Congress, containing the findings of the Director regarding the effectiveness of such curriculum, such materials, and such programs.

SEC. 113. DEFINITIONS.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (3) the following:

''(3A) 'assisted person' means any person whose debts consist primarily of consumer debts and whose non-exempt assets are less than $150,000;'';

(2) by inserting after paragraph (4) the following:

''(4A) 'bankruptcy assistance' means any goods or services sold or otherwise provided to an assisted person with the express or implied purpose of providing information, advice, counsel, document preparation or filing, or attendance at a creditors' meeting or appearing in a proceeding on behalf of another or providing legal representation with respect to a proceeding under this title;''; and

(3) by inserting after paragraph (12A) the following:

''(12B) 'debt relief counselling agency' means any person who provides any bankruptcy assistance to an assisted person in return for the payment of money or other valuable consideration, or who is a bankruptcy petition preparer pursuant to section 110 of this title, but does not include any person that is any of the following or an officer, director, employee or agent thereof—

''(A) any nonprofit organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

''(B) any creditor of the person to the extent the creditor is assisting the person to restructure any debt owed by the person to the creditor; or

''(C) any depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or any Federal credit union or State credit union (as those terms are defined in section 101 of the Federal Credit Union Act), or any affiliate or subsidiary of such a depository institution or credit union;''.

(b) CONFORMING AMENDMENT.—In section 104(b)(1) by inserting ''101(3),'' after ''sections''.

SEC. 114. DISCLOSURES.

(a) DISCLOSURES.—Subchapter II of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

''§ 526. Disclosures

''(a) A debt relief counselling agency providing bankruptcy assistance to an assisted person shall provide the following notices to the assisted person:

''(1) the written notice required under section 342(b)(1) of this title; and

''(2) to the extent not covered in the written notice described in paragraph (1) of this section and no later than three business days after the first date on which a debt relief counselling agency first offers to provide any bankruptcy assistance services to an assisted person, a clear and conspicuous written notice advising assisted persons of the following—

''(A) all information the assisted person is required to provide with a petition and thereafter during a case under this title must be complete, accurate and truthful;

''(B) all assets and all liabilities must be completely and accurately disclosed in the documents filed to commence the case, and the replacement value of each asset as defined in section 506 of this title must be stated in those documents where requested after reasonable inquiry to establish such value;

''(C) current monthly total income, projected monthly net income and, in a chapter 13 case, monthly net income must be stated after reasonable inquiry; and

''(D) that information an assisted person provides during their case may be audited pursuant to this title and that failure to provide such information may result in dismissal of the proceeding under this title or other sanction including, in some instances, criminal sanctions.

''(b) A debt relief counselling agency providing bankruptcy assistance to an assisted person shall provide each assisted person at the same time as the notices required under subsection (a)(1) with the following statement, to the extent applicable, or one substantially similar. The statement shall be clear and conspicuous and shall be in a single document separate from other documents or notices provided to the assisted person:

'''IMPORTANT INFORMATION ABOUT BANKRUPTCY ASSISTANCE SERVICES FROM AN ATTORNEY OR BANKRUPTCY PETITION PREPARER

'''If you decide to seek bankruptcy relief, you can represent yourself, you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer who is not an attorney. THE LAW REQUIRES AN ATTORNEY OR BANKRUPTCY PETITION PREPARER TO GIVE YOU A WRITTEN CONTRACT SPECIFYING WHAT THE ATTORNEY OR BANKRUPTCY PETITION PREPARER WILL DO FOR YOU AND HOW MUCH IT WILL COST. Ask to see the contract before you hire anyone.

'''The following information helps you understand what must be done in a routine bankruptcy case to help you evaluate how much service you need. Although bankruptcy can be complex, many cases are routine.

'''Before filing a bankruptcy case, either you or your attorney should analyze your eligibility for different forms of debt relief made available by the Bankruptcy Code and which form of relief is most likely to be beneficial for you. Be sure you understand the relief you can obtain and its limitations. To file a bankruptcy case, documents called a Petition, Schedules and Statement of Financial Affairs, as well as in some cases a Statement of Intention need to be prepared correctly and filed with the bankruptcy court. You will have to pay a filing fee to the bankruptcy court. Once your case starts, you will have to attend the required first meeting of creditors where you may be questioned by a court official called a ''trustee'' and by creditors.

'''If you select a chapter 7 proceeding, you may be asked by a creditor to reaffirm a debt. You may want help deciding whether to do so.

'''If you select a chapter 13 proceeding in which you repay your creditors what you can afford over three to seven years, you may also want help with preparing your chapter 13 plan and with the confirmation hearing on your plan which will be before a bankruptcy judge.'

'''If you select another type of proceeding under the Bankruptcy Code other than chapter 7 or chapter 13, you will want to find out what needs to be done from someone familiar with that type of proceeding.

'''Your bankruptcy proceeding may also involve litigation. You are generally permitted to represent yourself in litigation in bankruptcy court, but only attorneys, not bankruptcy petition preparers, can represent you in litigation.'.

''(c) Except to the extent the debt relief counselling agency provides the required information itself after reasonably diligent inquiry of the assisted person or others so as to obtain such information reasonably accurately for inclusion on the petition, schedules or statement of financial affairs, a debt relief counselling agency providing bankruptcy assistance to an assisted person shall provide each assisted person at the time required for the notice required under subsection (a)(1) reasonably sufficient information (which may be provided orally or in a clear and conspicuous writing) to the assisted person on how to provide all the information the assisted person is required to provide under this title pursuant to section 521, including—

''(1) how to value assets at replacement value, determine current monthly total income, projected monthly income and, in a chapter 13 case, net monthly income, and related calculations;

''(2) how to complete the list of creditors, including how to determine what amount is owed and what address for the creditor should be shown; and

''(3) how to determine what property is exempt and how to value exempt property at replacement value as defined in section 506 of this title.

''(d) A debt relief counselling agency shall maintain a copy of the notices required under subsection (a) of this section for two years after the later of the date on which the notice is given the assisted person.''.

(b) CONFORMING AMENDMENT.—The table of section for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 525 the following:

''526. Disclosures.''.

SEC. 115. DEBTOR'S BILL OF RIGHTS.

(a) DEBTOR'S BILL OF RIGHTS.—Subchapter II of chapter 5 of title 11, United States Code, as amended by section 114, is amended by adding at the end the following:

''§ 527. Debtor's bill of rights

''(a) A debt relief counselling agency shall—

''(1) no later than three business days after the first date on which a debt relief counselling agency provides any bankruptcy assistance services to an assisted person, execute a written contract with the assisted person specifying clearly and conspicuously the services the agency will provide the assisted person and the basis on which fees or charges will be made for such services and the terms of payment, and give the assisted person a copy of the fully executed and completed contract in a form the person can keep;

''(2) disclose in any advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public (whether in general media, seminars or specific mailings, telephonic or electronic messages or otherwise) that the services or benefits are with respect to proceedings under this title, clearly and conspicuously using the following statement: 'We are a debt relief counselling agency. We help people file Bankruptcy petitions to obtain relief under the Bankruptcy Code.' or a substantially similar statement. An advertisement shall be of bankruptcy assistance services if it describes or offers bankruptcy assistance with a chapter 13 plan, regardless of whether chapter 13 is specifically mentioned, including such statements as 'federally supervised repayment plan' or 'Federal debt restructuring help' or other similar statements which would lead a reasonable consumer to believe that help with debts was being offered when in fact in most cases the help available is bankruptcy assistance with a chapter 13 plan; and

''(3) if an advertisement directed to the general public indicates that the debt relief counselling agency provides assistance with respect to credit defaults, mortgage foreclosures, lease eviction proceedings, excessive debt, debt collection pressure, or inability to pay any consumer

debt, disclose conspicuously in that advertisement that the assistance is with respect to or may involve proceedings under this title, using the following statement: ''We are a debt relief counselling agency. We help people file Bankruptcy petitions to obtain relief under the Bankruptcy Code.'' or a substantially similar statement.

''(b) A debt relief counselling agency shall not—

''(1) fail to perform any service which the debt relief counseling agency has told the assisted person or prospective assisted person the agency would provide that person in connection with the preparation for or activities during a proceeding under this title;

''(2) make any statement, or counsel or advise any assisted person to make any statement in any document filed in a proceeding under this title, which is untrue or misleading or which upon the exercise of reasonable care, should be known by the debt relief counselling agency to be untrue or misleading;

''(3) misrepresent to any assisted person or prospective assisted person, directly or indirectly, affirmatively or by material omission, what services the debt relief counselling agency can reasonably expect to provide that person, or the benefits an assisted person may obtain or the difficulties the person may experience if the person seeks relief in a proceeding pursuant to this title; or

''(4) advise an assisted person or prospective assisted person to incur more debt in contemplation of that person filing a proceeding under this title or in order to pay an attorney or bankruptcy petition preparer fee or charge for services performed as part of preparing for or representing a debtor in a proceeding under this title.''.

(b) CONFORMING AMENDMENT.—The table of section for chapter 5 of title 11, United States Code, as amended by section 114, is amended by inserting after the item relating to section 526, the following:

''527. Debtor's bill of rights.''.

SEC. 116. ENFORCEMENT.

(a) ENFORCEMENT.—Subchapter II of chapter 5 of title 11, United States Code, as amended by sections 114 and 115, is amended by adding at the end the following:

''§ 528. Debt relief counselling agency enforcement

''(a) ASSISTED PERSON WAIVERS INVALID.—Any waiver by any assisted person of any protection or right provided by or under section 526 or 527 of this title shall be void and may not be enforced by any Federal or State court or any other person.

''(b) NONCOMPLIANCE.—

''(1) Any contract between a debt relief counselling agency and an assisted person for bankruptcy assistance which does not comply with the requirements of section 526 or 527 of this title shall be treated as void and may not be enforced by any Federal or State court or by any other person.

''(2) Any debt relief counselling agency which has been found, after notice and hearing, to have—

''(A) failed to comply with any provision of section 526 or 527 with respect to a bankruptcy case or related proceeding of an assisted person;

''(B) provided bankruptcy assistance to an assisted person in a case or related proceeding which is dismissed or converted in lieu of dismissal under section 707 of this title or because of a failure to file bankruptcy papers, including papers specified in section 521 of this title; or

''(C) negligently or intentionally disregarded the requirements of this title or the Federal Rules of Bankruptcy Procedure applicable to such debt relief counselling agency shall be liable to the assisted person in the amount of any fees and charges in connection with providing bankruptcy assistance to such person which the debt relief counselling agency has already been paid on account of that proceeding and if the case has not been closed, the court may in addition require the debt relief counselling agency to continue to provide bankruptcy assistance services in the pending case to the assisted person without further fee or charge or upon such other terms as the court may order.

''(3) In addition to such other remedies as are provided under State law, whenever the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating section 526 or 527 of this title, the State—

''(A) may bring an action to enjoin such violation;

''(B) may bring an action on behalf of its residents to recover the actual damages of assisted persons arising from such violation, including any liability under paragraph (2); and

''(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorney fees as determined by the court.

''(4) The United States District Court for any district located in the State shall have concurrent jurisdiction of any action under subparagraph (A) or (B) of paragraph (3).

''(c) RELATION TO STATE LAW.—This section and sections 526 and 527 shall not annul, alter, affect or exempt any person subject to those sections from complying with any law of any State except to the extent that such law is inconsistent with those sections, and then only to the extent of the inconsistency.''.

(b) CONFORMING AMENDMENT.—The table of section for chapter 5 of title 11, United States Code, as amended by sections 114 and 115, is amended by inserting after the item relating to section 527, the following:

''528. Debt relief counselling agency enforcement.''.

SEC. 117. SENSE OF THE CONGRESS.

It is the sense of the Congress that States should develop curricula relating to the subject of personal finance, designed for use in elementary and secondary schools.

SEC. 118. CHARITABLE CONTRIBUTIONS.

(a) DEFINITIONS.—Section 548(d) of title 11, United States Code, is amended by adding at the end the following:

''(3) In this section, the term 'charitable contribution' means a charitable contribution as defined in section 170(c) of the Internal Revenue Code of 1986, if such contribution—

''(A) is made by a natural person; and

''(B) consists of—

''(i) a financial instrument (as defined in section 731(c)(2)(C) of the Internal Revenue Code of 1986); or

''(ii) cash.

''(4) In this section, the term 'qualified religious or charitable entity or organization' means—

''(A) an entity described in section 170(c)(1) of the Internal Revenue Code of 1986; or

''(B) an entity or organization described in section 170(c)(2) of the Internal Revenue Code of 1986.''.

(b) TREATMENT OF PREPETITION QUALIFIED CHARITABLE CONTRIBUTIONS.

(1) IN GENERAL.—Section 548(a) of title 11, United States Code, is amended—

(A) by inserting ''(1)'' after ''(a)'';

(B) by striking ''(1) made'' and inserting ''(A) made'';

(C) by striking ''(2)(A)'' and inserting ''(B)(i)'';

(D) by striking ''(B)(i)'' and inserting ''(ii)(I)'';

(E) by striking ''(ii) was'' and inserting ''(II) was'';

(F) by striking ''(iii)'' and inserting ''(III)''; and

(G) by adding at the end the following:

''(2) A transfer of a charitable contribution to a qualified religious or charitable entity or organization shall not be considered to be a transfer covered under paragraph (1)(B) in any case in which—

''(A) the amount of such contribution does not exceed 15 percent of the gross annual income of the debtor for the year in which the transfer of the contribution is made; or

''(B) the contribution made by a debtor exceeded the percentage amount of gross annual income specified in subparagraph (A), if the transfer was consistent with the practices of the debtor in making charitable contributions.''.

(2) TRUSTEE AS LIEN CREDITOR AND AS SUCCESSOR TO CERTAIN CREDITORS AND PURCHASERS.—Section 544(b) of title 11, United States Code, is amended—

(A) by striking ''(b) The trustee'' and inserting ''(b)(1) Except as provided in paragraph (2), the trustee''; and

(B) by adding at the end the following:

''(2) Paragraph (1) shall not apply to a transfer of a charitable contribution (as defined in section 548(d)(3) of this title) that is not covered under section 548(a)(1)(B) of this title by reason of section 548(a)(2) of this title. Any claim by any person to recover a transferred contribution described in the preceding sentence under Federal or State law in a Federal or State court shall be preempted by the commencement of the case.''.

(3) CONFORMING AMENDMENTS.—Section 546 of title 11, United States Code, is amended—

(A) in subsection (e)—

(i) by striking ''548(a)(2)'' and inserting ''548(a)(1)(B)''; and

(ii) by striking ''548(a)(1)'' and inserting ''548(a)(1)(A)'';

(B) in subsection (f)—

(i) by striking ''548(a)(2)'' and inserting ''548(a)(1)(B)''; and

(ii) by striking ''548(a)(1)'' and inserting ''548(a)(1)(A)''; and

(C) in the first subsection (g)—

(i) by striking ''section 548(a)(1)'' and inserting ''section 548(a)(1)(A)''; and

(ii) by striking ''548(a)(2)'' and inserting ''548(a)(1)(B)''.

(c) TREATMENT OF POST-PETITION CHARITABLE CONTRIBUTIONS UNDER CHAPTER 7.—Section 707 of title 11, United States Code, is amended by adding at the end the following:

''(c) In making a determination whether to dismiss a case under this section, the court may not take into consideration whether a debtor has made, or continues to make, charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3)) to any qualified religious or charitable entity or organization (as defined in section 548(d)(4)).''.

(d) TREATMENT OF POST-PETITION CHARITABLE CONTRIBUTIONS UNDER CHAPTER 13.—Section 111 of title 11, United States Code, as added by section 102, is amended by adding at the end the following:

''(c) For purposes of subsection (a), charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3)) to any qualified religious or charitable entity or organization (defined in section 548(d)(4)), but not to exceed 15 percent of the debtor's gross income for the year in which such contributions are made, shall be considered to be additional expenses of the debtor required by extraordinary circumstances.''.

(e) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section is intended to limit the applicability of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2002bb et seq.).

SEC. 119. REINFORCE THE FRESH START.

(a) RESTORATION OF AN EFFECTIVE DISCHARGE.—Section 523(a)(17) of title 11, United States Code, is amended—

(1) by striking ''by a court'' and inserting ''on a prisoner by any court'',

(2) by striking ''section 1915(b) or (f)'' and inserting ''subsection (b) or (f)(2) of section 1915'', and

(3) by inserting ''(or a similar non-Federal law)'' after ''title 28'' each place it appears.

(b) PROTECTION OF RETIREMENT FUNDS IN BANKRUPTCY.—Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)(2)—

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

(B) in subparagraph (B) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(C) retirement funds to the extent exempt from taxation under section 401, 403, 408, 414, 457, or 501(a) of the Internal Revenue Code of 1986.''; and

(2) in subsection (d) by adding at the end the following:

''(12) Retirement funds to the extent exempt from taxation under 401, 403, 408, 414, 457, or 501(a) of the Internal Revenue Code of 1986.''.

(c) EFFECTIVE PROTECTION FOR UTILITY SERVICE IN THE WAKE OF DEREGULATION.—Section 366 of title 11, United States Code, is amended by adding at the end the following:

''(c) For the purposes of this section, the term 'utility' includes any provider of gas, electric, telephone, telecommunication, cable television, satellite communication, water, or sewer service, whether or not such service is a regulated monopoly.''.

SEC. 119A. CHAPTER 11 DISCHARGE OF DEBTS ARISING FROM TOBACCO-RELATED DEBTS.

Section 1141(d) of title 11, United States Code, is amended by adding at the end the following:

''(5) The confirmation of a plan does not discharge a debtor that is a corporation from any debt arising from a judicial, administrative, or other action or proceeding that is—

''(A) related to the consumption or consumer purchase of a tobacco product; and

''(B) based in whole or in part on false pretenses, a false representation, or actual fraud.''.

Subtitle C—Adequate Protections for Secured Creditors

SEC. 121. DISCOURAGING BAD FAITH REPEAT FILINGS.

Section 362(c) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking ''and'' at the end;

(2) in paragraph (2) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

''(3) If a single or joint case is filed by or against an individual debtor under chapter 7, 11, or 13, and if a single or joint case of that debtor was pending within the previous 1-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b) of this title, the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease will terminate with respect to the debtor on the 30th day after the filing of the later case. If a party in interest requests, the court may extend the stay in particular cases as to any or all creditors (subject to such conditions or limitations as the court may then impose) after notice and a hearing completed before the expiration of the 30-day period only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed. A case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

''(A) as to all creditors if—

''(i) more than 1 previous case under any of chapters 7, 11, or 13 in which the individual was a debtor was pending within such 1-year period;

''(ii) a previous case under any of chapters 7, 11, or 13 in which the individual was a debtor was dismissed within such 1-year period, after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to provide adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

''(iii) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under any of chapters 7, 11, or 13 of this title, or any other reason to conclude that the later case will be concluded, if a case under chapter 7 of this title, with a discharge, and if a chapter 11 or 13 case, a confirmed plan which will be fully performed;

''(B) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of that case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to actions of that creditor.

''(4) If a single or joint case is filed by or against an individual debtor under this title, and if 2 or more single or joint cases of that debtor were pending within the previous year but were dismissed, other than a case refiled under section 707(b) of this title, the stay under subsection (a) will not go into effect upon the filing of the later case. On request of a party in interest, the court shall promptly enter an order confirming that no stay is in effect. If a party in interest requests within 30 days of the filing of the later case, the court may order the stay to take effect in the case as to any or all creditors (subject to such conditions or limitations as the court may impose), after notice and hearing, only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed. A stay imposed pursuant to the preceding sentence will be effective on the date of entry of the order allowing the stay to go into effect. A case is presumptively not filed in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

''(A) as to all creditors if—

''(i) 2 or more previous cases under this title in which the individual was a debtor were pending within the 1-year period;

''(ii) a previous case under this title in which the individual was a debtor was dismissed within the time period stated in this paragraph after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to pay adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

''(iii) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under this title, or any other reason to conclude that the later case will not be concluded, if a case under chapter 7, with a discharge, and if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; or

''(B) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of that case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to action of that creditor.

''(5)(A) If a request is made for relief from the stay under subsection (a) with respect to real or personal property of any kind, and such request is granted in whole or in part, the court may order in addition that the relief so granted shall be in rem either for a definite period not less than 1 year or indefinitely. After the issuance of such an order, the stay under subsection (a) shall not apply to any property subject to such an in rem order in any case of the debtor under this title. If such an order so provides, such stay shall also not apply in any pending or later-filed case of any entity under this title that claims or has an interest in the subject property other than those entities identified in the court's order.

''(B) The court shall cause any order entered pursuant to this paragraph with respect to real property to be recorded in the applicable real property records, which recording shall constitute notice to all parties having or claiming an interest in such real property for purpose of this section.

''(6) For the purposes of this section, a case is pending from the time of the order for relief until the case is closed.''.

SEC. 122. DEFINITION OF HOUSEHOLD GOODS.

Section 101 of title 11, United States Code, is amended by inserting after paragraph (27) the following:

''(27A) 'household goods' has the meaning given such term in the Trade Regulation Rule on Credit Practices promulgated by the Federal Trade Commission (16 C.F.R. 444.1(i)), as in effect on the effective date of this paragraph;''.

SEC. 123. DEBTOR RETENTION OF PERSONAL PROPERTY SECURITY.

Title 11, United States Code, is amended—

(1) in section 521—

(A) in paragraph (4) by striking ''and'' at the end;

(B) in paragraph (5) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(6) in an individual case under chapter 7 of this title, not retain possession of personal property as to which a creditor has an allowed claim for the purchase price secured in whole or in part by an interest in that personal property unless, in the case of an individual debtor, the debtor takes 1 of the following actions within 30 days after the first meeting of creditors under section 341(a)—

''(A) enters into a reaffirmation agreement with the creditor pursuant to section 524(c) of this title with respect to the claim secured by such property; or

''(B) redeems such property from the security interest pursuant to section 722 of this title.

''If the debtor fails to so act within the 30-day period, the personal property affected shall no longer be property of the estate, and the creditor may take whatever action as to such property as is permitted by applicable nonbankruptcy law, unless the court determines on the motion of the trustee, and after notice and a hearing, that such property is of consequential value or benefit to the estate.''; and

(2) in section 722 by inserting ''in full at the time of redemption'' before the period at the end.

SEC. 124. RELIEF FROM STAY WHEN THE DEBTOR DOES NOT COMPLETE INTENDED SURRENDER OF CONSUMER DEBT COLLATERAL.

Title 11, United States Code, is amended as follows—

(1) in section 362—

(A) by striking ''(e), and (f)'' in subsection (c) and inserting in lieu thereof ''(e), (f), and (h)''; and

(B) by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following:

''(h) In an individual case pursuant to chapter 7, 11, or 13 the stay provided by subsection (a) is terminated with respect to property of the estate securing in whole or in part a claim, or subject to an unexpired lease, if the debtor fails within the applicable time set by section 521(a)(2) of this title—

''(1) to file timely any statement of intention required under section 521(a)(2) of this title with respect to that property or to indicate therein that the debtor will either surrender the property or retain it and, if retaining it, either redeem the property pursuant to section 722 of

this title, reaffirm the debt it secures pursuant to section 524(c) of this title, or assume the unexpired lease pursuant to section 365(p) of this title if the trustee does not do so, as applicable; or

''(2) to take timely the action specified in that statement of intention, as it may be amended before expiration of the period for taking action, unless the statement of intention specifies reaffirmation and the creditor refuses to reaffirm on the original contract terms;

unless the court determines on the motion of the trustee, and after notice and a hearing, that such property is of consequential value or benefit to the estate.'';

(2) in section 521, as amended by sections 104, 406, and 407—

(A) in paragraph (2) by striking ''consumer'';

(B) in paragraph (2)(B)—

(i) by striking ''forty-five days after the filing of a notice of intent under this section'' and inserting ''30 days after the first date set for the meeting of creditors under section 341(a)''; and

(ii) by striking ''forty-five day'' the second place it appears and inserting ''30-day'';

(C) in paragraph (2)(C) by inserting ''except as provided in section 362(h)'' before the semicolon; and

(D) by adding at the end the following:

''(h) If the debtor fails timely to take the action specified in subsection (a)(6) of this section, or in paragraphs (1) and (2) of section 362(h) of this title, with respect to property which a lessor or bailor owns and has leased, rented, or bailed to the debtor or as to which a creditor holds a security interest not otherwise voidable under section 522(f), 544, 545, 547, 548, or 549, nothing in this title shall prevent or limit the operation of a provision in the underlying lease or agreement which has the effect of placing the debtor in default under such lease or agreement by reason of the occurrence, pendency, or existence of a proceeding under this title or the insolvency of the debtor. Nothing in this subsection shall be deemed to justify limiting such a provision in any other circumstance.''.

SEC. 125. GIVING SECURED CREDITORS FAIR TREATMENT IN CHAPTER 13.

Section 1325(a)(5)(B)(i) of title 11, United States Code, is amended to read as follows:

''(i) the plan provides that the holder of such claim retain the lien securing such claim until the earlier of payment of the underlying debt determined under nonbankruptcy law or discharge under section 1328, and that if the case under this chapter is dismissed or converted without completion of the plan, such lien shall also be retained by such holder to the extent recognized by applicable nonbankruptcy law; and''.

SEC. 126. PROMPT RELIEF FROM STAY IN INDIVIDUAL CASES.

Section 362(e) of title 11, United States Code, is amended by inserting at the end the following:

''Notwithstanding the foregoing, in the case of an individual filing under chapter 7, 11, or 13, the stay under subsection (a) shall terminate 60 days after a request under subsection (d) of this section, unless—

''(1) a final decision is rendered by the court within such 60-day period; or

''(2) such 60-day period is extended either by agreement of all parties in interest or by the court for a specific time which the court finds is required by compelling circumstances.''.

SEC. 127. STOPPING ABUSIVE CONVERSIONS FROM CHAPTER 13.

Section 348(f)(1) of title 11, United States Code, is amended—

(1) by striking in subparagraph (B) ''in the converted case, with allowed secured claims'' and inserting in lieu thereof ''only in a case converted to chapter 11 or 12 but not in one converted to chapter 7, with allowed secured claims in cases under chapters 11 and 12''; and

(2) in subparagraph (A) by striking ''and'' at the end;

(3) in subparagraph (B) by striking the period and inserting ''; and''; and

(4) by adding at the end the following:

''(C) with respect to cases converted from chapter 13, the claim of any creditor holding security as of the date of the petition shall continue to be secured by that security unless the full amount of that claim determined under applicable nonbankruptcy law has been paid in full as of the date of conversion, notwithstanding any valuation or determination of the amount of an allowed secured claim made for the purposes of the case under chapter of this title. Unless a prebankruptcy default has been fully cured pursuant to the plan at the time of conversion, in any proceeding under this title or otherwise, the default shall have the effect given under applicable nonbankruptcy law.''.

SEC. 128. RESTRAINING ABUSIVE PURCHASES ON 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) subsection (a) shall not apply to an allowed claim to the extent attributable in whole or in part to the purchase price of personal property acquired by the debtor within 180 days of the filing of the petition, except for the purpose of applying paragraph (3) of this subsection;

''(2) if such allowed claim attributable to the purchase price is secured only by the personal property so acquired, the value of the personal property and the amount of the allowed secured claim shall be the sum of the unpaid principal balance of the purchase price and accrued and unpaid interest and charges at the contract rate;

''(3) if such allowed claim attributable to the purchase price is secured by the personal property so acquired and other property, the value of the security may be determined under subsection (a), but the value of the security and the amount of the allowed secured claim shall be not less than the unpaid principal balance of the purchase price of the personal property acquired and unpaid interest and charges at the contract rate; and

''(4) in any subsequent case under this title that is filed by or against the debtor in the 2-year period beginning on the date the petition is filed in the original case, the value of the personal property and the amount of the allowed secured claim shall be deemed to be not less than the amount provided under paragraphs (2) and (3).''.

SEC. 129. FAIR VALUATION OF COLLATERAL.

Section 506(a) of title 11, United States Code, is amended by adding at the end the following:

''In the case of an individual debtor under chapters 7 and 13, such value with respect to personal property securing an allowed claim shall be determined based on the replacement value of such property as of the date of filing the petition without deduction for costs of sale or marketing. With respect to property acquired for personal, family, or household purpose, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined.''.

SEC. 130. PROTECTION OF HOLDERS OF CLAIMS SECURED BY DEBTOR'S PRINCIPAL RESIDENCE.

Title 11, United States Code, is amended—

(1) in section 101 by inserting after paragraph (13) the following:

''(13A) 'debtor's principal residence' means a residential structure including incidental property when the structure contains 1 to 4 units, whether or not that structure is attached to real property, and includes, without limitation, an individual condominium or cooperative unit or mobile or manufactured home or trailer;

''(13B) 'incidental property' means property incidental to such residence including, without limitation, property commonly conveyed with a principal residence where the real estate is located, window treatments, carpets, appliances and equipment located in the residence, and easements, appurtenances, fixtures, rents, royalties, mineral rights, oil and gas rights, escrow funds and insurance proceeds;'';

(2) in section 362(b)—

(A) in paragraph (17) by striking ''or'' at the end thereof;

(B) in paragraph (18) by striking the period at the end and inserting ''; or''; and

(C) by inserting after paragraph (18) the following:

''(19) under subsection (a), until a prepetition default is cured fully in a case under chapter 13 of this title case by actual payment of all arrears as required by the plan, of the postponement, continuation or other similar delay of a prepetition foreclosure proceeding or sale in accordance with applicable nonbankruptcy law, but nothing herein shall imply that such postponement, continuation or other similar delay is a violation of the stay under subsection (a).''; and

(3) by amending section 1322(b)(2) to read as follows:

''(2) modify the rights of holders of secured claims, other than a claim secured primarily by a security interest in property used as the debtor's principal residence at any time during 180 days prior to the filing of the petition, or of holders of unsecured claims, or leave unaffected the rights of holders of any class of claims;''.

SEC. 131. AIRCRAFT EQUIPMENT AND VESSELS.

Section 1110(a)(1) of title 11, United States Code, is amended—

(1) in subparagraph (A) by striking ''that become due on or after the date of the order'';

(2) in subparagraph (B)—

(A) in clause (i) by striking ''and'' at the end; and

(B) in clause (ii)—

(i) by inserting ''and within such 60-day period'' after ''order''; and

(ii) in subclause (II) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(iii) that occurs after the date of the order and such 60-day period is cured in accordance with the terms of such security agreement, lease, or conditional sale contract.''.

Subtitle D—Adequate Protections for Unsecured Creditors

SEC. 141. DEBTS INCURRED TO PAY NONDISCHARGEABLE DEBTS.

(a) PRIORITY OF CLAIMS FOR DEBTS INCURRED TO PAY NONDISCHARGEABLE DEBTS.—Section 507(a) of title 11, United States Code, is amended by adding at the end the following:

''(10) Tenth, remaining allowed unsecured claims for debts that are nondischargeable under section 523(a)(19), but which shall be payable under this paragraph in the higher order of priority (if any) as the respective claims paid by incurring such debts.''.

(b) NONDISCHARGEABILITY OF DEBTS INCURRED TO PAY NONDISCHARGEABLE DEBTS.—Section 523(a) of title 11, United States Code, is amended—

(1) in paragraph (17) by striking ''or'' at the end;

(2) in paragraph (18) by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(19) incurred to pay a debt that is nondischargeable under any other paragraph of this subsection.''.

SEC. 142. CREDIT EXTENSIONS ON THE EVE OF BANKRUPTCY PRESUMED NONDISCHARGEABLE.

Section 523(a)(2)(C) of title 11, United States Code, is amended to read as follows:

''(C) for purposes of subparagraph (A), consumer debts owed to a single creditor incurred by an individual debtor on or within 90 days before the order for relief under this title are presumed to be nondischargeable, except that such

presumption shall not apply to consumer debts owed to a single creditor which are incurred for necessaries and aggregate $250 or less.''.

SEC. 143. FRAUDULENT DEBTS ARE NONDISCHARGEABLE IN CHAPTER 13 CASES.

Section 1328(a)(2) of title 11, United States Code, is amended—

(1) by inserting ''(2), (3)(B), (4),'' after ''paragraph''; and

(2) by inserting ''(6),'' after ''(5),''.

SEC. 144. APPLYING THE CODEBTOR STAY ONLY WHEN IT PROTECTS THE DEBTOR.

Section 1301(b) of title 11, United States Code, is amended—

(1) by inserting ''(1)'' after ''(b)''; and

(2) by adding at the end the following:

''(2) When the debtor did not receive the consideration for the claim held by a creditor, the stay provided by subsection (a) does not apply to such creditor, notwithstanding subsection (c), to the extent the creditor proceeds against the individual which received such consideration or against property not in the possession of the debtor which secures such claim, but this subsection shall not apply if the debtor is primarily obligated to pay the creditor in whole or in part with respect to the claim under a legally binding separation agreement, or divorce or dissolution decree, with respect to such individual or the person who has possession of such property.

''(3) When the debtor's plan provides that the debtor's interest in personal property subject to a lease as to which the debtor is the lessee will be surrendered or abandoned or no payments will be made under the plan on account of the debtor's obligations under the lease, the stay provided by subsection (a) shall terminate as of the date of confirmation of the plan notwithstanding subsection (c).''.

SEC. 145. CREDIT EXTENSIONS WITHOUT A REASONABLE EXPECTATION OF REPAYMENT MADE NONDISCHARGEABLE.

Section 523(a)(2) of title 11, United States Code, is amended—

(1) in subparagraph (A) by striking ''or actual fraud,'' and inserting ''actual fraud, or use of a credit or charge card or other device to access a credit line without a reasonable expectation or ability to repay unless access to such credit, credit or charge card or other device to access the credit line was extended without an application therefor and reasonable evaluation of the debtor's ability to repay,'', and

(2) in subparagraph (B)(iv) by striking ''with intent to deceive'' and inserting ''without taking reasonable steps to ensure the accuracy of the statement''.

SEC. 146. DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.

(a) NONDISCHARGEABILITY.—Title 11, United States Code, is amended—

(1) in section 523(a)(18)—

(A) by inserting ''(including interest)'' after ''law''; and

(B) in subparagraph (A) by striking ''and'' at the end and inserting ''or''; and

(2) in section 1328(a)(2) by striking ''or (9)'' and inserting ''(9), or (18)''.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by section 130, is amended—

(1) in paragraph (19) by striking ''or'' at the end;

(2) in paragraph (19) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(20) under subsection (a) with respect to the withholding of income pursuant to an order as specified in section 466(b) of the Social Security Act; or

''(21) under subsection (a) with respect to the withholding, suspension, or restriction of drivers' licenses, professional and occupational licenses, and recreational licenses pursuant to State law as specified in section 466(a)(15) of the Social Security Act or with respect to the reporting of overdue support owed by an absent parent to any consumer reporting agency as specified in section 466(a)(7) of the Social Security Act.''.

(c) CONTINUED LIABILITY OF PROPERTY.—Section 522(c) of title 11, United States Code, is amended by striking ''section 523(a)(1) or 523(a)(5)'' and inserting ''paragraph (1), (5), or (18) of section 523(a)''.

(d) PRIORITY OF CLAIMS.—Section 507(a) of title 11, United States Code, as amended by section 141, is amended—

(1) in paragraph (10) by striking ''(10) Tenth'' and inserting ''(11) Eleventh'';

(2) in paragraph (9) by striking ''(9) Ninth'' and inserting ''(10) Tenth'';

(3) in paragraph (8) by striking ''(8) Eighth '' and inserting ''(9) Ninth''; and

(4) by inserting after paragraph (7) the following:

''(8) Eighth, allowed unsecured claims for debts that are nondischargeable under section 523(a)(18).''.

(e) CONFIRMATION OF PLANS.—Title 11 of the 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 to pay alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor, the debtor has paid all amounts payable under such order for alimony, maintenance, or support that are due after the date the petition is filed.'';

(2) in section 1225(a)—

(A) in paragraph (5) by striking ''and'' at the end;

(B) in paragraph (6) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(7) the debtor is required by a judicial or administrative order to pay alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor, the debtor has paid all amounts payable under such order for alimony, maintenance, or support that are due after the date the petition is filed.''; and

(3) 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 to pay alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor, the debtor has paid all amounts payable under such order for alimony, maintenance, or support that are due after the date the petition is filed.''.

(f) DISCHARGE.—Title 11 United States Code is amended—

(1) in section 1228(a) by inserting ''and only after a debtor who is required by a judicial or administrative order to pay alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor, certifies that all amounts payable under such order for alimony, maintenance, or support that are due after the date the petition is filed have been paid,'' after ''this title,''; and

(2) in section 1328(a) by inserting ''and only after a debtor who is required by a judicial or administrative order to pay alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor, certifies that all amounts payable under such order for alimony, maintenance, or support that are due after the date the petition is filed have been paid,'' after ''plan,'' the 1st place it appears.

(g) CONFORMING AMENDMENTS.—Section 456(b) of the Social Security Act (42 U.S.C. 656(b)) is amended—

(1) by inserting '', including interest,'' after ''Code)'';

(2) by striking ''and'' and inserting ''or''; and

(3) by striking ''released by a discharge'' and inserting ''dischargeable''.

SEC. 147. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.

Section 523(a)(5) of title 11, United States Code, is amended to read as follows:

''(5) to a spouse, former spouse, or child of the debtor for alimony to, maintenance for, or support of such spouse or child, or to a spouse, former spouse, or child of the debtor, to the extent such debt is the result of a property settlement agreement, a hold harmless agreement, or any other type of debt that is not in the nature of alimony, maintenance, or support in connection with or incurred by the debtor in the course of a separation agreement, divorce decree, any modifications thereof, or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, but not to the extent that such debt is assigned to another entity, voluntarily, by operation of law, or otherwise (other than debts assigned pursuant to section 408(a)(3) of the Social Security Act, or such debt that has been assigned to the Federal government, or to a State or political subdivision of such State, or the creditor's attorney);''.

SEC. 148. OTHER EXCEPTIONS TO DISCHARGE.

Section 523 of title 11, United States Code, is amended—

(1) by striking subsection (a)(15), as added by section 304(e)(1) of Public Law 103–394;

(2) in subsection (a)(7) by inserting ''(including property or funds required to be disgorged)'' after ''penalty''; and

(3) in subsection (c)(1) by striking ''(6), or (15)'' and inserting ''or (6)''.

SEC. 149. FEES ARISING FROM CERTAIN OWNERSHIP INTERESTS.

(a) EXCEPTION TO DISCHARGE.—Section 523(a)(16) of title 11, United States Code, is amended—

(1) by striking ''dwelling'' the 1st place it appears;

(2) by striking ''ownership or'' and inserting ''ownership,'';

(3) by striking ''housing'' the 1st place it appears; and

(4) by striking ''but only'' and all that follows through ''such period,'', and inserting ''or a lot in a homeowners association, for as long as the debtor or the trustee has a legal, equitable, or possessory ownership interest in such unit, such corporation, or such lot,''.

(b) EXECUTORY CONTRACTS.—Section 365 of title 11, United States Code, as amended by section 161, is amended by adding at the end the following:

''(q) A debt of a kind described in section 523(a)(16) of this title shall not be considered to be a debt arising from an executory contract.''

SEC. 150. PROTECTION OF CHILD SUPPORT AND ALIMONY.

(a) AMENDMENT.—Title 11 of the United States Code, as amended by section 116, is amended by inserting after section 528 the following:

''§529. Protection of child support and alimony payments after the discharge

''Notwithstanding the provisions of the constitution or law of any State providing a different priority, any debts of the individual who has received a discharge under this title to a spouse, former spouse, or child for alimony to, maintenance for, or support of such spouse or child, in connection with a separation agreement, divorce decree, or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement, but not to the extent that such debt—

''(1) is assigned to another entity, voluntarily, by operation of law, or otherwise; or

''(2) includes a liability designated as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance, or support,

shall have priority in payment and collection over a creditor's claim which is not discharged

in the individual's case pursuant to paragraph (2), (4), or (14) of section 523(a) of this title, but such priority shall not affect the priority of any consensual lien, mortgage, or security interest securing such creditor's claim.''.

(b) CONFORMING AMENDMENT.—The table of sections of chapter 5 of title 11, United States Code, as amended by section 116, is amended by inserting after the item relating to section 528 the following:

''529. Protection of child support and alimony.''.

SEC. 151. ADEQUATE PROTECTION FOR INVESTORS.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (48) the following:

''(48A) 'securities self regulatory organization' means either a securities association registered with the Securities and Exchange Commission pursuant to section 15A of the Securities Exchange Act of 1934 or a national securities exchange registered with the Securities and Exchange Commission pursuant to section 6 of the Securities Exchange Act of 1934;''.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by sections 130 and 146, is amended—

(1) in paragraph (20) by striking ''or'' at the end;

(2) in paragraph (21) by striking the period at the end and a inserting ''; or''; and

(3) by adding at the end the following:

''(22) under subsection (a) of this section, of the commencement or continuation of an investigation or action by a securities self regulatory organization to enforce such organization's regulatory power; of the enforcement of an order or decision, other than for monetary sanctions, obtained in an action by the securities self regulatory organization to enforce such organization's regulatory power; or of any act taken by the securities self regulatory organization to delist, delete, or refuse to permit quotation of any stock that does not meet applicable regulatory requirements.''.

Subtitle E—Adequate Protections for Lessors

SEC. 161. GIVING DEBTORS THE ABILITY TO KEEP LEASED PERSONAL PROPERTY BY ASSUMPTION.

Section 365 of title 11, United States Code, is amended by adding at the end the following:

''(p)(1) If a lease of personal property is rejected or not timely assumed by the trustee under subsection (d), the leased property is no longer property of the estate and the stay under section 362(a) of this title is automatically terminated.

''(2) In the case of an individual under chapter 7, the debtor may notify the creditor in writing that the debtor desires to assume the lease. Upon being so notified, the creditor may, at its option, notify the debtor that it is willing to have the lease assumed by the debtor and may condition such assumption on cure of any outstanding default on terms set by the lessor. If within 30 days of such notice the debtor notifies the lessor in writing that the lease is assumed, the liability under the lease will be assumed by the debtor and not by the estate. The stay under section 362 of this title and the injunction under section 524(a)(2) of this title shall not be violated by notification of the debtor and negotiation of cure under this subsection.

''(3) In a case under chapter 11 of this title in which the debtor is an individual and in a case under chapter 13 of this title, if the debtor is the lessee with respect to personal property and the lease is not assumed in the plan confirmed by the court, the lease is deemed rejected as of the conclusion of the hearing on confirmation. If the lease is rejected, the stay under section 362 of this title and any stay under section 1301 is automatically terminated with respect to the property subject to the lease.''.

SEC. 162. ADEQUATE PROTECTION OF LESSORS AND PURCHASE MONEY SECURED CREDITORS.

Title 11, United States Code, is amended by adding after section 1307 the following:

''§ 1307A. Adequate protection in chapter 13 cases

''(a)(1) On or before 30 days after the filing of a case under this chapter, the debtor shall make cash payments in the amount described below to any lessor of personal property and to any creditor holding a claim secured by personal property to the extent such claim is attributable to the purchase of such property by the debtor. The debtor or the plan shall continue such payments until the earlier of—

''(A) the time at which the creditor begins to receive actual payments under the plan; or

''(B) the debtor relinquishes possession of such property to the lessor or creditor, or to any third party acting under claim of right, as applicable.

''(2) Such cash payments shall be in the amount of any weekly, biweekly, monthly or other periodic payment scheduled as payable under the contract between the debtor and creditor; shall be paid at the times at which such payments are scheduled to be made; and shall not include any arrearages, penalties, or default or delinquency charges. Such payments shall be deemed to be adequate protection payments under section 362 of this title.

''(b) The court may, after notice and hearing, change the amount and timing of the adequate protection payment under subsection (a), but in no event shall it be payable less frequently than monthly or in an amount less than the reasonable depreciation of such property month to month.

''(c) Notwithstanding section 1326(b) of this title, if a confirmed plan provides for payments to a creditor or lessor described in subsection (a) and provides that payments to such creditor or lessor under the plan will be deferred until payment of amounts described in section 1326(b) of this title, the payments required hereunder shall nonetheless be continued in addition to plan payments until actual payments to the creditor begin under the plan.

''(d) Notwithstanding sections 362, 542, and 543 of this title, a lessor or creditor described in subsection (a) may retain possession of property described in subsection (a) which was obtained rightfully prior to the date of filing of the petition until the first such adequate protection payment is received by the lessor or creditor. Such retention of possession and any acts reasonably related thereto shall not violate the stay imposed under section 362(a) of this title, nor any obligations imposed under section 542 or 543 of this title.

''(e) On or before 60 days after the filing of a case under this chapter, a debtor retaining possession of personal property subject to a lease or securing a claim attributable in whole or in part to the purchase price of that property shall provide each creditor or lessor reasonable evidence of the maintenance of any required insurance coverage with respect to the use or ownership of such property and continue to do so for so long as the debtor retains possession of such property.''.

SEC. 163. ADEQUATE PROTECTION FOR LESSORS.

Section 362(b)(10) of title 11, United States Code, is amended by striking ''nonresidential''.

Subtitle F—Bankruptcy Relief Less Frequently Available for Repeat Filers

SEC. 171. EXTEND PERIOD BETWEEN BANKRUPTCY DISCHARGES.

Title 11, United States Code, is amended—

(1) in section 727(a)(8) by striking ''six'' and inserting ''10''; and

(2) in section 1328 by adding at the end the following:

''(f) Notwithstanding subsections (a) and (b), the court shall not grant a discharge of all debts provided for by the plan or disallowed under section 502 of this title if the debtor has received a discharge in any case filed under this title within 5 years of the order for relief under this chapter.''.

Subtitle G—Exemptions

SEC. 181. EXEMPTIONS.

Section 522(b)(2)(A) of title 11, United States Code, is amended—

(1) by striking ''180'' and inserting ''365''; and

(2) by striking '', or for a longer portion of such 180-day period than in any other place''.

SEC. 182. LIMITATION.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)(2)(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)(2)(A) to exempt property under State or local law, a debtor may not exempt any interest to the extent that such interest exceeds $100,000 in value, in the aggregate, 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)(2)(A) by a family farmer for the principal residence of that farmer.''.

TITLE II—BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Provisions

SEC. 201. LIMITATION RELATING TO THE USE OF FEE EXAMINERS.

Section 330 of title 11, United States Code, is amended by adding at the end the following:

''(e) The court may not appoint any person to examine any request for compensation or reimbursement payable under this section.''.

SEC. 202. SHARING OF COMPENSATION.

Section 504 of title 11, United States Code, is amended by adding at the end the following:

''(c) This section shall not apply with respect to sharing, or agreeing to share, compensation with a bona fide public service attorney referral program that operates in accordance with non-Federal law regulating attorney referral services and with rules of professional responsibility applicable to attorney acceptance of referrals.''.

SEC. 203. CHAPTER 12 MADE PERMANENT LAW.

Section 302(f) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (11 U.S.C. 1201 note) is repealed.

SEC. 204. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

Section 341 of title 11, United States Code, is amended by adding at the end the following:

''(e) Notwithstanding subsections (a) and (b), the court, on the request of a party in interest and after notice and a hearing, for cause may order that the United States trustee not convene a meeting of creditors or equity security holders if the debtor has filed a plan as to which the debtor solicited acceptances prior to the commencement of the case.''.

SEC. 205. CREDITORS' AND EQUITY SECURITY HOLDERS' COMMITTEES.

Section 1102(b) of title 11, United States Code, is amended by adding at the end the following:

''(3) The court on its own motion or on request of a party in interest, and after notice and a hearing, may order a change in membership of a committee appointed under subsection (a) if necessary to ensure adequate representation of creditors or of equity security holders.''.

SEC. 206. POSTPETITION DISCLOSURE AND SOLICITATION.

Section 1125 of title 11, United States Code, is amended by adding at the end the following:

''(g) Notwithstanding subsection (b), an acceptance or rejection of the plan may be solicited from a holder of a claim or interest if such solicitation complies with applicable nonbankruptcy law and if such holder was solicited before the commencement of the case in a manner complying with applicable nonbankruptcy law.''.

SEC. 207. PREFERENCES.

Section 547(c) of title 11, United States Code, is amended—

(1) by amending paragraph (2) to read as follows:

''(2) to the extent that such transfer was in payment of a debt incurred by the debtor in the ordinary course of business or financial affairs of the debtor and the transferee, and such transfer was—

''(A) made in the ordinary course of business or financial affairs of the debtor and the transferee; or

''(B) made according to ordinary business terms;'';

(2) in paragraph (7) by striking ''or'' at the end;

(3) in paragraph (8) by striking the period at the end and inserting ''; or''; and

(4) by adding at the end the following:

''(9) if, in a case filed by a debtor whose debts are not primarily consumer debts, the aggregate value of all property that constitutes or is affected by such transfer is less than $5000.''.

SEC. 208. VENUE OF CERTAIN PROCEEDINGS.

Section 1409(b) of title 28, United States Code, is amended by inserting '', or a nonconsumer debt against a noninsider of less than $10,000,'' after ''$5,000''.

SEC. 209. PERIOD FOR FILING PLAN UNDER CHAPTER 11.

Section 1121(d) of title 11, United States Code, is amended—

(1) by striking ''On'' and inserting ''(1) Subject to paragraph (1), on''; and

(2) by adding at the end the following:

''(2)(A) Such 120-day period may not be extended beyond a date that is 18 months after the date of the order for relief under this chapter.

''(B) Such 180-day period may not be extended beyond a date that is 20 months after the date of the order for relief under this chapter.''.

SEC. 210. PERIOD FOR FILING PLAN UNDER CHAPTER 12.

(a) EXTENSION OF PERIOD.—Section 1221 of title 11, United States Code, is amended by inserting ''to any period not later than 150 days after the order for relief'' after ''period''.

(b) RELIEF FROM THE STAY.—Section 362(d) of title 11, United States Code, is amended—

(1) in paragraph (2) by striking ''or'' at the end;

(2) in paragraph (3) by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(4) with respect to a stay of an act against property under subsection (a) of a debtor in a case under chapter 12, by a creditor whose claim is secured by an interest in such property, unless the debtor has filed a plan in accordance with section 1221.''.

(c) SPECIAL TREATMENT OF SECURED CLAIMS.—(1) Chapter 12 of title 11, United States Code, is amended by inserting after section 1231 the following:

''§ 1232. Special treatment of secured claims

''(a)(1) A claim secured by a lien on property of the estate shall be allowed or disallowed under section 502 of this title the same as if the holder of such claim had recourse against the debtor on account of such claim, whether or not such holder has such recourse, unless—

''(A) subject to paragraph (2), the holder of such claim elects to apply subsection (b); or

''(B) such holder does not have such recourse, and such property is sold under section 363 of this title or is to be sold under the plan.

''(2) A holder of a claim may not elect to apply subsection (b) if—

''(A) such claim is of inconsequential value; or

''(B) the holder of a claim has recourse against the debtor on account of such claim, and such property is sold under section 363 of this title or is to be sold under the plan.

''(b) If such an election is made to apply this subsection, then notwithstanding section 506(a) of this title, such claim is a secured claim to the extent such claim is allowed.''.

(2) The table of sections of chapter 12 of title 11, United States Code, is amended by inserting after the item relating to section 1231 the following:

''1232. Special treatment of secured claims.''.

SEC. 211. CASES ANCILLARY TO FOREIGN PROCEEDINGS INVOLVING FOREIGN INSURANCE COMPANIES THAT ARE ENGAGED IN THE BUSINESS OF INSURANCE OR REINSURANCE IN THE UNITED STATES.

Section 304 of title 11, United States Code, is amended—

(1) in subsection (b) by striking ''provisions of subsection (c)'' and inserting ''subsections (c) and (d)''; and

(2) by adding at the end the following:

''(d) The court may not grant to a foreign representative of the estate of an insurance company that is not organized under the law of a State and that is engaged in the business of insurance, or reinsurance, in the United States relief under subsection (b) with respect to property that is—

''(1) a deposit required by a State law relating to insurance or reinsurance;

''(2) a multibeneficiary trust required by a State law relating to insurance or reinsurance to protect holders of insurance policies issued in the United States or to protect holders or claimants against such policies; or

''(3) a multibeneficiary trust authorized by a State law relating to insurance or reinsurance to allow a person engaged in the business of insurance in the United States—

''(A) to cede reinsurance to such an insurance company; and

''(B) to treat so ceded reinsurance as an asset, or deduction from liability, in financial statements of such person.''.

SEC. 212. REJECTION OF EXECUTORY CONTRACTS AFFECTING INTELLECTUAL PROPERTY RIGHTS TO RECORDINGS OF ARTISTIC PERFORMANCE.

Section 365(n) of title 11, United States Code, is amended at the end the following:

''(5) The rejection by the trustee of an executory contract affecting the intellectual property rights to recordings of artistic performance shall not in any way diminish or impair any applicable nonbankruptcy law rights to enforce noncompetition provision or provisions regarding the rendering of exclusive services as a performing artist that may be contained in such contracts, except that such enforcement shall be subject to the nondebtor party providing to the debtor notice of an offer to perform the contract under all of its original terms. The rights to enforce such noncompetition or exclusivity provision shall not be treated as claims that can be discharged under this title.''.

SEC. 213. UNEXPIRED LEASES OF NONRESIDENTIAL REAL PROPERTY.

Section 365(d)(4) of title 11, United States Code, is amended to read as follows:

''(4) In a case under any chapter of this title, if the trustee does not assume or reject an unexpired lease of nonresidential real property under which the debtor is the lessee before the earlier of (A) 120 days after the date of the order for relief, or (B) the entry of an order confirming a plan, then such lease is deemed rejected, and the trustee shall immediately surrender such nonresidential real property to the lessor but in no event shall such time period exceed 120 days. Notwithstanding the immediately preceding sentence, and provided no plan has been confirmed, upon debtor's motion, and after notice and a hearing, the court may within such 120-day period extend the 120-day period by a period not to exceed 150 days, contingent upon written consent of the affected lessor or with the approval of the court, and provided trustee has timely performed all post-petition lease obligations, but in no circumstance shall such period extend beyond the earlier of (i) 270 days from the date of the order for relief or (ii) the entry of an order approving a disclosure statement, without the consent of the lessor.''.

SEC. 214. DEFINITION OF DISINTERESTED PERSON.

Section 101(14) of title 11, United States Code, is amended to read as follows:

''(14) 'disinterested person' means a person that—

''(A) is not a creditor, an equity security holder, or an insider;

''(B) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the debtor; and

''(C) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason;''.

Subtitle B—Specific Provisions

CHAPTER 1—SMALL BUSINESS BANKRUPTCY

SEC. 231. DEFINITIONS.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended by striking paragraph (51C) and inserting the following:

''(51C) 'small business case' means a case filed under chapter 11 of this title in which the debtor is a small business debtor;

''(51D) 'small business debtor' means—

''(A) a person (including affiliates of such person that are also debtors under this title) that has aggregate noncontingent, liquidated secured and unsecured debts as of the date of the petition or the order for relief in an amount not more than $5,000,000 (excluding debts owed to 1 or more affiliates or insiders); or

''(B) a debtor of the kind described in paragraph (51B) but without regard to the amount of such debtor's debts;

except that if a group of affiliated debtors has aggregate noncontingent liquidated secured and unsecured debts greater than $5,000,000 (excluding debt owed to 1 or more affiliates or insiders), then no member of such group is a small business debtor;''.

(b) CONFORMING AMENDMENT.—Section 1102(a)(3) of title 11, United States Code, is amended by inserting ''debtor'' after ''small business''.

SEC. 232. FLEXIBLE RULES FOR DISCLOSURE STATEMENT AND PLAN.

Section 1125(f) of title 11, United States Code, is amended to read as follows:

''(f) Notwithstanding subsection (b), in a small business case—

''(1) in determining whether a disclosure statement provides adequate information, the court shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information;

''(2) the court may determine that the plan itself provides adequate information and that a separate disclosure statement is not necessary;

''(3) the court may approve a disclosure statement submitted on standard forms approved by the court or adopted pursuant to section 2075 of title 28; and

''(4)(A) the court may conditionally approve a disclosure statement subject to final approval after notice and a hearing;

''(B) acceptances and rejections of a plan may be solicited based on a conditionally approved disclosure statement if the debtor provides adequate information to each holder of a claim or interest that is solicited, but a conditionally approved disclosure statement shall be mailed not

less than 20 days before the date of the hearing on confirmation of the plan; and

''(C) the hearing on the disclosure statement may be combined with the hearing on confirmation of a plan.''.

SEC. 233. STANDARD FORM DISCLOSURE STATEMENTS AND PLANS.

The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall, within a reasonable period of time after the date of the enactment of this Act, propose for adoption standard form disclosure statements and plans of reorganization for small business debtors (as defined in section 101) of title 11, United States Code, as amended by this Act), designed to achieve a practical balance between—

(1) the reasonable needs of the courts, the United States trustee or bankruptcy administrator, creditors, and other parties in interest for reasonably complete information; and

(2) economy and simplicity for debtors.

SEC. 234. UNIFORM NATIONAL REPORTING REQUIREMENTS.

(a) REPORTING REQUIRED.—(1) Title 11 of the United States Code is amended by inserting after section 307 the following:

''§ 308. Debtor reporting requirements

''A small business debtor shall file periodic financial and other reports containing information including—

''(1) the debtor's profitability, that is, approximately how much money the debtor has been earning or losing during current and recent fiscal periods;

''(2) reasonable approximations of the debtor's projected cash receipts and cash disbursements over a reasonable period;

''(3) comparisons of actual cash receipts and disbursements with projections in prior reports;

''(4) whether the debtor is—

''(A) in compliance in all material respects with postpetition requirements imposed by this title and the Federal Rules of Bankruptcy Procedure; and

''(B) timely filing tax returns and paying taxes and other administrative claims when due, and, if not, what the failures are and how, at what cost, and when the debtor intends to remedy such failures; and

''(5) such other matters as are in the best interests of the debtor and creditors, and in the public interest in fair and efficient procedures under chapter 11 of this title.''.

(2) The table of sections of chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 307 the following:

''308. Debtor reporting requirements.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 60 days after the date on which rules are prescribed pursuant to section 2075, title 28, United States Code to establish forms to be used to comply with section 308 of title 11, United States Code, as added by subsection (a).

SEC. 235. UNIFORM REPORTING RULES AND FORMS.

After consultation with the Director of the Executive for United States Trustees and with the Judicial Conference of the United States, the Attorney General of the United States shall propose for adoption amended Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms to be used by small business debtors to comply with section 308 of title 11, United States Code, as added by section 234 of this Act to achieve a practical balance between—

(1) the reasonable needs of the courts, the United States trustee or bankruptcy administrator, creditors, and other parties in interest for reasonably complete information; and

(2) economy and simplicity for debtors in cases under such title.

SEC. 236. DUTIES IN SMALL BUSINESS CASES.

(a) DUTIES IN CHAPTER 11 CASES.—Title 11 of the United States Code is amended by inserting after section 1114 the following:

''§ 1115. Duties of trustee or debtor in possession in small business cases

''In a small business case, a trustee or the debtor in possession, in addition to the duties provided in this title and as otherwise required by law, shall—

''(1) append to the voluntary petition or, in an involuntary case, file within 3 days after the date of the order for relief—

''(A) its most recent balance sheet, statement of operations, cash-flow statement, Federal income tax return; or

''(B) a statement made under penalty of perjury that no balance sheet, statement of operations, or cash-flow statement has been prepared and no Federal tax return has been filed;

''(2) attend, through its senior management personnel and counsel, meetings scheduled by the court or the United States trustee, including initial debtor interviews, scheduling conferences, and meetings of creditors convened under section 341 of this title;

''(3) timely file all schedules and statements of financial affairs, unless the court, after notice and a hearing, grants an extension, which shall not extend such time period to a date later than 30 days after the date of the order for relief, absent extraordinary and compelling circumstances;

''(4) file all postpetition financial and other reports required by the Federal Rules of Bankruptcy Procedure or by local rule of the district court;

''(5) subject to section 363(c)(2), maintain insurance customary and appropriate to the industry;

''(6)(A) timely file tax returns;

''(B) subject to section 363(c)(2), timely pay all administrative expense tax claims, except those being contested by appropriate proceedings being diligently prosecuted; and

''(C) subject to section 363(c)(2), establish 1 or more separate deposit accounts not later than 10 business days after the date of order for relief (or as soon thereafter as possible if all banks contacted decline the business) and deposit therein, not later than 1 business day after receipt thereof, all taxes payable for periods beginning after the date the case is commenced that are collected or withheld by the debtor for governmental units; and

''(7) allow the United States trustee or bankruptcy administrator, or its designated representative, to inspect the debtor's business premises, books, and records at reasonable times, after reasonable prior written notice, unless notice is waived by the debtor.''.

(b) TECHNICAL AMENDMENT.—The table of sections of chapter 11, United States Code, is amended by inserting after the item relating to section 1114 the following:

''1115. Duties of trustee or debtor in possession in small business cases.''.

SEC. 237. PLAN FILING AND CONFIRMATION DEADLINES.

Section 1121(e) of title 11, United States Code, is amended to read as follows:

''(e) In a small business case—

''(1) only the debtor may file a plan until after 90 days after the date of the order for relief, unless shortened on request of a party in interest made during the 90-day period, or unless extended as provided by this subsection, after notice and hearing the court, for cause, orders otherwise;

''(2) the plan, and any necessary disclosure statement, shall be filed not later than 90 days after the date of the order for relief; and

''(3) the time periods specified in paragraphs (1) and (2), and the time fixed in section 1129(e) of this title, within which the plan shall be confirmed may be extended only if—

''(A) the debtor, after providing notice to parties in interest (including the United States trustee), demonstrates by a preponderance of the evidence that it is more likely than not that the court will confirm a plan within a reasonable time;

''(B) a new deadline is imposed at the time the extension is granted; and

''(C) the order extending time is signed before the existing deadline has expired.''.

SEC. 238. PLAN CONFIRMATION DEADLINE.

Section 1129 of title 11, United States Code, is amended by adding at the end the following:

''(e) In a small business case, the plan shall be confirmed not later than 150 days after the date of the order for relief unless such 150-day period is extended as provided in section 1121(e)(3) of this title.''.

SEC. 239. PROHIBITION AGAINST EXTENSION OF TIME.

Section 105(d) of title 11, United States Code, is amended—

(1) in paragraph (2)(B)(vi) by striking the period at the end and inserting ''; and''; and

(2) by adding at the end the following:

''(3) in a small business case, not extend the time periods specified in sections 1121(e) and 1129(e) of this title except as provided in section 1121(e)(3) of this title.''.

SEC. 240. DUTIES OF THE UNITED STATES TRUSTEE AND BANKRUPTCY ADMINISTRATOR.

(a) DUTIES OF THE UNITED STATES TRUSTEE.—Section 586(a) of title 28, United States Code, as amended by section 111, is amended—

(1) in paragraph (3)—

(A) in subparagraph (G) by striking ''and'' at the end;

(B) by redesignating subparagraph (H) as subparagraph (I); and

(C) by inserting after subparagraph (G) the following:

''(H) in small business cases (as defined in section 101 of title 11), performing the additional duties specified in title 11 pertaining to such cases;'',

(2) in paragraph (6) by striking ''and'' at the end,

(3) in paragraph (7) by striking the period at the end and inserting ''; and'', and

(4) by inserting after paragraph (7) the following:

''(8) in each of such small business cases—

''(A) conduct an initial debtor interview as soon as practicable after the entry of order for relief but before the first meeting scheduled under section 341(a) of title 11 at which time the United States trustee shall begin to investigate the debtor's viability, inquire about the debtor's business plan, explain the debtor's obligations to file monthly operating reports and other required reports, attempt to develop an agreed scheduling order, and inform the debtor of other obligations;

''(B) when determined to be appropriate and advisable, visit the appropriate business premises of the debtor and ascertain the state of the debtor's books and records and verify that the debtor has filed its tax returns;

''(C) review and monitor diligently the debtor's activities, to identify as promptly as possible whether the debtor will be unable to confirm a plan; and

''(D) in cases where the United States trustee finds material grounds for any relief under section 1112 of title 11 move the court promptly for relief.''.

(b) DUTIES OF THE BANKRUPTCY ADMINISTRATOR.—In a small business case (as defined in section 101 of title 11 of the United States Code), the bankruptcy administrator shall perform the duties specified in section 586(a)(6) of title 28 of the United States Code.

SEC. 241. SCHEDULING CONFERENCES.

Section 105(d) of title 11, United States Code, is amended—

(1) in the matter preceding paragraph (1) by striking '', may'';

(2) by amending paragraph (1) to read as follows:

''(1) shall hold such status conferences as are necessary to further the expeditious and economical resolution of the case; and''; and

(3) in paragraph (2) by striking ''unless inconsistent with another provision of this title or with applicable Federal Rules of Bankruptcy Procedure,'' and inserting ''may''.

SEC. 242. SERIAL FILER PROVISIONS.

Section 362 of title 11, United States Code, is amended—

(1) in subsection (i) as so redesignated by section 124—

(A) by striking ''An'' and inserting ''(1) Except as provided in paragraph (2), an''; and

(B) by adding at the end the following:

''(2) If such violation is based on an action taken by an entity in the good-faith belief that subsection (h) applies to the debtor, then recovery under paragraph (1) against such entity shall be limited to actual damages.''; and

(2) by inserting after subsection (i), as redesignated by section 124, the following:

''() The filing of a petition under chapter 11 of this title operates as a stay of the acts described in subsection (a) only in an involuntary case involving no collusion by the debtor with creditors and in which the debtor—

''(1) is a debtor in a small business case pending at the time the petition is filed;

''(2) was a debtor in a small business case which was dismissed for any reason by an order that became final in the 2-year period ending on the date of the order for relief entered with respect to the petition;

''(3) was a debtor in a small business case in which a plan was confirmed in the 2-year period ending on the date of the order for relief entered with respect to the petition; or

''(4) is an entity that has succeeded to substantially all of the assets or business of a small business debtor described in subparagraph (A), (B), or (C) unless the debtor proves, by a preponderance of the evidence, that the filing of such petition resulted from circumstances beyond the control of the debtor not foreseeable at the time the case then pending was filed; and that it is more likely than not that the court will confirm a feasible plan, but not a liquidating plan, within a reasonable time.''.

SEC. 243. EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION AND APPOINTMENT OF TRUSTEE.

(a) EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION.—Section 1112(b) of title 11, United States Code, is amended to read as follows:

''(b)(1) Except as provided in paragraph (2), in subsection (c), and in section 1104(a)(3) of this title, on request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 of this title or dismiss a case under this chapter, whichever is in the best interest of creditors and the estate, if the movant establishes cause.

''(2) The relief provided in paragraph (1) shall not be granted if the debtor or another party in interest objects and establishes, by a preponderance of the evidence that—

''(A) it is more likely than not that a plan will be confirmed within a time as fixed by this title or by order of the court entered pursuant to section 1121(e)(3), or within a reasonable time if no time has been fixed; and

''(B) if the reason is an act or omission of the debtor that—

''(i) there exists a reasonable justification for the act or omission; and

''(ii) the act or omission will be cured within a reasonable time fixed by the court not to exceed 30 days after the court decides the motion, unless the movant expressly consents to a continuance for a specific period of time, or compelling circumstances beyond the control of the debtor justify an extension.

''(3) For purposes of this subsection, cause includes—

''(A) substantial or continuing loss to or diminution of the estate;

''(B) gross mismanagement of the estate;

''(C) failure to maintain appropriate insurance;

''(D) unauthorized use of cash collateral harmful to 1 or more creditors;

''(E) failure to comply with an order of the court;

''(F) failure timely to satisfy any filing or reporting requirement established by this title or by any rule applicable to a case under this chapter;

''(G) failure to attend the meeting of creditors convened under section 341(a) of this title or an examination ordered under rule 2004 of the Federal Rules of Bankruptcy Procedure;

''(H) failure timely to provide information or attend meetings reasonably requested by the United States trustee;

''(I) failure timely to pay taxes due after the date of the order for relief or to file tax returns due after the order for relief;

''(J) failure to file a disclosure statement, or to file or confirm a plan, within the time fixed by this title or by order of the court;

''(K) failure to pay any fees or charges required under chapter 123 of title 28;

''(L) revocation of an order of confirmation under section 1144 of this title, and denial of confirmation of another plan or of a modified plan under section 1129 of this title;

''(M) inability to effectuate substantial consummation of a confirmed plan;

''(N) material default by the debtor with respect to a confirmed plan; and

''(O) termination of a plan by reason of the occurrence of a condition specified in the plan.

''(4) The court shall commence the hearing on any motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion within 15 days after commencement of the hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.''.

(b) ADDITIONAL GROUNDS FOR APPOINTMENT OF TRUSTEE.—Section 1104(a) of title 11, United States Code, is amended—

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

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

(3) by adding at the end the following:

''(3) if grounds exist to convert or dismiss the case under section 1112 of this title, but the court determines that the appointment of a trustee is in the best interests of creditors and the estate.''.

CHAPTER 2—SINGLE ASSET REAL ESTATE

SEC. 251. SINGLE ASSET REAL ESTATE DEFINED.

Section 101(51B) of title 11, United States Code, is amended to read as follows:

''(51B) 'single asset real estate' means undeveloped real property or other real property constituting a single property or project, other than residential real property with fewer than 4 residential units, on which is located a single development or project which property or project generates substantially all of the gross income of a debtor and on which no substantial business is being conducted by a debtor, or by a commonly controlled group of entities all of which are concurrently debtors in a case under chapter 11 of this title, other than the business of operating the real property and activities incidental thereto;''.

SEC. 252. PAYMENT OF INTEREST.

Section 362(d)(3) of title 11, United States Code, is amended—

(1) by inserting ''or 30 days after the court determines that the debtor is subject to this paragraph, whichever is later'' after ''90-day period)''; and

(2) by amending subparagraph (B) to read as follows:

''(B) the debtor has commenced monthly payments (which payments may, in the debtor's sole discretion, notwithstanding section 363(c)(2) of this title, be made from rents or other income generated before or after the commencement of the case by or from the property) to each creditor whose claim is secured by such real estate (other than a claim secured by a judgment lien or by an unmatured statutory lien), which payments are in an amount equal to interest at the then-applicable nondefault contract rate of interest on the value of the creditor's interest in the real estate; or''.

TITLE III—MUNICIPAL BANKRUPTCY PROVISIONS

SEC. 301. PETITION AND PROCEEDINGS RELATED TO PETITION.

(a) TECHNICAL AMENDMENT RELATING TO MUNICIPALITIES.—Section 921(d) of title 11, United States Code, is amended by inserting ''notwithstanding section 301(b)'' before the period at the end.

(b) CONFORMING AMENDMENT.—Section 301 of title 11, United States Code, is amended—

(1) by inserting ''(a)'' before ''A voluntary''; and

(2) by amending the last sentence to read as follows:

''(b) The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.''.

TITLE IV—BANKRUPTCY ADMINISTRATION

Subtitle A—General Provisions

SEC. 401. ADEQUATE PREPARATION TIME FOR CREDITORS BEFORE THE MEETING OF CREDITORS IN INDIVIDUAL CASES.

Section 341(a) of title 11, United States Code, is amended by inserting after the first sentence the following: ''If the debtor is an individual in a voluntary case under chapter 7, 11, or 13, the meeting of creditors shall not be convened earlier than 60 days (or later than 90 days) after the date of the order for relief, unless the court, after notice and hearing, determines unusual circumstances justify an earlier meeting.''.

SEC. 402. CREDITOR REPRESENTATION AT FIRST MEETING OF CREDITORS.

Section 341(c) of title 11, United States Code, is amended by inserting after the first sentence the following: ''Notwithstanding any local court rule, provision of a State constitution, any other State or Federal nonbankruptcy law, or other requirement that representation at the meeting of creditors under subsection (a) be by an attorney, a creditor holding a consumer debt or its representatives (which representatives may include an entity or an employee of an entity and may be a representative for more than 1 creditor) shall be permitted to appear at and participate in the meeting of creditors in a case under chapter 7 or 13 either alone or in conjunction with an attorney for the creditor. Nothing in this subsection shall be construed to require any creditor to be represented by an attorney at any meeting of creditors.''.

SEC. 403. FILING PROOFS OF CLAIM.

Section 501 of title 11, United States Code, is amended by adding at the end the following:

''(e) In a case under chapter 7 or 13, a proof of claim or interest is deemed filed under this section for any claim or interest that appears in the schedules filed under section 521(a)(1) of this title, except a claim or interest that is scheduled as disputed, contingent, or unliquidated.''.

SEC. 404. AUDIT PROCEDURES.

(a) AMENDMENT.—Section 586 of title 28, United States Code, as amended by sections 111 and 240, is amended—

(1) by amending subsection (a)(6) to read as follows:

''(6) make such reports as the Attorney General directs, including the results of audits performed under subsection (f),'';

(2) by inserting at the end the following:

''(f)(1) The Attorney General shall establish procedures for the auditing of the accuracy and completeness of petitions, schedules, and other information which the debtor is required to provide under sections 521 and 1322, and, if applicable, section 111, of title 11 in individual cases

filed under chapter 7 or 13 of such title. Such audits shall be in accordance with generally accepted auditing standards and performed by independent certified public accountants or independent licensed public accountants. Such procedures shall—

''(A) establish a method of selecting appropriate qualified persons to contract with the United States trustee to perform such audits;

''(B) establish a method of randomly selecting cases to be audited according to generally accepted audit standards, provided that no less than 1 out of every 100 cases in each Federal judicial district shall be selected for audit;

''(C) require audits for schedules of income and expenses which reflect higher than average variances from the statistical norm of the district in which the schedules were filed;

''(D) establish procedures for reporting the results of such audits and any material misstatement of income, expenditures or assets of a debtor to the Attorney General, the United States Attorney and the court, as appropriate, and for providing public information no less than annually on the aggregate results of such audits including the percentage of cases, by district, in which a material misstatement of income or expenditures is reported; and

''(E) establish procedures for fully funding such audits.

''(2) The United States trustee for each district is authorized to contract with auditors to perform audits in cases designated by the United States trustee according to the procedures established under paragraph (1) of this subsection.

''(3) According to procedures established under paragraph (1), upon request of a duly appointed auditor, the debtor shall cause the accounts, papers, documents, financial records, files and all other papers, things or property belonging to the debtor as the auditor requests and which are reasonably necessary to facilitate an audit to be made available for inspection and copying.

''(4) The report of each such audit shall be filed with the court, the Attorney General, and the United States Attorney, as required under procedures established by the Attorney General under paragraph (1). If a material misstatement of income or expenditures or of assets is reported, a statement specifying such misstatement shall be filed with the court and the United States trustee shall give notice thereof to the creditors in the case and, in an appropriate case, in the opinion of the United States trustee, requires investigation with respect to possible criminal violations, the United States Attorney for the district.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of the enactment of this Act.

SEC. 405. GIVING CREDITORS FAIR NOTICE IN CHAPTER 7 AND 13 CASES.

Section 342 of title 11, United States Code, is amended—

(1) in subsection (c)—

(A) by striking '', but the failure of such notice to contain such information shall not invalidate the legal effect of such notice''; and

(B) by adding the following at the end:

''If the credit agreement between the debtor and the creditor or the last communication before the filing of the petition in a voluntary case from the creditor to a debtor who is an individual states an account number of the debtor which is the current account number of the debtor with respect to any debt held by the creditor against the debtor, the debtor shall include such account number in any notice to the creditor required to be given under this title. If the creditor has specified to the debtor an address at which the creditor wishes to receive correspondence regarding the debtor's account, any notice to the creditor required to be given by the debtor under this title shall be given at such address. For the purposes of this section, 'notice' shall include, but shall not be limited to, any correspondence from the debtor to the creditor after the commencement of the case, any statement of the debtor's intention under section 521(a)(2) of this title, notice of the commencement of any proceeding in the case to which the creditor is a party, and any notice of the hearing under section 1324.'';

(2) by adding at the end the following:

''(d) At any time, a creditor in a case of an individual debtor under chapter 7 or 13 may file with the court and serve on the debtor a notice of the address to be used to notify the creditor in that case. Five days after receipt of such notice, if the court or the debtor is required to give the creditor notice, such notice shall be given at that address.

''(e) An entity may file with the court a notice stating its address for notice in cases under chapters 7 and 13. After 30 days following the filing of such notice, any notice in any case filed under chapter 7 or 13 given by the court shall be to that address unless specific notice is given under subsection (d) with respect to a particular case.

''(f) Notice given to a creditor other than as provided in this section shall not be effective notice until it has been brought to the attention of the creditor. If the creditor has designated a person or department to be responsible for receiving notices concerning bankruptcy cases and has established reasonable procedures so that bankruptcy notices received by the creditor will be delivered to such department or person, notice will not be brought to the attention of the creditor until received by such person or department. No sanction under section 362(h) of this title or any other sanction which a court may impose on account of violations of the stay under section 362(a) of this title or failure to comply with section 542 or 543 of this title may be imposed on any action of the creditor unless the action takes place after the creditor has received notice of the commencement of the case effective under this section.''.

SEC. 406. DEBTOR TO PROVIDE TAX RETURNS AND OTHER INFORMATION.

Section 521 of title 11, United States Code, is amended—

(1) by inserting ''(a)'' before ''The'';

(2) by amending paragraph (1) to read as follows:

''(1) file—

''(A) a list of creditors, and

''(B) unless the court orders otherwise—

''(i) a schedule of assets and liabilities;

''(ii) a schedule of current income and current expenditures;

''(iii) a statement of the debtor's financial affairs;

''(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 prior to the filing of the petition;

''(v) a statement of the amount of projected monthly net income, itemized to show how calculated;

''(vi) if applicable, any statement under paragraphs (3) and (4) of section 109(h);

''(vii) a statement disclosing any reasonably anticipated increase in income or expenditures over the next 12 months; and

''(viii) a certificate, if applicable—

''(I) of an attorney whose name is on the petition as the attorney for the debtor, or of any bankruptcy petition preparer who signed the petition pursuant to section 110(b)(1) of this title, indicating that such attorney or bankruptcy petition preparer delivered to the debtor any notice required by section 342(b)(1) of this title; or

''(II) if no attorney for the debtor is indicated and no bankruptcy petition preparer signed the petition of the debtor, that such notice was obtained and read by the debtor;''; and

(3) by adding at the end the following:

''(b) At any time, a creditor in a case of an individual debtor under chapter 7 or 13 may file with the court and serve on the debtor notice that the creditor requests the petition, schedules, and statement of financial affairs filed by the debtor in the case. At any time, a creditor in a case under chapter 13 of this title may file with the court and serve on the debtor notice that the creditor requests the plan filed by the debtor in the case. Within 10 days of the first such request in a case under this subsection for the petition, schedules, and statement of financial affairs and the first such request for the plan under this subsection, the debtor shall serve on that creditor a conformed copy of the requested documents or plan and any amendments thereto as of that date, and shall thereafter promptly serve on that creditor at the time filed with the court—

''(1) any requested document or plan which is not filed with the court at the time requested; and

''(2) any amendment to any requested document or plan.

''(c)(1) An individual debtor in a case under chapter 7 or 13 shall provide to the United States trustee—

''(A) copies of all Federal tax returns (including any schedules and attachments) filed by the debtor for the 3 most recent tax years preceding the order for relief;

''(B) at the time the debtor files them with the Commissioner of Internal Revenue, all Federal tax returns (including any schedules and attachments) for the debtor's tax years ending while such case is pending; and

''(C) at the time the debtor files them with the Commissioner of Internal Revenue, all amendments to the tax returns (including schedules and attachments) described in subparagraphs (A) and (B).

''(2)(A) The United States trustee shall make such Federal tax returns (including schedules, attachments, and amendments) available to any party in interest for inspection and copying not later than 10 days after receiving a request by such party.

''(B) If the United States trustee does not comply with subparagraph (A), on the motion of such party, the court shall issue an order compelling the United States trustee to comply with subparagraph (A).

''(d) A debtor in a case under chapter 13 of this title shall file, from a time which is the later of 90 days after the close of the debtor's tax year or 1 year after the order for relief unless a plan has then been confirmed, and thereafter on or before 45 days before each anniversary of the confirmation of the plan until the case is closed, a statement subject to the penalties of perjury by the debtor of the debtor's income and expenditures in the preceding tax year and monthly net income, showing how calculated. Such statement shall disclose the amount and sources of income of the debtor, the identity of any persons responsible with the debtor for the support of any dependents of the debtor, and any persons who contributed and the amount contributed to the household in which the debtor resides. Such tax returns, amendments and statement of income and expenditures shall be available to the United States trustee, any bankruptcy administrator, any trustee and any party in interest for inspection and copying.''.

SEC. 407. DISMISSAL FOR FAILURE TO FILE SCHEDULES TIMELY OR PROVIDE REQUIRED INFORMATION.

Section 521 of title 11, United States Code, as amended by section 406, is amended by adding at the end the following:

''(e) Notwithstanding section 707(a) of this title, if an individual debtor in a voluntary case under chapter 7 or 13 fails to provide all of the information required under subsections (a)(1) and (c)(1)(A) within 45 days after the filing of the petition, the case shall be automatically dismissed effective on the 46th day after the filing of the petition without the need for any order of court, but any party in interest may request the court to enter an order dismissing the case and the court shall, if so requested, enter an order of dismissal within 5 days of such request. Upon request of the debtor made within 45 days after

the filing of the petition, the court may allow the debtor up to an additional 15 days to provide the information required under subsections (a)(1) and (c)(1)(A) if the court finds compelling justification for doing so.

''(f) If an individual debtor in a case under chapter 7 or 13 fails to perform any of the duties imposed by subsections (b), (c)(1)(B), (c)(1)(C), and (d), any party in interest may request that the court order the debtor to comply. Within 10 days of such request the court shall order that the debtor do so within a period of time set by the court no longer than 30 days. If the debtor does not comply with that order within the period of time set by the court, the court shall, on request of any party in interest certifying that the debtor has not so complied, enter an order dismissing the case within 5 days of such request.''.

SEC. 408. ADEQUATE TIME TO PREPARE FOR HEARING ON CONFIRMATION OF THE PLAN.

Section 1324 of title 11, United States Code, is amended—

(1) by striking ''After'' and inserting the following:

''(a) Except as provided in subsection (b) and after''; and

(2) by adding at the end the following:

''(b) The hearing on confirmation of the plan may be held not earlier than 20 days, and not later than 45 days, after the meeting of creditors under section 341(a) of this title.''.

SEC. 409. CHAPTER 13 PLANS TO HAVE A 5-YEAR DURATION IN CERTAIN CASES.

Title 11, United States Code, is amended—

(1) by amending section 1322(d) to read as follows:

''(d) If the total current monthly income of the debtor and in a joint case, the debtor and the debtor's spouse combined, is not less than the highest national median family income reported for a family of equal or lesser size or, in the case of a household of 1 person, not less than the national median household income for 1 earner, the plan may not provide for payments over a period that is longer than 5 years, unless the court, for cause, approves a longer period, but the court may not approve a period that exceeds 7 years. If the total current monthly income of the debtor or in a joint case, the debtor and the debtor's spouse combined, is less than the highest national median family income reported for a family of equal or lesser size, or in the case of a household of 1 person less than the national median household income for 1 earner, the plan may not provide for payments over a period that is longer than 3 years, unless the court, for cause, approves a longer period, but the court may not approve a period that is longer than 5 years.'';

(2) in section 1329—

(A) by striking in subsection (c) ''three years'' and inserting ''the applicable commitment period under section 1325(b)(1)(B)(ii)'' and by striking ''five years'' and inserting ''maximum duration period''; and

(B) by inserting at the end of subsection (c) the following:

''The maximum duration period shall be 5 years if the total current monthly income of the debtor, and in a joint case, the debtor and the debtor's spouse combined, is not less than the highest national median family income reported for a family of equal or lesser size or, in the case of a household of 1 person, not less than the national median household income for 1 earner, as of the date of the modification and shall be 3 years if the total current monthly income is less than the highest national median family income reported for a family of equal or lesser size or, in the case of a household of 1 person, less than the national median household income for 1 earner as of the date of the modification.''.

SEC. 410. SENSE OF THE CONGRESS REGARDING EXPANSION OF RULE 9011 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE.

It is the sense of the Congress that rule 9011 of the Federal Rules of Bankruptcy Procedure (11 U.S.C. App) should be modified to include a requirement that all documents (including schedules), signed and unsigned, submitted to the court or to a trustee by debtors who represent themselves and debtors who are represented by an attorney be submitted only after the debtor or the debtor's attorney has made reasonable inquiry to verify that the information contained in such documents is well grounded in fact, and is warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law.

SEC. 411. JURISDICTION OF COURTS OF APPEALS.

(a) JURISDICTION.—Title 28 of the United States Code is amended—

(1) by striking section 158;

(2) by inserting after section 1292 the following:

''§ 1293. Bankruptcy appeals

''The courts of appeals (other the United States Court of Appeals for the Federal Circuit) shall have jurisdiction of appeals from the following:

''(1) Final orders and judgments of bankruptcy courts entered under—

''(A) section 157(b) of this title in core proceedings arising under title 11, or arising in or related to a case under title 11; or

''(B) section 157(c)(2) of this title in proceedings referred to such courts.

''(2) Final orders and judgments of district courts entered under section 157 of this title in—

''(A) core proceedings arising under title 11, or arising in or related to a case under title 11; or

''(B) proceedings that are not core proceedings, but that are otherwise related to a case under title 11.

''(3) Orders and judgments of bankruptcy courts or district courts entered under section 105 of title 11, or the refusal to enter an order or judgment under such section.

''(4) Orders of bankruptcy courts or district courts entered under section 1104(a) or 1121(d) of title 11, or the refusal to enter an order under such section.

''(5) An interlocutory order of a bankruptcy court or district court entered in a case under title 11, in a proceeding arising under title 11, or in a proceeding arising in or related to a case under title 11, if—

''(A) such court is of the opinion that—

''(i) such order involves a controlling question of law as to which there is substantial ground for difference of opinion; and

''(ii) an immediate appeal from such order may materially advance the ultimate termination of such case or such proceeding; or

''(B) the court of appeals that would have jurisdiction of an appeal of a final order entered in such case or such proceeding permits, in its discretion, appeal to be taken from such interlocutory order.''; and

(3) in—

(A) the table of sections for chapter 6 by striking the item relating to section 158; and

(B) the table of sections for chapter 83 by inserting after the item relating to section 1292 the following:

''1293. Bankruptcy appeals.''.

(b) CONFORMING AMENDMENTS.—(1) Section 305(c) of title 11, the United States Code, is amended by striking ''158(d), 1291, or 1292'' and inserting ''1291, 1292, or 1293''.

(2) Title 28, United States Code, is amended—

(A) in subsections (b)(1) and (c)(2) of section 157 by striking ''section 158'' and inserting ''section 1293'';

(B) in section 1334(d) by striking ''158(d), 1291, or 1292'' and inserting ''1291, 1292, or 1293''; and

(C) in section 1452(b) by striking ''158(d), 1291, or 1292'' and inserting ''1291, 1292, or 1293''.

SEC. 412. ESTABLISHMENT OF OFFICIAL FORMS.

The Judicial Conference of the United States shall establish official forms to facilitate compliance with the amendments made by sections 101 and 102.

SEC. 413. ELIMINATION OF CERTAIN FEES PAYABLE IN CHAPTER 11 BANKRUPTCY CASES.

(a) AMENDMENTS.—Section 1930(a)(6) of title 28, United States Code, is amended—

(1) in the 1st sentence by striking ''until the case is converted or dismissed, whichever occurs first'', and

(2) in the 2d sentence—

(A) by striking ''The'' and inserting ''Until the plan is confirmed or the case is converted (whichever occurs first) the'', and

(B) by striking ''less than $300,000;'' and inserting ''less than $300,000. Until the case is converted or dismissed (whichever occurs first and without regard to confirmation of the plan) the fee shall be''.

(b) DELAYED EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1999.

Subtitle B—Data Provisions

SEC. 441. IMPROVED BANKRUPTCY STATISTICS.

(a) AMENDMENT.—Title 28, United States Code, is amended by adding after section 158 the following new section:

''§ 159. Bankruptcy statistics

''The Director of the Executive Office for United States Trustees shall compile statistics regarding individual debtors with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Such statistics shall be in a form prescribed by the Administrative Office of the United States Courts. The Office shall compile such statistics, and make them public, and report annually to the Congress on the information collected, and on its analysis thereof, no later than October 31 of each year. Such compilation shall be itemized by chapter of title 11, shall be presented in the aggregate and for each district, and shall include the following:

''(1) Total assets and total liabilities of such debtors, and in each category of assets and liabilities, as reported in the schedules prescribed pursuant to section 2075 of this title and filed by such debtors.

''(2) The current total monthly income, projected monthly net income, and average income and average expenses of such debtors as reported on the schedules and statements the debtor has filed under sections 111, 521, and 1322 of title 11.

''(3) The aggregate amount of debt discharged in the reporting period, determined as the difference between the total amount of debt and obligations of a debtor reported on the schedules and the amount of such debt reported in categories which are predominantly nondischargeable.

''(4) The average time between the filing of the petition and the closing of the case.

''(5) The number of cases in the reporting period in which a reaffirmation was filed and the total number of reaffirmations filed in that period, and of those cases in which a reaffirmation was filed, the number in which the debtor was not represented by an attorney, and of those the number of cases in which the reaffirmation was approved by the court.

''(6) With respect to cases filed under chapter 13 of title 11—

''(A) the number of cases in which a final order was entered determining the value of property securing a claim less than the claim, and the total number of such orders in the reporting period; and

''(B) the number of cases dismissed for failure to make payments under the plan.

''(7) The number of cases in which the debtor filed another case within the 6 years previous to the filing.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 18 months after the date of the enactment of this Act.

SEC. 442. BANKRUPTCY DATA.

(a) AMENDMENT.—Title 28 of the United States Code is amended by inserting after section 589a the following:

''§ 589b. Bankruptcy data

''(a) RULES.—The Attorney General shall, within a reasonable time after the effective date of this section, issue rules requiring uniform forms for (and from time to time thereafter to appropriately modify and approve)—

''(1) final reports by trustees in cases under chapters 7, 12, and 13 of title 11; and

''(2) periodic reports by debtors in possession or trustees, as the case may be, in cases under chapter 11 of title 11.

''(b) REPORTS.—All reports referred to in subsection (a) shall be designed (and the requirements as to place and manner of filing shall be established) so as to facilitate compilation of data and maximum possible access of the public, both by physical inspection at 1 or more central filing locations, and by electronic access through the Internet or other appropriate media.

''(c) REQUIRED INFORMATION.—The information required to be filed in the reports referred to in subsection (b) shall be that which is in the best interests of debtors and creditors, and in the public interest in reasonable and adequate information to evaluate the efficiency and practicality of the Federal bankruptcy system. In issuing rules proposing the forms referred to in subsection (a), the Attorney General shall strike the best achievable practical balance between—

''(1) the reasonable needs of the public for information about the operational results of the Federal bankruptcy system; and

''(2) economy, simplicity, and lack of undue burden on persons with a duty to file reports.

''(d) FINAL REPORTS.—Final reports proposed for adoption by trustees under chapters 7, 12, and 13 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General, shall propose, include with respect to a case under such title—

''(1) information about the length of time the case was pending;

''(2) assets abandoned;

''(3) assets exempted;

''(4) receipts and disbursements of the estate;

''(5) expenses of administration;

''(6) claims asserted;

''(7) claims allowed; and

''(8) distributions to claimants and claims discharged without payment;

in each case by appropriate category and, in cases under chapters 12 and 13 of title 11, date of confirmation of the plan, each modification thereto, and defaults by the debtor in performance under the plan.

''(e) PERIODIC REPORTS.—Periodic reports proposed for adoption by trustees or debtors in possession under chapter 11 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General, in the discretion of the Attorney General, shall propose, include—

''(1) information about the standard industry classification, published by the Department of Commerce, for the businesses conducted by the debtor;

''(2) length of time the case has been pending;

''(3) number of full-time employees as at the date of the order for relief and at end of each reporting period since the case was filed;

''(4) cash receipts, cash disbursements and profitability of the debtor for the most recent period and cumulatively since the date of the order for relief;

''(5) compliance with title 11, whether or not tax returns and tax payments since the date of the order for relief have been timely filed and made;

''(6) all professional fees approved by the court in the case for the most recent period and cumulatively since the date of the order for relief (separately reported, in for the professional fees incurred by or on behalf of the debtor, between those that would have been incurred absent a bankruptcy case and those not); and

''(7) plans of reorganization filed and confirmed and, with respect thereto, by class, the recoveries of the holders, expressed in aggregate dollar values and, in the case of claims, as a percentage of total claims of the class allowed.''.

(b) TECHNICAL AMENDMENT.—The table of sections of chapter 39 of title 28, United States Code, is amended by adding at the end the following:

''589b. Bankruptcy data.''.

SEC. 443. SENSE OF THE CONGRESS REGARDING AVAILABILITY OF BANKRUPTCY DATA.

It is the sense of the Congress that—

(1) the national policy of the United States should be that all data held by bankruptcy clerks in electronic form, to the extent such data reflects only public records (as defined in section 107 of title 11 of the United States Code), should be released in a usable electronic form in bulk to the public subject to such appropriate privacy concerns and safeguards as the Judicial Conference of the United States may determine; and

(2) there should be established a bankruptcy data system in which—

(A) a single set of data definitions and forms are used to collect data nationwide; and

(B) data for any particular bankruptcy case are aggregated in the same electronic record.

TITLE V—TAX PROVISIONS

SEC. 501. 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), after ''507(a)(1)'', insert ''(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)''; 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) of this title, 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 set forth in this section and subject to the requirements of subsection (e)—

''(1) claims for wages, salaries, and commissions that are entitled to priority under section 507(a)(3) of this title; or

''(2) claims for contributions to an employee benefit plan entitled to priority under section 507(a)(4) of this title,

may be paid from property of the estate which secures a tax lien, or the proceeds of such property.''.

(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. 502. ENFORCEMENT OF CHILD AND SPOUSAL SUPPORT.

Section 522(c)(1) of title 11, United States Code, is amended by inserting '', except that, notwithstanding any other Federal law or State law relating to exempted property, exempt property shall be liable for debts of a kind specified in paragraph (1) or (5) of section 523(a) of this title'' before the semicolon at the end.

SEC. 503. EFFECTIVE NOTICE TO GOVERNMENT.

(a) EFFECTIVE NOTICE TO GOVERNMENTAL UNITS.—Section 342 of title 11, United States Code, as amended by section 405, is amended by adding at the end the following:

''(g) If a debtor lists a governmental unit as a creditor in a list or schedule, any notice required to be given by the debtor under this title, any rule, any applicable law, or any order of the court, shall identify the department, agency, or instrumentality through which the debtor is indebted. The debtor shall identify (with information such as a taxpayer identification number, loan, account or contract number, or real estate parcel number, where applicable), and describe the underlying basis for the governmental unit's claim. If the debtor's liability to a governmental unit arises from a debt or obligation owed or incurred by another individual, entity, or organization, or under a different name, the debtor shall identify such individual, entity, organization, or name.

''(h) The clerk shall keep and update quarterly, in the form and manner as the Director of the Administrative Office of the United States Courts prescribes, and make available to debtors, a register in which a governmental unit may designate a safe harbor mailing address for service of notice in cases pending in the district. A governmental unit may file a statement with the clerk designating a safe harbor address to which notices are to be sent, unless such governmental unit files a notice of change of address.''.

(b) ADOPTION OF RULES PROVIDING NOTICE.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference shall, within a reasonable period of time after the date of the enactment of this Act, propose for adoption enhanced rules for providing notice to State, Federal, and local government units that have regulatory authority over the debtor or which may be creditors in the debtor's case. Such rules shall be reasonably calculated to ensure that notice will reach the representatives of the governmental unit, or subdivision thereof, who will be the proper persons authorized to act upon the notice. At a minimum, the rules should require that the debtor—

(1) identify in the schedules and the notice, the subdivision, agency, or entity in respect of which such notice should be received;

(2) provide sufficient information (such as case captions, permit numbers, taxpayer identification numbers, or similar identifying information) to permit the governmental unit or subdivision thereof, entitled to receive such notice, to identify the debtor or the person or entity on behalf of which the debtor is providing notice where the debtor may be a successor in interest or may not be the same as the person or entity which incurred the debt or obligation; and

(3) identify, in appropriate schedules, served together with the notice, the property in respect of which the claim or regulatory obligation may have arisen, if any, the nature of such claim or regulatory obligation and the purpose for which notice is being given.

(c) EFFECT OF FAILURE OF NOTICE.—Section 342 of title 11, United States Code, as amended by subsection (a) and section 405, is amended by adding at the end the following:

''(i)(1) A notice that does not comply with subsections (d) and (e) shall have no effect unless the debtor demonstrates, by clear and convincing evidence, that timely notice was given in a manner reasonably calculated to satisfy the requirements of this section was given, and that—

''(A) either the notice was timely sent to the safe harbor address provided in the register maintained by the clerk of the district in which the case was pending for such purposes; or

''(B) no safe harbor address was provided in such list for the governmental unit and that an officer of the governmental unit who is responsible for the matter or claim had actual knowledge of the case in sufficient time to act.

''(2) No sanction under section 362(h) of this title or any other sanction which a court may impose on account of violations of the stay under section 362(a) of this title or failure to comply with section 542 or 543 of this title may be imposed unless the action takes place after notice of the commencement of the case as required by this section has been received.''.

SEC. 504. NOTICE OF REQUEST FOR A DETERMINATION OF TAXES.

Section 505(b) of title 11, United States Code, is amended by striking ''Unless'' at the beginning of the second sentence thereof and inserting ''If the request is made in the manner designated by the governmental unit and unless''.

SEC. 505. RATE OF INTEREST ON TAX CLAIMS.

Chapter 5 of title 11, United States Code, is amended by adding at the end the following:

''§ 511. Rate of interest on tax claims

''Notwithstanding any provision of this title that requires the payment of interest on a claim, if interest is required to be paid on a tax claim, the rate of interest shall be as follows:

''(1) In the case of ad valorem tax claims, whether secured or unsecured, other unsecured tax claims where interest is required to be paid under section 726(a)(5) of this title and secured tax claims the rate shall be determined under applicable nonbankruptcy law.

''(2) In the case of unsecured claims for taxes arising before the date of the order for relief and paid under a plan of reorganization, the minimum rate of interest to be applied during the period after the filing of the petition shall be the Federal short-term rate rounded to the nearest full percent, determined under section 1274(d) of the Internal Revenue Code of 1986, for the calendar month in which the plan is confirmed, plus 3 percentage points.''.

SEC. 506. TOLLING OF PRIORITY OF TAX CLAIM TIME PERIODS.

Section 507(a)(9)(A) of title 11, United States Code, as so redesignated, is amended—

(1) in clause (i) by inserting after ''petition'' and before the semicolon '', plus any time, plus 6 months, during which the stay of proceedings was in effect in a prior case under this title''; and

(2) amend clause (ii) to read as follows:

''(ii) assessed within 240 days before the date of the filing of the petition, exclusive of—

''(I) any time plus 30 days during which an offer in compromise with respect of such tax, was pending or in effect during such 240-day period;

''(II) any time plus 30 days during which an installment agreement with respect of such tax was pending or in effect during such 240-day period, up to 1 year; and

''(III) any time plus 6 months during which a stay of proceedings against collections was in effect in a prior case under this title during such 240-day period.''.

SEC. 507. ASSESSMENT DEFINED.

(a) ASSESSMENT DEFINED FOR PRIORITY PURPOSES.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (2) the following:

''(3) 'assessment'—

''(A) for purposes of State and local taxes, means that point in time when all actions required have been taken so that thereafter a taxing authority may commence an action to collect the tax, and

''(B) for Federal tax purposes has the meaning given such term in the Internal Revenue Code of 1986;

and 'assessed' and 'assessable' shall be interpreted in light of the definition of assessment in this paragraph;''.

(b) ASSESSMENT DEFINED FOR THE STAY OF PROCEEDINGS.—Section 362(b)(9)(D) of title 11, United States Code, is amended by inserting after ''the making of an assessment'' the following: ''as defined by applicable nonbankruptcy law notwithstanding the definition of an 'assessment' elsewhere in this title''.

SEC. 508. CHAPTER 13 DISCHARGE OF FRAUDULENT AND OTHER TAXES.

Section 1328(a)(2) of title 11, United States Code, is amended by inserting ''(1),'' after ''paragraph''.

SEC. 509. CHAPTER 11 DISCHARGE OF FRAUDULENT TAXES.

Section 1141(d) of title 11, United States Code, as amended by section 119A, is amended by adding at the end the following:

''(6) Notwithstanding the provisions of paragraph (1), the confirmation of a plan does not discharge a debtor which is a corporation from any debt for a tax or customs duty with respect to which the debtor made a fraudulent return or willfully attempted in any manner to evade or defeat such tax.''.

SEC. 510. THE STAY OF TAX PROCEEDINGS.

(a) THE SECTION 362 STAY LIMITED TO PREPETITION TAXES.—Section 362(a)(8) of title 11, United States Code, is amended by striking the period at the end and inserting '', in respect of a tax liability for a taxable period ending before the order for relief.''.

(b) THE APPEAL OF TAX COURT DECISIONS PERMITTED.—Section 362(b)(9) of title 11, United States Code, is amended—

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

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

(3) by adding at the end the following:

''(E) the appeal of a decision by a court or administrative tribunal which determines a tax liability of the debtor without regard to whether such determination was made prepetition or postpetition.''.

SEC. 511. 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; and

(2) in subparagraph (C)—

(A) by striking ''deferred cash payments, over a period not exceeding six years after the date of assessment of such claim,'' and inserting ''regular installment payments in cash, but in no case with a balloon provision, and no more than three months apart, beginning no later than the effective date of the plan and ending on the earlier of five years after the petition date or the last date payments are to be made under the plan to unsecured creditors,'';

(B) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(D) with respect to a secured claim which would be described in section 507(a)(8) of this title but for its secured status, the holder of such claim will receive on account of such claim cash payments of not less than is required in subparagraph (C) and over a period no greater than is required in such subparagraph.''.

SEC. 512. THE 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 where such purchaser is a purchaser described in section 6323 of the Internal Revenue Code of 1986 or similar provision of State or local law;''.

SEC. 513. 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) Such taxes shall be paid when due in the conduct of such business unless—

''(1) the tax is a property tax secured by a lien against property that is abandoned within a reasonable time after the lien attaches, by the trustee of a bankruptcy estate, pursuant to 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, the court has made 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 such tax.''.

(b) PAYMENT OF AD VALOREM TAXES REQUIRED.—Section 503(b)(1)(B) of title 11, United States Code, is amended in clause (i) by inserting after ''estate,'' and before ''except'' the following: ''whether secured or unsecured, including property taxes for which liability is in rem only, in personam or both,''.

(c) REQUEST FOR PAYMENT OF ADMINISTRATIVE EXPENSE TAXES ELIMINATED.—Section 503(b)(1) of title 11, United States Code, is amended by adding at the end the following:

''(D) notwithstanding the requirements of subsection (a) of this section, a governmental unit shall not be required to file a request for the payment of a claim described in subparagraph (B) or (C);''.

(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 in respect of the property'' before the period at the end.

SEC. 514. 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 ''on or before the earlier of 10 days after the mailing to creditors of the summary of the trustee's final report or the date on which the trustee commences final distribution under this section''.

SEC. 515. INCOME TAX RETURNS PREPARED BY TAX AUTHORITIES.

Section 523(a)(1)(B) of title 11, United States Code, is amended—

(1) by inserting ''or equivalent report or notice,'' after ''a return,'';

(2) in clause (i)—

(A) by inserting ''or given'' after ''filed''; and

(B) by striking ''or'' at the end;

(3) in clause (ii)—

(A) by inserting ''or given'' after ''filed'';

(B) by inserting '', report, or notice'' after ''return''; and

(4) by adding at the end the following:

''(iii) for purposes of this subsection, a return—

''(I) must satisfy the requirements of applicable nonbankruptcy law, and 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 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 similar State or local law, and

''(II) must have been filed in a manner permitted by applicable nonbankruptcy law; or''.

SEC. 516. THE DISCHARGE OF THE ESTATE'S LIABILITY FOR UNPAID TAXES.

Section 505(b) of title 11, United States Code, is amended in the second sentence by inserting ''the estate,'' after ''misrepresentation,''.

SEC. 517. 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 146, 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 adding at the end the following:

''(8) if the debtor has filed all Federal, State, and local tax returns as required by section 1308 of this title.''.

(b) ADDITIONAL TIME PERMITTED FOR FILING TAX RETURNS.—(1) Chapter 13 of title 11, United States Code, is amended by adding at the end the following:

''§ 1308. Filing of prepetition tax returns

''(a) On or before the day prior to the day on which the first meeting of the creditors is convened under section 341(a) of this title, the debtor shall have filed with appropriate tax authorities all tax returns for all taxable periods ending in the 6-year period ending on the date of filing of the petition.

''(b) If the tax returns required by subsection (a) have not been filed by the date on which the first meeting of creditors is convened under section 341(a) of this title, the trustee may continue such meeting for a reasonable period of time, to allow the debtor additional time to file any unfiled returns, but such additional time shall be no more than—

''(1) for returns that are past due as of the date of the filing of the petition, 120 days from such date,

''(2) for returns which are not past due as of the date of the filing of the petition, the later of 120 days from such date or the due date for such returns under the last automatic extension of time for filing such returns to which the debtor is entitled, and for which request has been timely made, according to applicable nonbankruptcy law, and

''(3) upon notice and hearing, and order entered before the lapse of any deadline fixed according to this subsection, where the debtor demonstrates, by clear and convincing evidence, that the failure to file the returns as required is because of circumstances beyond the control of the debtor, the court may extend the deadlines set by the trustee as provided in this subsection for—

''(A) a period of no more than 30 days for returns described in paragraph (1) of this subsection, and

''(B) for no more than the period of time ending on the applicable extended due date for the returns described in paragraph (2).

''(c) For purposes of this section only, a return includes a return prepared pursuant to section 6020 (a) or (b) of the Internal Revenue Code of 1986 or similar State or local law, or a written stipulation to a judgment entered by a nonbankruptcy tribunal.''.

(2) The table of sections of chapter 13 of title 11, United States Code, is amended by inserting after the item relating to section 1307 the following:

''1308. Filing of prepetition tax returns.''.

(c) DISMISSAL OR CONVERSION ON FAILURE TO COMPLY.—Section 1307 of title 11, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and

(2) by inserting after subsection (d) the following:

''(e) Upon the failure of the debtor to file tax returns under section 1308 of this title, 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 interests of creditors and the estate.''.

(d) TIMELY FILED CLAIMS.—Section 502(b)(9) of title 11, United States Code, is amended by striking the period at the end and inserting '', and except that in a case under chapter 13 of this title, a claim of a governmental unit for a tax in respect of a return filed under section 1308 of this title shall be timely if it is filed on or before 60 days after such return or returns were 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, within a reasonable period of time after the date of the 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, a governmental unit may object to the confirmation of a plan on or before 60 days after 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 in respect of a return required to be filed under such section 1308 shall be filed until such return has been filed as required.

SEC. 518. STANDARDS FOR TAX DISCLOSURE.

Section 1125(a) of title 11, United States Code, is amended in paragraph (1)—

(1) by inserting after ''records,'' the following: ''including a full discussion of the potential material Federal, State, and local tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor domiciled in the State in which the debtor resides or has its principal place of business typical of the holders of claims or interests in the case,'',

(2) by inserting ''such'' after ''enable'', and

(3) by striking ''reasonable'' where it appears after ''hypothetical'' and by striking ''typical of holders of claims or interests'' after ''investor''.

SEC. 519. SETOFF OF TAX REFUNDS.

Section 362(b) of title 11, United States Code, as amended by sections 130, 146, and 150 is amended—

(1) in paragraph (21) by striking ''or'',

(2) in paragraph (22) by striking the period at the end and inserting ''; or'', and

(3) by inserting after paragraph (22) (as so redesignated) the following:

''(23) under subsection (a) of the setoff of an income tax refund, by a governmental unit, in respect of a taxable period which ended before the order for relief against an income tax liability for a taxable period which also ended before the order for relief, unless—

''(A) prior to such setoff, an action to determine the amount or legality of such tax liability under section 505(a) was commenced; or

''(B) where the setoff of an income tax refund is not permitted 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.''.

TITLE VI—ANCILLARY AND OTHER CROSS-BORDER CASES

SEC. 601. AMENDMENT TO ADD A CHAPTER 6 TO TITLE 11, UNITED STATES CODE.

(a) IN GENERAL.—Title 11, United States Code, is amended by inserting after chapter 5 the following:

''CHAPTER 6—ANCILLARY AND OTHER CROSS-BORDER CASES

''Sec.
''601. Purpose and scope of application.
''SUBCHAPTER I—GENERAL PROVISIONS
''602. Definitions.
''603. International obligations of the United States.
''604. Commencement of ancillary case.
''605. Authorization to act in a foreign country.
''606. Public policy exception.
''607. Additional assistance.
''608. Interpretation.
''SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT
''609. Right of direct access.
''610. Limited jurisdiction.
''611. Commencement of bankruptcy case under section 301 or 303.
''612. Participation of a foreign representative in a case under this title.
''613. Access of foreign creditors to a case under this title.
''614. Notification to foreign creditors concerning a case under this title.
''SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF
''615. Application for recognition of a foreign proceeding.
''616. Presumptions concerning recognition.
''617. Order recognizing a foreign proceeding.
''618. Subsequent information.
''619. Relief that may be granted upon petition for recognition of a foreign proceeding.
''620. Effects of recognition of a foreign main proceeding.
''621. Relief that may be granted upon recognition of a foreign proceeding.
''622. Protection of creditors and other interested persons.
''623. Actions to avoid acts detrimental to creditors.
''624. Intervention by a foreign representative.
''SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES
''625. Cooperation and direct communication between the court and foreign courts or foreign representatives.
''626. Cooperation and direct communication between the trustee and foreign courts or foreign representatives.
''627. Forms of cooperation.
''SUBCHAPTER V—CONCURRENT PROCEEDINGS
''628. Commencement of a case under this title after recognition of a foreign main proceeding.
''629. Coordination of a case under this title and a foreign proceeding.
''630. Coordination of more than 1 foreign proceeding.
''631. Presumption of insolvency based on recognition of a foreign main proceeding.
''632. Rule of payment in concurrent proceedings.

''§ 601. Purpose and scope of application

''(a) The purpose of this chapter is to incorporate the Model Law on Cross-Border Insolvency so as to provide effective mechanisms for dealing with cases of cross-border insolvency with the objectives of—

''(1) cooperation between—

''(A) United States courts, United States Trustees, trustees, examiners, debtors, and debtors in possession; and

''(B) the courts and other competent authorities of foreign countries involved in cross-border insolvency cases;

''(2) greater legal certainty for trade and investment;

''(3) fair and efficient administration of cross-border insolvencies that protects the interests of all creditors, and other interested entities, including the debtor;

''(4) protection and maximization of the value of the debtor's assets; and

''(5) facilitation of the rescue of financially troubled businesses, thereby protecting investment and preserving employment.

''(b) This chapter applies where—

''(1) assistance is sought in the United States by a foreign court or a foreign representative in connection with a foreign proceeding;

''(2) assistance is sought in a foreign country in connection with a case under this title;

''(3) a foreign proceeding and a case under this title with respect to the same debtor are taking place concurrently; or

''(4) creditors or other interested persons in a foreign country have an interest in requesting the commencement of, or participating in, a case or proceeding under this title.

''(c) This chapter does not apply to—

''(1) a proceeding concerning an entity identified by exclusion in subsection 109(b); or

''(2) an individual, or to an individual and such individual's spouse, who have debts within the limits specified in under section 109(e) and who are citizens of the United States or aliens lawfully admitted for permanent residence in the United States.

''SUBCHAPTER I—GENERAL PROVISIONS

''§ 602. Definitions

''For the purposes of this chapter, the term—

''(1) 'debtor' means an entity that is the subject of a foreign proceeding;

''(2) 'establishment' means any place of operations where the debtor carries out a nontransitory economic activity;

''(3) 'foreign court' means a judicial or other authority competent to control or supervise a foreign proceeding;

''(4) 'foreign main proceeding' means a foreign proceeding taking place in the country where the debtor has the center of its main interests;

''(5) 'foreign nonmain proceeding' means a foreign proceeding, other than a foreign main proceeding, taking place in a country where the debtor has an establishment;

''(6) 'trustee' includes a trustee, a debtor in possession in a case under any chapter of this title, or a debtor under chapters 9 or 13 of this title; and

''(7) 'within the territorial jurisdiction of the United States' when used with reference to property of a debtor refers to tangible property located within the territory of the United States and intangible property deemed under applicable nonbankruptcy law to be located within that territory, including any property subject to attachment or garnishment that may properly be seized or garnished by an action in a Federal or State court in the United States.

''§ 603. International obligations of the United States

''To the extent that this chapter conflicts with an obligation of the United States arising out of any treaty or other form of agreement to which it is a party with 1 or more other countries, the requirements of the treaty or agreement prevail.

''§ 604. Commencement of ancillary case

''A case under this chapter is commenced by the filing of a petition for recognition of a foreign proceeding under section 615.

''§ 605. Authorization to act in a foreign country

''A trustee or another entity (including an examiner) authorized by the court may be authorized by the court to act in a foreign country on behalf of an estate created under section 541. An entity authorized to act under this section may act in any way permitted by the applicable foreign law.

''§ 606. Public policy exception

''Nothing in this chapter prevents the court from refusing to take an action governed by this chapter if the action would be manifestly contrary to the public policy of the United States.

''§ 607. Additional assistance

''(a) Nothing in this chapter limits the power of the court, upon recognition of a foreign proceeding, to provide additional assistance to a foreign representative under this title or under other laws of the United States.

''(b) In determining whether to provide additional assistance under this title or under other laws of the United States, the court shall consider whether such additional assistance, consistent with the principles of comity, will reasonably assure—

''(1) just treatment of all holders of claims against or interests in the debtor's property;

''(2) protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in such foreign proceeding;

''(3) prevention of preferential or fraudulent dispositions of property of the debtor;

''(4) distribution of proceeds of the debtor's property substantially in accordance with the order prescribed by this title; and

''(5) if appropriate, the provision of an opportunity for a fresh start for the individual that such foreign proceeding concerns.

''§ 608. Interpretation

''In interpreting this chapter, the court shall consider its international origin, and the need to promote an application of this chapter that is consistent with the application of similar statutes adopted by foreign jurisdictions.

''SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

''§ 609. Right of direct access

''(a) A foreign representative is entitled to commence a case under section 604 by filing a petition for recognition under section 615, and upon recognition, to apply directly to other Federal and State courts for appropriate relief in those courts.

''(b) Upon recognition, and subject to section 610, a foreign representative has the capacity to sue and be sued, and shall be subject to the laws of the United States of general applicability.

''(c) Recognition under this chapter is prerequisite to the granting of comity or cooperation to a foreign proceeding in any State or Federal court in the United States. Any request for comity or cooperation in any court shall be accompanied by a sworn statement setting forth whether recognition under section 615 has been sought and the status of any such petition.

''(d) Upon denial of recognition under this chapter, the court may issue appropriate orders necessary to prevent an attempt to obtain comity or cooperation from courts in the United States without such recognition.

''§ 610. Limited jurisdiction

''The sole fact that a foreign representative files a petition under sections 615 does not subject the foreign representative to the jurisdiction of any court in the United States for any other purpose.

''§ 611. Commencement of case under section 301 or 303

''(a) Upon filing a petition for recognition, a foreign representative may commence—

''(1) an involuntary case under section 303; or

''(2) a voluntary case under section 301 or 302, if the foreign proceeding is a foreign main proceeding.

''(b) The petition commencing a case under subsection (a) of this section must be accompanied by a statement describing the petition for recognition and its current status. The court where the petition for recognition has been filed must be advised of the foreign representative's intent to commence a case under subsection (a) of this section prior to such commencement.

''(c) A case under subsection (a) shall be dismissed unless recognition is granted.

''§ 612. Participation of a foreign representative in a case under this title

''Upon recognition of a foreign proceeding, the foreign representative in that proceeding is entitled to participate as a party in interest in a case regarding the debtor under this title.

''§ 613. Access of foreign creditors to a case under this title

''(a) Foreign creditors have the same rights regarding the commencement of, and participation in, a case under this title as domestic creditors.

''(b)(1) Subsection (a) of this section does not change or codify present law as to the priority of claims under section 507 or 726 of this title, except that the claim of a foreign creditor under those sections shall not be given a lower priority than that of general unsecured claims without priority solely because the holder of such claim is a foreign creditor.

''(2)(A) Subsection (a) of this section and paragraph (1) of this subsection do not change or codify present law as to the allowability of foreign revenue claims or other foreign public law claims in a proceeding under this title.

''(B) Allowance and priority as to a foreign tax claim or other foreign public law claim shall be governed by any applicable tax treaty of the United States, under the conditions and circumstances specified therein.

''§ 614. Notification to foreign creditors concerning a case under this title

''(a) Whenever in a case under this title notice is to be given to creditors generally or to any class or category of creditors, such notice shall also be given to the known creditors generally, or to creditors in the notified class or category, that do not have addresses in the United States. The court may order that appropriate steps be taken with a view to notifying any creditor whose address is not yet known.

''(b) Such notification to creditors with foreign addresses described in subsection (a) shall be given individually, unless the court considers that, under the circumstances, some other form of notification would be more appropriate. No letters rogatory or other similar formality is required.

''(c) When a notification of commencement of a case is to be given to foreign creditors, the notification shall—

''(1) indicate the time period for filing proofs of claim and specify the place for their filing;

''(2) indicate whether secured creditors need to file their proofs of claim; and

''(3) contain any other information required to be included in such a notification to creditors pursuant to this title and the orders of the court.

''(d) Any rule of procedure or order of the court as to notice or the filing of a claim shall provide such additional time to creditors with foreign addresses as is reasonable under the circumstances.

''SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

''§ 615. Application for recognition of a foreign proceeding

''(a) A foreign representative applies to the court for recognition of the foreign proceeding in which the foreign representative has been appointed by filing a petition for recognition.

''(b) A petition for recognition shall be accompanied by—

''(1) a certified copy of the decision commencing the foreign proceeding and appointing the foreign representative;

''(2) a certificate from the foreign court affirming the existence of the foreign proceeding and of the appointment of the foreign representative; or

''(3) in the absence of evidence referred to in paragraphs (1) and (2), any other evidence acceptable to the court of the existence of the foreign proceeding and of the appointment of the foreign representative.

''(c) A petition for recognition shall also be accompanied by a statement identifying all foreign proceedings with respect to the debtor that are known to the foreign representative.

''(d) The documents referred to in paragraphs (1) and (2) of subsection (b) must be translated into English. The court may require a translation into English of additional documents.

''§ 616. Presumptions concerning recognition

''(a) If the decision or certificate referred to in section 615(b) indicates that the foreign proceeding is a foreign proceeding within the meaning of section 101(23) and that the person or body is a foreign representative within the meaning of

section 101(24), the court is entitled to so presume.

''(b) The court is entitled to presume that documents submitted in support of the petition for recognition are authentic, whether or not they have been legalized.

''(c) In the absence of evidence to the contrary, the debtor's registered office, or habitual residence in the case of an individual, is presumed to be the center of the debtor's main interests.

''§ 617. Order recognizing a foreign proceeding

''(a) Subject to section 606, an order recognizing a foreign proceeding shall be entered if—

''(1) the foreign proceeding is a foreign main proceeding or foreign nonmain proceeding within the meaning of section 602;

''(2) the foreign representative applying for recognition is a person or body within the meaning of section 101(24); and

''(3) the petition meets the requirements of section 615.

''(b) The foreign proceeding shall be recognized—

''(1) as a foreign main proceeding if it is taking place in the country where the debtor has the center of its main interests; or

''(2) as a foreign nonmain proceeding if the debtor has an establishment within the meaning of section 602 in the foreign country where the proceeding is pending.

''(c) A petition for recognition of a foreign proceeding shall be decided upon at the earliest possible time. Entry of an order recognizing a foreign proceeding shall constitute recognition under this chapter.

''(d) The provisions of this subchapter do not prevent modification or termination of recognition if it is shown that the grounds for granting it were fully or partially lacking or have ceased to exist, but in considering such action the court shall give due weight to possible prejudice to parties that have relied upon the granting of recognition. The case under this chapter may be closed in the manner prescribed for a case under section 350.

''§ 618. Subsequent information

''From the time of filing the petition for recognition of the foreign proceeding, the foreign representative shall file with the court promptly a notice of change of status concerning—

''(1) any substantial change in the status of the foreign proceeding or the status of the foreign representative's appointment; and

''(2) any other foreign proceeding regarding the debtor that becomes known to the foreign representative.

''§ 619. Relief that may be granted upon petition for recognition of a foreign proceeding

''(a) From the time of filing a petition for recognition until the petition is decided upon, the court may, at the request of the foreign representative, where relief is urgently needed to protect the assets of the debtor or the interests of the creditors, grant relief of a provisional nature, including—

''(1) staying execution against the debtor's assets;

''(2) entrusting the administration or realization of all or part of the debtor's assets located in the United States to the foreign representative or another person authorized by the court, including an examiner, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to devaluation or otherwise in jeopardy; and

''(3) any relief referred to in paragraph (3), (4), or (7) of section 621(a).

''(b) Unless extended under section 621(a)(6), the relief granted under this section terminates when the petition for recognition is decided upon.

''(c) It is a ground for denial of relief under this section that such relief would interfere with the administration of a foreign main proceeding.

''(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

''(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under this section.

''§ 620. Effects of recognition of a foreign main proceeding

''(a) Upon recognition of a foreign proceeding that is a foreign main proceeding—

''(1) section 362 applies with respect to the debtor and that property of the debtor that is within the territorial jurisdiction of the United States; and

''(2) transfer, encumbrance, or any other disposition of an interest of the debtor in property within the territorial jurisdiction of the United States is restrained as and to the extent that is provided for property of an estate under sections 363, 549, and 552.

Unless the court orders otherwise, the foreign representative may operate the debtor's business and may exercise the powers of a trustee under section 549, subject to sections 363 and 552.

''(b) The scope, and the modification or termination, of the stay and restraints referred to in subsection (a) of this section are subject to the exceptions and limitations provided in subsections (b), (c), and (d) of section 362, subsections (b) and (c) of section 363, and sections 552, 555 through 557, 559, and 560.

''(c) Subsection (a) of this section does not affect the right to commence individual actions or proceedings in a foreign country to the extent necessary to preserve a claim against the debtor.

''(d) Subsection (a) of this section does not affect the right of a foreign representative or an entity to file a petition commencing a case under this title or the right of any party to file claims or take other proper actions in such a case.

''§ 621. Relief that may be granted upon recognition of a foreign proceeding

''(a) Upon recognition of a foreign proceeding, whether main or nonmain, where necessary to effectuate the purpose of this chapter and to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including—

''(1) staying the commencement or continuation of individual actions or individual proceedings concerning the debtor's assets, rights, obligations or liabilities to the extent they have not been stayed under section 620(a);

''(2) staying execution against the debtor's assets to the extent it has not been stayed under section 620(a);

''(3) suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor to the extent this right has not been suspended under section 620(a);

''(4) providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor's assets, affairs, rights, obligations or liabilities;

''(5) entrusting the administration or realization of all or part of the debtor's assets within the territorial jurisdiction of the United States to the foreign representative or another person, including an examiner, authorized by the court;

''(6) extending relief granted under section 619(a); and

''(7) granting any additional relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 548, 550, and 724(a).

''(b) Upon recognition of a foreign proceeding, whether main or nonmain, the court may, at the request of the foreign representative, entrust the distribution of all or part of the debtor's assets located in the United States to the foreign representative or another person, including an examiner, authorized by the court, provided that the court is satisfied that the interests of creditors in the United States are sufficiently protected.

''(c) In granting relief under this section to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

''(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

''(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under paragraphs (1), (2), (3), and (6) of subsection (a).

''§ 622. Protection of creditors and other interested persons

''(a) In granting or denying relief under section 619 or 621, or in modifying or terminating relief under subsection (c) of this section, the court must find that the interests of the creditors and other interested persons or entities, including the debtor, are sufficiently protected.

''(b) The court may subject relief granted under section 619 or 621 to conditions it considers appropriate.

''(c) The court may, at the request of the foreign representative or an entity affected by relief granted under section 619 or 621, or at its own motion, modify or terminate such relief.

''§ 623. Actions to avoid acts detrimental to creditors

''(a) Upon recognition of a foreign proceeding, the foreign representative has standing in a pending case under another chapter of this title to initiate actions under sections 522, 544, 545, 547, 548, 550, and 724(a).

''(b) When the foreign proceeding is a foreign nonmain proceeding, the court must be satisfied that an action under subsection (a) of this section relates to assets that, under United States law, should be administered in the foreign nonmain proceeding.

''§ 624. Intervention by a foreign representative

''Upon recognition of a foreign proceeding, the foreign representative may intervene in any proceedings in a State or Federal court in the United States in which the debtor is a party.

''SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

''§ 625. Cooperation and direct communication between the court and foreign courts or foreign representatives

''(a) In all matters included within section 601, the court shall cooperate to the maximum extent possible with foreign courts or foreign representatives, either directly or through the trustee.

''(b) The court is entitled to communicate directly with, or to request information or assistance directly from, foreign courts or foreign representatives, subject to the rights of parties in interest to notice and participation.

''§ 626. Cooperation and direct communication between the trustee and foreign courts or foreign representatives

''(a) In all matters included in section 601, the trustee or other person, including an examiner, authorized by the court, shall, subject to the supervision of the court, cooperate to the maximum extent possible with foreign courts or foreign representatives.

''(b) The trustee or other person, including an examiner, designated by the court is entitled, subject to the supervision of the court, to communicate directly with foreign courts or foreign representatives.

''(c) Section 1104(d) shall apply to the appointment of an examiner under this chapter. Any examiner shall comply with the qualification requirements imposed on a trustee by section 322.

"§ 627. Forms of cooperation

''Cooperation referred to in sections 625 and 626 may be implemented by any appropriate means, including—

''(1) appointment of a person or body, including an examiner, to act at the direction of the court;

''(2) communication of information by any means considered appropriate by the court;

''(3) coordination of the administration and supervision of the debtor's assets and affairs;

''(4) approval or implementation of agreements concerning the coordination of proceedings; and

''(5) coordination of concurrent proceedings regarding the same debtor.

''SUBCHAPTER V—CONCURRENT PROCEEDINGS

"§ 628. Commencement of a case under this title after recognition of a foreign main proceeding

''After recognition of a foreign main proceeding, a case under another chapter of this title may be commenced only if the debtor has assets in the United States. The effects of that case shall be restricted to the assets of the debtor that are within the territorial jurisdiction of the United States and, to the extent necessary to implement cooperation and coordination under sections 625, 626, and 627, to other assets of the debtor that are within the jurisdiction of the court under sections 541(a) of this title, and 1334(e) of title 28, to the extent that such other assets are not subject to the jurisdiction and control of a foreign proceeding that has been recognized under this chapter.

"§ 629. Coordination of a case under this title and a foreign proceeding

''Where a foreign proceeding and a case under another chapter of this title are taking place concurrently regarding the same debtor, the court shall seek cooperation and coordination under sections 625, 626, and 627, and the following shall apply:

''(1) When the case in the United States is taking place at the time the petition for recognition of the foreign proceeding is filed—

''(A) any relief granted under sections 619 or 621 must be consistent with the case in the United States; and

''(B) even if the foreign proceeding is recognized as a foreign main proceeding, section 620 does not apply.

''(2) When a case in the United States under this title commences after recognition, or after the filing of the petition for recognition, of the foreign proceeding—

''(A) any relief in effect under sections 619 or 621 shall be reviewed by the court and shall be modified or terminated if inconsistent with the case in the United States; and

''(B) if the foreign proceeding is a foreign main proceeding, the stay and suspension referred to in section 620(a) shall be modified or terminated if inconsistent with the case in the United States.

''(3) In granting, extending, or modifying relief granted to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

''(4) In achieving cooperation and coordination under sections 628 and 629, the court may grant any of the relief authorized under section 305.

"§ 630. Coordination of more than 1 foreign proceeding

''In matters referred to in section 601, with respect to more than 1 foreign proceeding regarding the debtor, the court shall seek cooperation and coordination under sections 625, 626, and 627, and the following shall apply:

''(1) Any relief granted under section 619 or 621 to a representative of a foreign nonmain proceeding after recognition of a foreign main proceeding must be consistent with the foreign main proceeding.

''(2) If a foreign main proceeding is recognized after recognition, or after the filing of a petition for recognition, of a foreign nonmain proceeding, any relief in effect under section 619 or 621 shall be reviewed by the court and shall be modified or terminated if inconsistent with the foreign main proceeding.

''(3) If, after recognition of a foreign nonmain proceeding, another foreign nonmain proceeding is recognized, the court shall grant, modify, or terminate relief for the purpose of facilitating coordination of the proceedings.

"§ 631. Presumption of insolvency based on recognition of a foreign main proceeding

''In the absence of evidence to the contrary, recognition of a foreign main proceeding is for the purpose of commencing a proceeding under section 303, proof that the debtor is generally not paying its debts.

"§ 632. Rule of payment in concurrent proceedings

''Without prejudice to secured claims or rights in rem, a creditor who has received payment with respect to its claim in a foreign proceeding pursuant to a law relating to insolvency may not receive a payment for the same claim in a case under any other chapter of this title regarding the debtor, so long as the payment to other creditors of the same class is proportionately less than the payment the creditor has already received.''.

(b) CLERICAL AMENDMENT.—The table of chapters for title 11, United States Code, is amended by inserting after the item relating to chapter 5 the following:

"6. Ancillary and Other Cross-Border Cases ..... 601".

SEC. 602. AMENDMENTS TO OTHER CHAPTERS IN TITLE 11, UNITED STATES CODE.

(a) APPLICABILITY OF CHAPTERS.—Section 103 of title 11, United States Code, is amended—

(1) in subsection (a), by inserting before the period the following: ''and this chapter, sections 307, 555 through 557, 559, and 560 apply in a case under chapter 6''; and

(2) by adding at the end the following:

''(j) Chapter 6 applies only in a case under that chapter, except that section 605 applies to trustees and to any other entity authorized by the court, including an examiner, under chapters 7, 11, and 12, to debtors in possession under chapters 11 and 12, and to debtors or trustees under chapters 9 and 13 who are authorized to act under section 605.''.

(b) DEFINITIONS.—Section 101 of title 11, United States Code, is amended by striking paragraphs (23) and (24) and inserting the following:

''(23) 'foreign proceeding' means a collective judicial or administrative proceeding in a foreign state, including an interim proceeding, pursuant to a law relating to insolvency in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation;

''(24) 'foreign representative' means a person or body, including a person or body appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor's assets or affairs or to act as a representative of the foreign proceeding;''.

(c) AMENDMENTS TO TITLE 28, UNITED STATES CODE.—

(1) PROCEDURES.—Section 157(b)(2) of title 28, United States Code, is amended—

(A) in subparagraph (N), by striking ''and'' at the end;

(B) in subparagraph (O), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(P) recognition of foreign proceedings and other matters under chapter 6 of title 11.''.

(2) BANKRUPTCY CASES AND PROCEEDINGS.—Section 1334(c)(1) of title 28, United States Code, is amended by striking ''Nothing in'' and inserting ''Except with respect to a case under chapter 6 of title 11, nothing in''.

(3) DUTIES OF TRUSTEES.—Section 586(a)(3) of title 28, United States Code, is amended by inserting ''6,'' after ''chapter''.

TITLE VII—MISCELLANEOUS

SEC. 701. TECHNICAL AMENDMENTS.

Title 11 of the United States Code is amended—

(1) in section 109(b)(2) by striking ''subsection (c) or (d) of'';

(2) in section 541(b)(4) by adding ''or'' at the end; and

(3) in section 552(b)(1) by striking ''product'' each place it appears and inserting ''products''.

SEC. 702. APPLICATION OF AMENDMENTS.

The amendments made by this Act shall apply only with respect to cases commenced under title 11 of the United States Code after the date of the enactment of this Act.

The CHAIRMAN. It is now in order to consider amendment No. 1 printed in House Report 103–573.

AMENDMENT NO. 1 OFFERED BY MR. GEKAS

Mr. GEKAS. Mr. Chairman, pursuant to the rule, I offer the Hyde amendment, the so-called manager's amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 printed in House Report 105–573 offered by Mr. GEKAS:

Page 6, line 8, strike ''spouse'' and insert ''spouse,''.

Page 8, line 13, insert '', issued by the Internal Revenue Service,'' after ''debts)''.

Page 8, line 16, strike ''under'' and insert ''by''.

Page 8, beginning on line 16, strike ''financial analysis for expenses'' and insert ''allowance for such expenses''.

Page 9, line 10, insert ''total'' after ''monthly''.

Page 9, line 20, insert ''total'' after ''monthly''.

Page 9, line 21, strike ''what income'' and insert ''any income that''.

Page 12, line 15, insert ''CHAPTER 13'' after ''A'' (and make such technical and conforming changes to the table of contents of the bill as may be appropriate).

Page 13, line 1, insert '', issued by the Internal Revenue Service,'' after ''debts)''.

Page 13, line 4, strike ''under'' and insert ''by''.

Page 13, beginning on line 5, strike ''financial analysis for expenses'' and insert ''allowance for such expenses''.

Page 13, line 15, strike ''of'' and insert ''under''.

Page 13, line 22, strike ''of'' and insert ''under''.

Page 14, line 3, insert ''and'' at the end.

Page 14, beginning on line 14, strike '', in a case in which a trustee has been appointed,''.

Page 14, beginning on line 21, strike ''what income'' and inserting ''any income that''.

Page 18, line 1, strike ''total current monthly'' and insert ''current monthly total''.

Page 18, beginning on line 7, strike ''total current monthly'' and insert ''current monthly total''.

Page 20, line 24, strike ''and'' at the end and insert a comma.

Page 21, line 1, strike ''its schedules'' and insert ''schedules,''.

Page 21, beginning on line 3, strike ''and its schedules'' and insert ''schedules,''.

Page 22, beginning on line 6, strike ''outside'' and all that follows through ''system)'' on line 7.

Page 24, line 21, insert ''by the debtor'' after ''statement''.

Page 25, after line 6, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 105. WHO MAY BE A DEBTOR UNDER CHAPTER 11.

Section 109(d) of title 11, United States Code, is amended by inserting '', or a person described in subsection (b)(4)),'' after ''chapter 7''.

Page 25, line 19, strike ''12'' and insert ''12,''.

Page 26, line 3, strike ''(i)'' and insert ''(i)(I)''.

Page 26, line 5, strike ''(ii)'' and insert ''(II)''.

Page 26, line 6, strike the period at the end and insert ''; and''.

Page 26, after line 6, insert the following:

''(ii) that offers its services to debtors without charge, or at an appropriately reduced charge if payment of any regular charge would impose a hardship on the debtor or a dependent of the debtor.''

Page 26, line 10, insert ''or on the motion of the United States trustee and'' after ''district''.

Page 26, beginning on line 11, strike ''the United States trustee and''.

Page 27, line 21, strike ''60'' and insert ''180''.

Page 33, line 22, strike ''select a chapter 7 proceeding'' and insert ''choose to file a chapter 7 case''.

Page 34, line 1, strike ''select a chapter 13 proceeding'' and insert ''choose to file a chapter 13 case''.

Page 34, line 6, strike ''proceeding'' and insert ''relief''.

Page 34, line 9, strike ''proceeding'' and insert ''relief''.

Page 34, line 10, strike ''procceding'' and insert ''case''.

Page 34, beginning on line 13, strike ''represent you in litigation'' and insert ''give you legal advice''.

Page 34, line 21, insert '', to the extent permitted by nonbankruptcy law,''.

Page 38, line 4, strike ''or'' and insert ''and''.

Page 41, after line 12, insert the following:

''(5) Notwithstanding any other provision of Federal law, if the court, on its own motion or on the motion of the United States trustee, finds that a person intentionally violated section 526 or 527 of this title, or engaged in a clear and consistent pattern or practice of violating section 526 or 527 of this title, the court may—

''(A) enjoin the violation of such section; or

''(B) impose an appropriate civil penalty against such person.''.

Page 43, line 17, insert '', together with any other such contribution,'' after ''contribution''.

Page 46, line 12, strike ''2002bb'' and insert ''2000bb''.

Page 49, beginning on line 8, strike ''If a party in interest requests'' and insert ''Upon motion by a party in interest for continuation of the automatic stay and upon notice and a hearing''.

Page 55, line 9, strike ''reaffirmation''.

Page 56, line 1, insert ''THE AUTOMATIC'' after ''FROM'' (and make such technical and conforming changes to the table of contents of the bill as may be appropriate).

Page 59, line 7, insert ''THE AUTOMATIC'' after ''FROM'' (and make such technical and conforming changes to the table of contents of the bill as may be appropriate).

Page 59, line 20, insert ''as described in findings made by the court'' after ''circumstances''.

Page 60, line 12, strike ''cases'' and insert ''a case''.

Page 64, line 3, strike ''case''.

Page 66, line 19, insert '', excluding debts incurred for necessaries that do not exceed $250 in the aggregate,'' after ''creditor''.

Page 66, beginning on line 22, strike '', except'' and all that follows through ''less'' on line 25.

Page 67, line 23, strike ''or divorce or dissolution decree'' and insert ''divorce decree, or other order of a court of record''.

Page 68, strike lines 8 through 23 (and make such technical and conforming changes as may be appropriate).

Page 74, strike lines 13 through 15, and insert the following:

(2) in subsection (a)(7) by inserting ''an order of disgorgement or restitution obtained by a governmental unit,'' after ''such debt is for''; and

Page 75, line 20, strike ''the''.

Page 76, line 14, strike ''(14)'' and insert ''(19)''.

Page 76, in the matter after line 21, insert ''payments after discharge'' after ''alimony''.

Page 78, after line 2, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 152. HIGHER PRIORITY FOR DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.

Section 507(a) of title 11, United States Code, is amended—

(1) by striking paragraph (7);

(2) in paragraph (6) by striking ''(6) Sixth'' and inserting ''(7) Seventh'';

(3) in paragraph (5) by striking ''(5) Fifth'' and inserting ''(6) Sixth'';

(4) in paragraph (4) by striking ''(4) Fourth'' and inserting ''(5) Fifth'';

(5) in paragraph (3) by striking ''(3) Third'' and inserting ''(4) Fourth''; and

(6) by inserting after paragraph (2) the following:

''(3) Third, allowed claims for debts to a spouse, former spouse, or child of the debtor for alimony to, maintenance for, or support of such spouse or child, in connection with a separation agreement, divorce decree or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement, but not to the extent that such debt—

''(A) is assigned to another entity, voluntarily, by operation of law, or otherwise; or

''(B) includes a liability designed as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance, or support.''.

Page 83, strike lines 17 through 19, and insert the following:

apply to—

''(A) an exemption claimed under subsection (b)(2)(A) by a family farmer for the principal residence of that farmer; or

''(B) an involuntary case.''.

Page 84, strike lines 8 through 10, and insert the following:

''(e) A person appointed to examine a request for compensation or reimbursement payable under this section may not be paid on the basis of the amount of any reduction recommended by such person in the amount or rate of such compensation or such reimbursement.''.

Page 85, line 16, strike ''(3)'' and insert ''(3)(A)''.

Page 85, line 16, insert '', subject to subparagraph (B),'' after ''or''.

Page 85, line 20, strike the close quotation marks and the period at the end.

Page 85, after line 20, insert the following:

''(B) A request to change the membership of a committee appointed under subsection (a) may be made under subparagraph (A) by a party in interest only after such request is submitted to and denied by the United States trustee.''.

Beginning on page 90, strike line 24 and all that follows through line 10 on page 91, and insert the following:

''(5) Where the court finds that a personal services contract is property of the estate, the trustee may not reject an executory contract for personal services in which advances are paid for the creation of copyrighted sound recordings in the future if a material purpose for commencing a case under this title is to reject such contract, unless, absent such rejection, economic rehabilitation of the debtor's finances, including such contract, cannot be achieved.''.

Page 91, beginning on line 24, strike ''debtor's motion'' and insert ''motion of the trustee''.

Page 92, line 4, insert ''the'' after ''provided''.

Page 92, after line 24, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 215. DEFAULTS BASED ON NONMONETARY OBLIGATIONS.

(a) EXECUTORY CONTRACTS AND UNEXPIRED LEASES.—Section 365 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A) by striking the semicolon at the end and inserting the following:

''other than a default that is a breach of a provision relating to—

''(i) the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an unexpired lease of real property, if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption; or

''(ii) the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an executory contract, if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption and if the court determines, based on the equities of the case, that this subparagraph should not apply with respect to such default;'', and

(B) by amending paragraph (2)(D) to read as follows:

''(D) the satisfaction of any penalty rate or penalty provision relating to a default arising from a failure to perform nonmonetary obligations under an executory contract or under an unexpired lease of real or personal property.'',

(2) in subsection (c)—

(A) in paragraph (2) by adding ''or'' at the end,

(B) in paragraph (3) by striking ''; or'' at the end and inserting a period, and

(C) by striking paragraph (4),

(3) in subsection (d)—

(A) by striking paragraphs (5) through (9), and

(B) by redesignating paragraph (10) as paragraph(5).

(4) in subsection (f)(1) by striking ''; except that'' and all that follows through the end of the paragraph and inserting a period.

(b) IMPAIRMENT OF CLAIMS OR INTERESTS.—Section 1124(2) of title 11, United States Code, is amended—

(1) in subparagraph (A) by inserting ''or of a kind that section 365(b)(1)(A) of this title expressly does not require to be cured'' before the semicolon at the end,

(2) in subparagraph (C) by striking ''and'' at the end,

(3) by redesignating subparagraph (D) as subparagraph (E), and

(4) by inserting after subparagraph (C) the following:

''(D) if such claim or such interest arises from any failure to perform a nonmonetary obligation, compensates the holder of such claim or such interest (other than the debtor or an insider) for any actual pecuniary loss incurred by such holder as a result of such failure; and''.

Page 95, beginning on line 14, strike ''STATEMENTS AND PLANS'' and insert ''STATEMENT AND PLAN'' (and make such technical and conforming changes to the table of contents of the bill as may be appropriate).

Beginning on page 97, strike line 17 and all that follows through line 6 on page 98, and insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 235. UNIFORM REPORTING RULES AND FORMS FOR SMALL BUSINESS CASES.

(a) PROPOSAL OF RULES AND FORMS.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall propose for adoption amended Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms to be used by small business debtors to file periodic financial and other reports containing information, including information relating to—

(1) the debtor's profitability;

(2) the debtor's cash receipts and disbursements; and

(3) whether the debtor is timely filing tax returns and paying taxes and other administrative claims when due.

(b) PURPOSE.—The rules and forms proposed under subsection (a) shall be designed to achieve a practical balance between—

(1) the reasonable needs of the bankruptcy court, the United States trustee or bankruptcy administrator, creditors, and other parties in interest for reasonably complete information;

(2) the small business debtor's interest that required reports be easy and inexpensive to complete; and

(3) the interest of all parties that the required reports help the small business debtor to understand its financial condition and plan its future.

Page 103, line 22, insert ''and'' at the end.

Page 104, strike lines 3 through 6, and insert the following:

''(9) in cases in which the United States trustee finds material grounds for any relief under section 1112 of title 11, the United States trustee shall apply promptly to the court for relief.''.

Page 105, line 15, strike ''()'' and insert ''(j)''.

Page 106, line 5, strike ''(C) un-'' and insert ''(C);''.

Page 106, strike lines 6 through 12, and insert the following:

unless the debtor proves, by a preponderance of the evidence, that the filing of such petition resulted from circumstances beyond the control of the debtor not foreseeable at the time the case then pending was filed; and that it is more likely than not that the court will confirm a feasible plan, but not a liquidating plan, within a reasonable time.''.

Page 108, line 24, strike '', and'' and all that follows through line 2 on page 109, and insert a semicolon.

Page 112, after line 6, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 302. APPLICABILITY OF OTHER SECTIONS TO CHAPTER 9.

Section 901 of title 11, United States Code, is amended—

(1) by inserting ''555, 556,'' after ''553,''; and

(2) by inserting ''559, 560,'' after ''557,''.

Page 125, line 8, strike ''total current monthly'' and insert ''current monthly total''.

Page 125, line 17, strike ''total current monthly'' and insert ''current monthly total''.

Page 126, beginning on line 11, strike ''total current monthly'' and insert ''current monthly total''.

Page 126, line 18, strike ''total current monthly'' and insert ''current monthly total''.

Page 131, line 3, strike ''or dismissed'' and insert '', dismissed, or closed''.

Page 131, beginning on line 17, strike ''Such'' and all that follows through ''Courts.'' on line 19.

Page 131, line 20, insert ''in such form as shall be determined by such Office, in consultation with the Administrative Office of the United States Courts,'' after ''tics,''.

Page 131, line 19, strike ''Office'' and insert ''Executive Office for United States Trustees''.

Page 132, line 5, strike ''total current monthly'' and insert ''current monthly total''.

Page 133, line 16, insert ''UNIFORM RULES FOR THE COLLECTION OF'' after ''SEC. 442.'' (and make such technical and conforming changes to the table of contents of the bill as may be appropriate).

Page 140, strike lines 6 through 10, and insert the following:

amended to read as follows:

''(1) a debt of a kind specified in paragraph (1) or (5) of section 523(a) of this title, and such property shall be liable for a debt of a kind specified in such paragraph (5) notwithstanding any State law to the contrary;''

Page 161, line 16, strike ''or'' at the end.

Page 161, line 21, strike the period at the end and insert ''; or''.

Page 161, after line 21, insert the following:

''(3) an entity subject to a proceeding under the Securities Investor Protection Act, a stockbroker subject to subchapter III of chapter 7 of this title, or a commodity broker subject to subchapter IV of chapter 7 of this title.

Page 164, line 2, strike ''Nothing in this chapter limits the power of'' and insert ''Subject to the specific limitations stated elsewhere in this chapter''.

Page 165, after line 15, insert the following:

''(c) Subject to section 610 of this title, a foreign representative is subject to laws of general application.

Page 165, line 16, strike ''(c)'' and insert ''(d)''.

Page 165, beginning on line 17, strike ''proceeding'' and insert ''representative''.

Page 165, line 19, insert ''by a foreign representative'' after ''cooperation''.

Page 166. line 5, strike ''sections'' and insert ''section''.

Page 166, line 10, strike ''filing a petition for''.

Page 166, strike lines 22 and 23.

Page 170, line 24, insert ''after notice and a hearing'' after ''606,''.

Page 177, strike lines 11 through 17, and insert the following:

''(a) The court may grant relief under section 619 or 621, or may modify or terminate relief under subsection (c) of this section, only if the interests of the creditors and other interested persons or entities, including the debtor, are sufficiently protected.

''(b) The court may subject relief granted under section 619 or 621, or the operation of the debtor's business under section 620(a)(2) of this title, to conditions it considers appropriate, including the giving of security or the filing of a bond.

Page 177, after line 21, insert the following:

''(d) Section 1104(d) shall apply to the appointment of an examiner under this chapter. Any examiner shall comply with the qualification requirements imposed on a trustee by section 322.

Page 178, line 19, strike ''In all matters included within'' and insert ''Consistent with''.

Page 179, line 6, strike ''In all matters included within'' and insert ''Consistent with''.

Page 179, line 12, strike ''designated'' and insert ''authorized''.

Page 179, strike lines 15 through 18.

Page 181, line 8, insert ''the relief granted in'' after ''with''.

Page 181, line 24, insert ''the relief granted in'' after ''with''.

Page 186, line 11, strike ''The'' and insert ''Except as otherwise provided in this Act, the''.

The CHAIRMAN. Pursuant to House Resolution 462, the gentleman from Pennsylvania (Mr. GEKAS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have consulted with the gentleman from New York on the purport of the manager's amendment. It has several technical amendments that need attention and to which we have agreed, and it puts into the RECORD the concerns that the Justice Department has voiced with respect to some of the provisions. We have incorporated those into the manager's amendment, and made those known to the gentleman from New York and the minority.

On that, then, we would ask for a vote on the manager's amendment.

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

The CHAIRMAN. Does the gentleman from New York (Mr. NADLER) seek time in opposition?

Mr. NADLER. Yes, I do, Mr. Chairman.

The CHAIRMAN. The gentleman from New York (Mr. NADLER) is recognized for 5 minutes.

Mr. NADLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we do not object to this amendment. I just want to point out that, like a number of other amendments, this amendment deals with the problem of child support and spouse support, but does not deal adequately with it.

This amendment would raise the priority of support, child and spouse support, above several priorities. It would raise it above several existing priorities that are rarely relevant in consumer cases. It would make it have a higher priority than wages owed by the debtor to people, to workers he did not pay, and payments involving grain elevators and fishermen.

It does not change the Chapter 13 payment formula, which still requires payment of credit card debt concurrently with child support. It does not deal with the larger problems created by other provisions of the bill that require payments so great that a Chapter 13 plan may be rendered infeasible.

It also does not deal with ''adequate protection payments'' required by Section 320 of the bill that would compete with support at the outset of the plan,

so that the debtor could not devote significant funds to payment of even the first priority support claims.

If such adequate protection payments failed to provide adequate protection, in fact, a creditor, such as a credit card creditor, who took a security interest in minor household items could argue it was entitled to a still higher superpriority under section 507(b).

So in other words, Mr. Chairman, there is nothing wrong with this amendment. It goes a fiftieth of the way towards helping the terrible problems this bill puts in the way of adequately collecting child and spouse support, but it does not deal with the basic problems. So while we have no objection to it and we certainly would not ask for a recorded vote, it does not do very much at all.

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

Mr. GEKAS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. Gekas).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 105–573.

AMENDMENT NO. 2 OFFERED BY MR. NADLER

Mr. NADLER. Mr. Chairman, I offer amendment No. 2.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment 2 printed in House Report 105–573 offered by Mr. NADLER:

Page 13, strike line 23 and insert the following:

plan; and

''(D) if the debtor is engaged in business, the payment of expenditures necessary for the continuation, preservation, and operation of such business;'';

Beginning on page 93, strike line 5 and all that follows through line 2 on page 94, and insert the following:

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended—

(1) by redesignating paragraph (51C) as paragraph (51D); and

(2) by inserting after paragraph (51B) the following:

''(51C) 'small business case' means a case filed under chapter 11 of this title in which the debtor is a small business debtor;''.

Beginning on page 98, strike line 7 and all that follows through the matter preceding line 15 on page 100 (and make such technical and conforming changes as may be appropriate).

Beginning on page 100, strike line 15 and all that follows through line 11 on page 104 (and make such technical and conforming changes as may be appropriate).

Beginning on page 105, strike line 1 and all that follows through line 12 on page 106 (and make such technical and conforming changes as may be appropriate).

Beginning on page 106, strike line 13 and all that follows through line 16 on page 109, and insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 243. ADDITIONAL GROUNDS FOR APPOINTMENT OF TRUSTEE.

Section 1104(a) of title 11, United States Code,

The CHAIRMAN. Pursuant to House Resolution 462, the gentleman from New York (Mr. NADLER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Chairman, I yield myself such time as I may consume.

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

Mr. NADLER. Mr. Chairman, this amendment strikes several sections of the small business title. We have heard testimony from the National Bankruptcy Conference, and we also have received a letter from the Small Business Administration that indicates that the bureaucratic burdens placed by this bill on small businesses, the short time lines for filing many more documents than are necessary for larger businesses, the higher standard for getting an extension of the automatic stay so that the small business, in order to get an extension, would have to pass what amounts to a mini-confirmation hearing, a real catch-22, and the inclusion of a new definition of single-asset real estate in the definition of small business, so that, for example, Rockefeller Center would have to be reorganized under the small business rules if it were involved in a bankruptcy, all combine to make this title a virtual death sentence for thousands of small businesses.

I know my colleagues on the other side of the aisle like to oppose regulations that protect the environment or worker safety by arguing they are burdensome on small businesses. We have had several hearings this year attacking clean air regulations and attacking regulations to keep workers from falling off of roofs, and regulations to keep asbestos from being released into the atmosphere.

At every point we have heard moving speeches about the fate of small businesses under these regulations. Some members of the committee have opposed increasing our shamefully low minimum wage for the same reasons.

Here is a chance to put our words into action. This small business title threatens every small business and independent contractor in America. We should strike its most offending sections. The amendment restores the current definition of small business to a business of $2 million. The increase to $5 million would pull in 85 percent of businesses into this section, and make it involuntary. It will be transforming small business bankruptcy from a safety net for small businesses to a tiger cage.

The amendment strikes the burdensome and costly meeting and filing requirements imposed on small businesses for the first time, and it also gets the U.S. Trustee out of the business of essentially running a small business in Chapter 11. It strikes the definition of monthly net income in the bill, and restores the existing definition so that an individual debtor in Chapter 13 may continue to use his or her personal income for a small business.

As we may know, many small businesses are either unincorporated or are small businesses which the debtor personally guarantees. They end up in Chapter 13, not Chapter 11. The bill as written would not allow them to use their personal resources to reorganize the business, as current law does. This change would kill many small businesses.

Finally, the amendment restores current law in the appointing of a trustee.

Mr. Chairman, small business is the engine for job growth in America. There is not a single Member of this House who has not spoken out in defense of small business. That is the right thing to do. But we should not move forward with these costly, onerous, and burdensome new rules that the Small Business Administration and the National Bankruptcy Conference tell us will kill many small businesses unnecessarily, instead of letting them be reorganized. We ought to pass this amendment so as not to impose these new burdens and this death sentence on thousands of small businesses.

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

The CHAIRMAN. Does the gentleman from Pennsylvania (Mr. GEKAS) seek time in opposition?

Mr. GEKAS. I rise in opposition to the amendment, Mr. Chairman.

The CHAIRMAN. The gentleman from Pennsylvania (Mr. GEKAS) is recognized for 5 minutes.

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in this particular case the gentleman from New York (Mr. NADLER) full well knows that the recommendations of the bankruptcy commission, which worked 2 years on just this kind of provision, made certain recommendations in filing their report late last year.

It is those provisions, those recommendations, which we have incorporated into H.R. 3150, and which themselves have received the blessing of the NFIB, and other organizations, such as, and this is important, the National Federation of Independent Businesses, NFIB, which I mentioned; the American Bankruptcy Institute, the Executive Office for United States Trustees, and various bankruptcy judges.

But more importantly than that, the NFIB language that they employed in the letter of support to us says this, and this is a better speech than I could make, or any combination of Members could make:

''The legislation,'' and this is the NFIB speaking, the National Federation of Independent Business, ''The legislation strikes a fair balance by giving small business owners more of a chance to get back what is rightfully theirs while still providing bankruptcy protection to those small businesses who truly need it.''

I endorse the NFIB endorsement of the endorsed bill that we now endorse, and reendorse by asking for a negative vote on the proposal at hand.

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

Mr. NADLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am surprised to hear the gentleman from Pennsylvania (Mr. GEKAS) point out that the National Bankruptcy Review Commission supports this. The National Bankruptcy Review Commission rejected the central concept of the bill, the so-called means-based testing. But that he does not care about.

Let me simply say this. The Small Business Administration of the United States says the provisions of this bill, without this amendment, would add

> such substantial additional costs to the reorganization process that many small businesses may forgo reorganization under Chapter 11 and immediately file for Chapter 7 liquidation proceedings.

They would be forced to close their doors, leaving their creditors without recourse. The nonbipartisan and widely respected National Bankruptcy Conference says,

> These cost-raising changes ultimately could deny tens of thousands of small businesses a meaningful opportunity to restructure that have obligations and continue in business. This would close the door on thousands of businesses that would have been able to reorganize successfully if given the chance.

The AFL-CIO says,

> The potentially broad reach of these provisions and the manner in which they restrict the workings of the bankruptcy case for these businesses will likely place numerous jobs at risk.

So the AFL-CIO, the Small Business Administration, and the National Bankruptcy Conference, which is probably the greatest expert on this, all tell us these provisions which this amendment would strike will kill thousands of small businesses by denying them the realistic opportunity to reorganize, and forcing them instead to liquidate.

I urge my colleagues to vote for this amendment so these small businesses are not thrown into liquidation, instead of reorganization, killing thousands and thousands of jobs.

□ 1530

Mr. GEKAS. Mr. Chairman, I yield back the balance of my time in opposition to the amendment.

Mr. NADLER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. NADLER).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. NADLER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from New York (Mr. NADLER) will be postponed.

The point of no quorum is considered withdrawn.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 105–573. Does any Member seek recognition to offer amendment No. 3?

PARLIAMENTARY INQUIRIES

Mr. NADLER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. NADLER. Mr. Chairman, which amendment are you referring to? The Boucher-Gekas amendment?

The CHAIRMAN. The Delahunt amendment No. 3.

Mr. NADLER. Mr. Chairman, we will come back to that.

The CHAIRMAN. According to the rule, amendment No. 3 is now in order to be offered by the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. NADLER. Mr. Chairman, I have a further parliamentary inquiry. On the list that I have, the Boucher-Gekas amendment is next, and then Gekas and then Shaw-Camp, Paul, Gekas-McCollum-Smith, Scott, Velázquez, Baldacci, and Delahunt is last according to this.

The CHAIRMAN. According to the rule adopted by the House, it is now in order to consider amendment No. 3 to be offered by the gentleman from Massachusetts (Mr. DELAHUNT) or his designee, debatable for 10 minutes.

Mr. NADLER. Mr. Chairman, I ask unanimous consent that that amendment be considered later when the gentleman from Massachusetts (Mr. DELAHUNT) can come to the floor, because the list we have does not indicate that order.

The CHAIRMAN. The Chair does not have the authority to entertain that request in the Committee of the Whole.

Mr. NADLER. Mr. Chairman, I believe that with unanimous consent, the Chair could entertain that request.

The CHAIRMAN. The Committee of the Whole cannot change the order of the amendments as approved under the special order adopted by the House.

Mr. GEKAS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GEKAS. Mr. Chairman, if the gentleman from Massachusetts (Mr. DELAHUNT), who was supposed to have an amendment made in order at this time, would strike the last word or change the text of the amendment that he wishes to offer, could it be made in order in the Committee of the Whole?

The CHAIRMAN. Permission cannot be sought to offer a new amendment. Permission might be sought to modify a pending amendment in the Committee of the Whole. But the Committee of the Whole is operating under the rule adopted earlier in the House.

If there is no Member here to offer amendment No. 3, the Committee will move on to amendment No. 4.

Mr. GEKAS. Mr. Chairman, I have a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GEKAS. Mr. Chairman, I wish to express to the gentleman from New York (Mr. NADLER) that when the time comes that the gentleman from Massachusetts (Mr. DELAHUNT) is prepared to proceed, we will coordinate whatever it takes, even a motion to rise, in order to accommodate that amendment. So at this point, why do we not proceed?

Mr. NADLER. Mr. Chairman, I have a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. NADLER. Mr. Chairman, I appreciate the cooperation of the gentleman from Pennsylvania (Mr. GEKAS). My parliamentary inquiry is if we go on to the next amendment now, and 10 or 15 or 20 minutes from now when the gentleman from Massachusetts arrives, if a motion to rise is made, we can then entertain that amendment in the House?

The CHAIRMAN. At a later time, if the Committee rises and then the gentleman seeks permission to offer the amendment, that request could be entertained in the full House.

Mr. NADLER. Mr. Chairman, I appreciate that offer from the distinguished gentleman from Pennsylvania, and I think it is a good idea, and we should go on to the next amendment now with the understanding that when the gentleman from Massachusetts arrives at the conclusion of the amendment that we are now discussing, that we move that the House rises.

The CHAIRMAN. It is now in order——

Mr. NADLER. Mr. Chairman, I am told that I need to move that the House rise now.

The CHAIRMAN. It does not have to be done now.

Mr. NADLER. Mr. Chairman, it is okay to go to the next amendment then, as far as I am concerned.

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in House Report 105–573.

AMENDMENT NO. 4 OFFERED BY MR. BOUCHER.

Mr. BOUCHER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

> Amendment No. 4 printed in House Report 105–573 offered by Mr. BOUCHER:
>
> Page 54, line 15, before the semicolon insert the following:
>
> ''; except that the term shall also include any tangible personal property reasonably

necessary for the maintenance and support of a dependent child''.

Page 66, strike lines 11 through 13 and insert the following:

''(19) incurred to pay a debt that is nondischargeable by reason of any other provision of this subsection or section 727, 1141, 1228(a), 1228(b), or 1328(b), except for any debt incurred to pay such a nondischargeable debt in any case in which—

''(A)(i) the debtor who paid the nondischargeable debt is a single custodial parent who has 1 or more dependent children at the time of the order for relief, or

''(ii) there is an allowed claim for alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor payable under a judicial or administrative order to such spouse or child (but not to any other person) which was unpaid as of the date of the petition; and

''(B) the creditor is unable to demonstrate that the debtor intentionally incurred the debt to pay the debt which is nondischargeable;''.

Page 70, after line 12, insert the following (and make such technical and conforming changes as may be appropriate):

(1) in the matter preceding paragraph (1) by inserting before the colon the following:

'', except that, notwithstanding any other provision of this title, any expense or claim entitled to priority under paragraph (7) shall have first priority over any other expense or claim that has priority under any other provision of this subsection'';

Page 70, after line 22, insert the following (and make such technical and conforming changes as may be appropriate):

(e) CONTENTS OF PLANS.—Section 1322(b)(1) of title 11, United States Code, is amended by striking the semicolon at the end and inserting the following:

''and provide for the payment of any claim entitled to priority under section 507(a)(7) of this title before the payment of any other claim entitled to priority under section 507(a), notwithstanding the priorities established under section 507(a);''.

The CHAIRMAN. Pursuant to the rule, the gentleman from Virginia (Mr. BOUCHER), and the gentleman from New York (Mr. NADLER) each will control 5 minutes.

The Chair recognizes the gentleman from Virginia (Mr. BOUCHER).

Mr. BOUCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment relates to the priority of child support and alimony recipients in association with bankruptcy proceedings.

During consideration of the bill in the House Judiciary Committee, provisions were adopted which not only assured no disadvantage from this reform for the recipient of alimony or the recipient of child support payments, but which in very significant respects improved that person's ability to receive child support and alimony payments in comparison to current law.

For example, the bill provides that unlike current law, Chapter 13 plans cannot be confirmed unless all child support payments due since the bankruptcy filing have been paid. The Chapter 13 plan cannot be discharged until all arrearages that were due prior to the filing have been paid as well.

These are very significant improvements with regard to current law for the condition of the child support and alimony recipient.

Another example: Under current law child support and alimony wage orders which require that an employer withhold from an employee's salary amounts that are due under child support or alimony are stayed when a bankruptcy petition is filed under any of the various chapters. The bill creates an exemption from this stay for wage orders and assures that payment of child support or alimony under them will continue.

A third example: Under current law the property which is exempt under State law which is owned by a spouse who owes child support or alimony may not be subjected to the other spouse's child support or alimony claim after the spouse who owns the property has been discharged in bankruptcy. The bill improves upon current law by subjecting that exempt property to the child support or alimony claim.

A fourth example: Under current law a debt one spouse owes to another that arises from something other than child support or alimony and is incorporated in a separation agreement or divorce decree is dischargeable in bankruptcy and may not be enforced against property that is exempt under State law. The bill says these debts owed to the spouse may never be discharged and may be enforced against exempt property.

In each of these four instances, the situation of the recipient of child support or alimony is improved with regard to current law.

The amendment that I am pleased to be offering now with the gentleman from Pennsylvania (Mr. GEKAS) makes four additional improvements in current law from the standpoint of the child support or alimony recipient.

First, we clearly give the child support or alimony recipient top priority to receive payment during the pendency of the bankruptcy proceeding. Today, she is seventh behind farmers who have claims against grain elevators, fishermen who have claims against wholesalers, and others. We, with this amendment, clearly make her the first priority.

The second change we make will require that child support and alimony be first in line for payment in Chapter 13 plans. That also is an improvement with respect to current law.

Third, we help the single parent who files for bankruptcy by expanding the definition of ''household goods'' to include items that are needed in child rearing. Unlike under current law, with this amendment she will be able to keep those items.

We also provide that nonsecured debt which is acquired to pay nondischargeable debt, such as taxes, is nondischargeable against single parents and debtors who owe child support or alimony only if the debt was acquired intentionally to pay nondischargeable debt.

In each of these four areas we are making improvements with regard to current law, better assuring the priority of the child support or alimony recipient.

And because of the changes made in the committee, the various organizations around the country numbering several that are responsible for aiding child support and alimony recipients and enforcing those obligations have endorsed this bill, including the Child Support and Family Council of California, the City of New York Law Department, and others.

Mr. Chairman, they understand that the changes that are made in the committee, as amplified by these changes on the floor, will actually improve the circumstance of the child support or alimony recipient as compared to current law.

Mr. Chairman, I urge the adoption of this amendment.

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

Mr. NADLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this, again, is another one of those amendments that may do a little good. It is probably harmless, but it does not solve any of the fundamental problems.

For instance, we are told that on the provision of this amendment regarding debts incurred to pay nondischargeable debts, it amends another of the provisions, creating large categories of new nondischargeable debts, mostly credit card debts.

This amendment, which purports to protect women and children dependent on support from the debtor, does nothing to change this provision of the bill. Besides being limited only to cases in which debtors are single parents or are in arrears on support, it simply requires the creditor to show that the debtor ''intentionally'' incurred the debt in question. Virtually no debts incurred to pay other debts are not incurred intentionally, so the change is meaningless.

Then we have the provision that states that alimony and support claims should be paid before other priority claims in Chapter 13. But this does not change the Chapter 13 payment formula, which still requires payment of nonpriority credit card debt concurrently with support. In other words, the requirement in section 102 that support be paid concurrently with credit card debts is not changed at all.

The amendment does not deal with the larger problems created by other provisions that required payments so great that a Chapter 13 plan may not be feasible, in which case no creditors may be paid.

This amendment makes a new section that places child support and alimony ahead of all other unsecured priority claims in the distribution of the assets in a Chapter 7 case. While this is a worthy idea, and I commend the author for this, it will have little effect since it is rare, very rare, for any assets at all to be distributed in a Chapter 7 case.

Also, because the amendment places child support and alimony ahead of administrative expenses, like the trustee's commission, we are going to have trustees abandoning these assets rather if there are not sufficient additional assets to compensate the trustee. The amendment, therefore, could cause, and in many cases would cause, women and children to receive even less support in some cases.

In summary, Mr. Chairman, as the administration has said in its letter that we received today, and as most of the organizations concerned with child support agree, this amendment, the manager's amendment, the amendments in committee do not really deal with the problem of child support collection.

Let me just add one comment, since the gentleman referred to the Law Department of my own city, the City of New York. The Law Department of the City of New York has one concern overriding everything else: collecting taxes. That is what they care about, not child support. So I do not credit what they say about how this will deal with child support. I know the Law Department of my own city only too well.

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

Mr. BOUCHER. Mr. Chairman, I yield the balance of my time to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, since the gentleman from New York (Mr. NADLER) has chosen to cite the administration's statement of policy, let me quote it. ''If debtors truly have the ability to repay a portion of their debt, after taking into account all relevant factors, including child support and alimony payments, a successful, supervised repayment plan under Chapter 13 rules could result in a more reliable payment of child support and alimony than would the unsupervised situation after Chapter 7 discharge.''

□ 1545

That is the point of this bill. With the Boucher amendment this Statement of Administration Policy is, in effect, an endorsement of this bill, certainly as it relates to child support. I thank the administration for its good judgment. I would bring this to the attention of all the Members of this body.

Mr. NADLER. Mr. Chairman, I yield myself such time as I may consume.

I am constrained to correct what the gentleman from Virginia said a moment ago. He quoted half a paragraph. What this paragraph says in the statement from the administration is, the formulaic approach in this bill, as currently written, could result in moving to Chapter 13 those debtors who are likely to fail to complete required repayment plans. These debtors would return to Chapter 7 with a diminished ability to repay their nondischarged debt, including child support and alimony. There are other approaches to limiting access to Chapter 7 that would not have this result.

And they are referring not to the needs-based approach of this bill but to the approach of the Democratic substitute.

Then it continues: If debtors truly have the ability to repay a portion of their debt after taking into account all the relevant factors, including child support and alimony payments, a successful, supervised repayment plan under Chapter 13 could result in a more reliable payment, et cetera.

They are talking about under a different system from this bill, under a system such as under the Democratic substitute that we will be offering a little later. Frankly, it is not accurate to refer only to the second half of the paragraph in saying that.

The fact remains that the administration and most of the women's groups, the NOW, the Children's Defense Fund, the American Association of University Women, the YWCA, they all oppose this bill because of the problem of child support. They all say that these amendments do not solve that problem.

Having said that, again, I will observe, this is not a terrible amendment. I do not think it does much good, but it does not do any harm. I will not ask for a vote against it. All I am saying is I do not think it solves any problems.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. BOUCHER).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 105–573.

Does any Member wish to offer amendment No. 5?

It is now in order to consider amendment No. 6 printed in House Report 105–573.

AMENDMENT NO. 6 OFFERED BY MR. SHAW

Mr. SHAW. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 printed in House Report 105–573 offered by Mr. SHAW:

Page 76, line 17, insert the following before the 1st period: except with respect to any property of the debtor acquired after the date of the filing of the petition. A creditor that receives a payment, or collects money or property, in satisfaction of all or part of any debt excepted from discharge under paragraph (2), (4), or (14) of section 523(a) of this title shall hold such payment, such money, or such property in trust and, not later than 20 days after receiving such payment or collecting such money or property, shall distribute such payment, such money, or such property ratably to individuals who then hold debts entitled to priority under this section. Not later than 5 years after receiving such payment or collecting such money or property, such creditor shall make the distribution required by this section to all individuals whose identity is known to such creditor, or is reasonably ascertainable by such creditor, at the time of distribution.

The CHAIRMAN. Pursuant to House Resolution 462, the gentleman from Florida (Mr. SHAW) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Florida (Mr. SHAW).

Modification to Amendment No. 6 Offered by Mr. Shaw

Mr. SHAW. Mr. Chairman, I ask unanimous consent that the amendment be modified in the form that I have placed at the desk and which was, just a few minutes ago, supplied to each side.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification to Amendment No. 6 Offered by Mr. SHAW:

Page 76, line 17, insert the following before the 1st period: except with respect to any property of the debtor acquired after the date of the filing of the petition. A creditor that receives a payment, or collects money or property, in satisfaction of all or part of any debt excepted from discharge under paragraph (2), (4), or (14) of section 523(a) of this title shall, not later than 20 days after receiving such payment or collecting such money or property, distribute such payment, such money, or such property ratably to individuals who then hold debts entitled to priority under section 507(a)(3) of this title. Not later than 2 years after receiving such payment or collecting such money or property, such creditor shall make the distribution required by this section to all individuals whose identify is known to such creditor at the time of distribution.

Mr. SHAW (during the reading). Mr. Chairman, I ask unanimous consent that the modification be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Is there objection to the modification of the amendment?

Mr. NADLER. Mr. Chairman, I have no objection.

The CHAIRMAN. Without objection, the modification is agreed to.

There was no objection.

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

Mr. SHAW. Mr. Chairman, I yield myself such time as I may consume.

I rise to offer the Shaw-Camp-English amendment that is central to the Committee on Ways and Means' work on the collection of child support.

Under the leadership of the gentleman from Pennsylvania (Mr. GEKAS), the Committee on the Judiciary has succeeded in not only maintaining existing child support priorities but in creating a new priority to help custodial mothers who are owed child support after bankruptcy. While the legislation creates a post-bankruptcy priority for child support, it does not contain a procedure for the enforcement of same.

We are afraid that credit card companies will outperform mothers, especially poor mothers, in securing the father's money, the very money that Congress has determined should go first to the mothers and to the children.

Our amendment is really just a perfecting amendment to the amendments

already adopted by the Committee on the Judiciary. If the credit card companies obtain payments from the parents who owe past due child support, the companies are required to hold the payments and distribute the payments to the custodial mothers if they surface at a later date and invoke their legal claim to the money already obtained by the companies.

This amendment would protect the limited number of custodial mothers who are owed child support but who are not in the Federal child support program and whose children's father was involved in a bankruptcy. These mothers and their children are at risk of losing money, and they cannot afford to lose this important support.

This amendment, as modified, varies from the original amendment that was made in order by the Committee on Rules. In doing so, I eliminated the need of the trust, which was provided in that particular bill, which has caused great heartburn, and I think rightfully so, to some of the banks and credit card companies that would be holding these particular funds. We also reduced from 5 years to 2 years the period of time in which these claims have to be made and we also require, as a condition for this liability, that they have actual notice of the claim of the parent.

I think this is a very reasonable amendment, and I would urge its adoption.

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

The CHAIRMAN. Who seeks time in opposition to the amendment?

Mr. GEKAS. Mr. Chairman, I rise in opposition to the amendment. I rise in opposition to the bill as it is now constructed.

Mr. NADLER. Mr. Chairman, I rise in opposition.

The CHAIRMAN. Is the gentleman from Pennsylvania (Mr. GEKAS) opposed to the amendment offered by the gentleman from Florida (Mr. SHAW)?

Mr. GEKAS. I am opposed to it in the first instance in the structure that it now contains. I am opposed to it. I reserve the right to change my mind after I make some remarks for the RECORD.

The CHAIRMAN. The gentleman from Pennsylvania (Mr. GEKAS) is recognized for 5 minutes.

PARLIAMENTARY INQUIRY

Mr. NADLER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. NADLER. Mr. Chairman, I assume that side of the aisle is not going to control 100 percent of the time.

Mr. GEKAS. Mr. Chairman, I will yield to the gentleman myself if I have some time. I will yield to the gentleman from New York.

Mr. NADLER. Mr. Chairman, is not the normal practice to, in this case, to have three people controlling time?

The CHAIRMAN. The 5 minutes in opposition is controlled by an opponent and in this case the gentleman from Pennsylvania (Mr. GEKAS) is recognized.

Mr. GEKAS. Mr. Chairman, I am an opponent, and I am going to yield to the gentleman from New York, if I have some time left, and I will try to reserve some time for him.

Mr. Chairman, I yield myself such time as I may consume.

The only reason I oppose the amendment in its original concept, now I am being converted slowly but surely to the thrust of the bill, was that it was so inflexible. It was too difficult to implement, in our judgment. It would cause more trouble than it would solve.

Now that the language has been improved in which some of the language that would have made a credit or a trustee for the support payment has been eliminated, I feel a little better about it. So in the final context of it, after I yield to the gentleman from New York, I may change my mind and agree to the bill or at least not vote against it.

Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Chairman, I simply want to point out, this amendment originally required that the credit card company that obtained payment from a parent who owed past due child support, a nondischargeable debt, and they obtained the payment from someone who owed child support, had to hold this money in trust for up to 5 years in case they found and made due diligent efforts to find the parent owed the child support and then turned it over to her.

The amendment is simply eliminating the due diligence effort and is shortening the time period to 2 years, and what it is really doing is making a real admission. The admission is that when all is said and done, the nondischargeability, making credit card debt nondischargeable, as this bill does, makes it impossible in the post-discharge situation to enforce the child support.

The change in this amendment recognizes this, because it would be a real burden to hold it for 5 years. But why would you want to hold it for 5 years? Because the credit card company has gotten to the bank first, and they may not know where or who the child support owed the custodial parent is. This is just throwing in the towel and admitting that we cannot enforce the child support, and there is no point in this situation. And there is no point holding the money in trust for 5 years so we will only do it for 2 years.

I do not oppose the amendment, but, again, I think it just illustrates that what we are saying about the provision of the bill, that making that credit card debt undischargeable makes it impossible, makes it very difficult to collect the child support despite all the cosmetic amendments that we have heard about.

Mr. SHAW. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. CAMP), coauthor of the amendment.

Mr. CAMP. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in support of the Shaw-Camp-English amendment. The collection of child support has been central to the work of the gentleman from Florida (Mr. SHAW) on the Committee on Ways and Means, to all of our work on the Committee on Ways and Means. And the gentleman from Florida (Mr. SHAW) and I appreciate the efforts of the Committee on the Judiciary in making the collection of child support payments the number one priority for debtors in reorganizing their debt.

We should make absolutely sure that kids receive the support they are entitled to. Our perfecting amendment would merely require credit card companies which obtain payments from debtors who owe past due child support to pay custodial parents if they surface at a later date. Without this additional protection, parents with children living on tight budgets, who cannot afford to bring legal action, may not be able to collect the money they desperately need.

I urge the House to pass this important amendment and ensure that children continue to be this Congress's top priority.

Mr. SHAW. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. ENGLISH), the other coauthor of the amendment.

Mr. ENGLISH of Pennsylvania. Mr. Chairman, I rise in strong support of the amendment offered by the distinguished chairman of the Committee on Ways and Means' Subcommittee on Human Resources that will build on efforts initiated in our subcommittee to further strengthen our Nation's child support system.

I appreciate that H.R. 3150 provides for a new Federal priority for child support debt. Under our amendment, though, if credit card companies obtain payments from parents who owe past due child support, the companies are required to distribute the payment to custodial mothers, if they surface at a later date, and invoke their legal claim to the money already obtained by the companies.

This amendment will protect approximately 150,000 mothers who are owed child support and whose children's father was involved in a bankruptcy. In my view, this is a critical part of closing the loop, offering additional protection to mothers and their children, and making sure that these collections will go forward.

I hope this amendment will pass with bipartisan support.

Mr. SHAW. Mr. Chairman, I yield myself such time as I may consume.

I would urge the passage of this most important amendment. There is no greater responsibility that people have in their lives than to take care of the children and help support the children

that they have helped bring into this world. I think it sets the priorities right, and this offers a mechanism by which this money can be made available for the support of the children.

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

Mr. GEKAS. Mr. Chairman, I yield myself the balance of my time.

Let me reiterate, the intent and purpose of the Shaw amendment is of the highest import, because we have attempted in different ways to parallel that intent in language that we have already incorporated either in the basic bill or in amendments to that bill.

All of us are interested in making certain of the priority, highest priority for support payments. I still have reservations about the workability of the amendment that the gentleman from Florida (Mr. SHAW) has offered, but he has now created new language which may make it more acceptable.

I will continue to monitor it between now and the time of conference and work with the gentleman from Florida (Mr. SHAW) for even more perfect language, for the perfection that he has already accomplished, and still reserve the right to work against it if I think it hurts the overall concept of the bill.

In other words, I do not know where I am on the gentleman's amendment.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Florida.

Mr. SHAW. Mr. Chairman, I can appreciate the gentleman's position at this late date, coming in, particularly, with the new language. But I thank him for his consideration of this new language, and I thank him for holding fire at this particular time. And also I would like to thank the gentleman from New York (Mr. NADLER). I think this is a very, very good addition to the bill that is on the floor.

□ 1600

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. SHAW).

The amendment as modified was agreed to.

Mr. GEKAS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SHAW) having assumed the chair, Mr. MILLER of Florida, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3150) to amend title 11 of the United States Code, and for other purposes, had come to no resolution thereon.

PERMISSION FOR MEMBER TO OFFER AMENDMENT OUT OF ORDER DURING FURTHER CONSIDERATION OF H.R. 3150, BANKRUPTCY REFORM ACT OF 1998

Mr. GEKAS. Mr. Speaker, I ask unanimous consent that, during further consideration of the bill, H.R. 3150, pursuant to House Resolution 462, that the gentleman from Massachusetts (Mr. DELAHUNT) or his designee may be permitted to offer the amendment numbered 3 in House Report 105–573 out of the specified order.

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

There was no objection.

BANKRUPTCY REFORM ACT OF 1998

The SPEAKER pro tempore. Pursuant to House Resolution 462 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3150.

□ 1601

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3150) to amend title 11 of the United States Code, and for other purposes, with Mr. MILLER of Florida in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, amendment number 6 printed in House Report 105–573 had been disposed of.

Pursuant to the previous order of the House, it is now in order to consider amendment number 3 printed in House Report 105–573.

AMENDMENT NO. 3 OFFERED BY MR. DELAHUNT

Mr. DELAHUNT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. DELAHUNT:

Page 25, after line 6, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 105. AUTHORITY TO IMPOSE FEES PAYABLE FOR COSTS INCURRED TO ADMINISTER THE AMENDMENTS MADE BY SECTIONS 101 AND 102.

Section 1930(b) of title 28, United States Code, is amended—

(1) by inserting ''(1)'' after ''(b)''; and

(2) by adding at the end the following:

''(2) The Judicial Conference of the United States may prescribe additional fees that are both—

''(A) payable from disbursements to unsecured, nonpriority creditors in cases under chapter 13 of title 11; and

''(B) based on the estimated increased costs incurred in cases under chapters 7 and 13 of title 11 of the United States Code, by the Government to carry out the amendments made by title I and subtitle A of IV of the Bankruptcy Reform Act of 1998.''.

The CHAIRMAN. Pursuant to House Resolution 462, the gentleman from Massachusetts (Mr. DELAHUNT) and the gentleman from Pennsylvania (Mr. GEKAS) each will control 5 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. DELAHUNT).

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

Mr. Chairman, let me begin by acknowledging the courtesy extended to me by the gentleman from Pennsylvania (Mr. GEKAS), the chair of the Subcommittee on Commercial and Administrative Law of the Committee on the Judiciary. I appreciate that and acknowledge that. I was misinformed. I thought that it was listed on today's report that it was to be last, but I am glad that I am not last, I am glad that I am here, and I appreciate his courtesy.

Mr. Chairman, this amendment is about credit cards. This is because, in many respects, the entire bill is about credit cards. Credit cards are the reason many people are in bankruptcy today, and credit cards are the reason we are here today.

We all know there are some individuals who abuse the bankruptcy system. And those who let their financial affairs get out of control should take responsibility for the consequences of their action.

But responsibility is a two-way street. I find it extraordinary that people who solicit relentlessly and indiscriminately, without hardly any limitations on their lending practices, should pontificate about the need for personal responsibility.

Few of us are sympathetic to that argument when we hear it from the tobacco companies or when we hear it from the liquor industry or from gambling interests, so why should the credit card industry get away with this sort of hypocrisy?

My amendment would require the credit card companies to assume their fair share of responsibility for the situation they have done so much to create. It would authorize the Judicial Conference of the United States to use a portion of the money paid to credit card companies and other unsecured creditors in Chapter 13 cases to pay for the additional costs of administering the new debt collection system the bill would create.

That is, after all, what this bill is about. It could be said that it deputizes Federal bankruptcy judges as collection agents for Visa and MasterCard. I do not think and submit that it is not unreasonable for the public to ask how this new service will be paid for.

It is not as though, in all likelihood, the public will actually see any of the proceeds. Despite the industry-funded advertising blitz and propaganda about the money that it will save every man, woman and child in America, there is absolutely no reason to believe that these companies will pass on any benefit to consumers in the form of lower interest rates. That is something that they have never done historically. As other interest rates have come down considerably, credit card interest rates have continued to either stagnate or

climb. In fact, I just received a solicitation today in the mail, 23 percent interest. So given the fact that the public is unlikely to see any benefits of this legislation, it seems only fair for those who will benefit to foot the bill.

Mr. Chairman, that bill is going to be substantial. While nobody really knows what the new collection system will cost, the CBO estimates a cost of $214 million over 5 years, and that not including the $40 million to $80 million to cover the salaries and expenses of the 25 or 30 additional bankruptcy judges who would be needed to meet the huge increase in workload that would result from the bill. We heard testimony that absolutely underscored the fact that this would require not just simply additional judges but support personnel and trustees. There were estimates that were provided to members of the committee during hearings that, in fact, the costs could very well be double what they are now. According to the CBO estimate, that would bring the total to between $254 million and $294 million over 5 years, over a quarter of a billion dollars. Those costs should not be borne by the American taxpayer. My amendment would ensure that they would not be borne by the American taxpayer.

Mr. Chairman, I do not want to suggest that the credit industry has been miserly regarding this legislation. Far from it. Visa and MasterCard have spent hundreds of thousands of dollars to draft this bill.

All my amendment says, having been so generous with their financial largess up until now, they should make one more payment, to reimburse the American people for increasing their bottom line.

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the fullest expectation we have for H.R. 3150 is that in the long run, the provisions that we are going to put into the law will reduce the increase for sure of filings for bankruptcy, and with great luck, with the economy continuing to buzz on as it is, that we will actually be able to reduce the number of filings total across the land. While we are doing that, a natural accompaniment to that will be lower costs, lower costs to the taxpayers, lower costs to the consumers, lower costs to the interest lenders and creditors, and an impetus to further expansion of the economy.

That is why we say, in opposition to this amendment, that it is premature to add on a fail-safe for a possible cost that may or may not occur. On that basis, if we were to adopt this amendment, we who proposed these reforms, who want to reform the bankruptcy system, are second-guessing ourselves. We are saying we do not know if it is going to work or not. We know it is going to work.

If the gentleman from Massachusetts at some future date comes up to me and says, with a big downturn, ''I told you so, we should have anticipated these rising costs and you should have listened to my amendment,'' I will relent, I will tell him that I am ready to accept fault for that, and we will work together at that time to correct whatever fee shortage or cost shortage or revenue shortage that might occur as a result of this legislation.

But for the time being, I wish he would join with us in endorsing a concept and the language of the bill before us, H.R. 3150, so that we can get about the business of improving our bankruptcy laws, making sure that people have the fullest opportunity to get a fresh start where required, and on the other side of the ledger, to give full opportunity to repay some of the debt where and when possible.

Mr. Chairman, I ask everyone to vote ''no'' on the amendment.

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

The CHAIRMAN pro tempore (Mr. CALVERT). The question is on the amendment offered by the gentleman from Massachusetts (Mr. DELAHUNT).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. DELAHUNT. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House Resolution 462, further proceedings on the amendment offered by the gentleman from Massachusetts (Mr. DELAHUNT) will be postponed.

It is now in order to consider amendment number 7 printed in House Report 105–573.

AMENDMENT NO. 7 OFFERED BY MR. PAUL

Mr. PAUL. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. PAUL:

Page 78, after line 2, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 152. PRIORITIES.

Section 507(a) of title 11, United States Code, as amended by any other provision of this Act, is amended—

(1) in paragraph (9), as so redesignated and amended by any other provision of this Act—

(A) by inserting ''firstly of local governmental units, secondly of State governmental units, and thirdly of all other governmental units, after ''claims'';

(B) by striking ''(9) Ninth'' and inserting ''(11) Eleventh''; and

(C) by transferring such paragraph so as to insert such paragraph at the end of subsection (a) of section 507;

(2) in paragraph (10), as so redesignated and amended by any other provision of this Act, by striking ''(10) Tenth'' and inserting ''(9) Ninth'';

(3) in paragraph (11), as so redesignated and amended by any other provision of this Act, by striking ''(11) Eleventh'' and inserting ''(10) Tenth''.

The CHAIRMAN pro tempore. Pursuant to House Resolution 462, the gentleman from Texas (Mr. PAUL) and the gentleman from Pennsylvania (Mr. GEKAS) each will control 5 minutes.

The Chair recognizes the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment is not a complicated amendment. It merely redesignates the priorities of governments as they line up in the receiving end of a bankruptcy. These are unsecured debts.

Basically the way the law states now and the way the bill is written is that the IRS is the top government agency that is going to receive the money, and then the State and then the local government. My suggestion in my amendment is very simple and very clear and makes a very strong philosophic point, is why should we hold the IRS in such high esteem? Why should they be on top of the list? Why should the money leave the local districts and go to Washington? Why should it go into the coffers of the IRS, funding programs that are basically unconstitutional when there are so many programs that we are not doing and take it out of our school districts?

If we reverse the order, the local government gets the money first, the money that would be left over from the bankruptcy, then the State government, and then the Federal Government. This merely states the point, which I hope we can get across someday in this Congress, that the priority in government should be local government, not a big, strong Federal Government.

Indeed, today there is a lot of resentment in this country against the IRS and the way we spend money up here, and this emphasizes a very important point, that money should be left in the district, money should be left in the States, and at last resort, the money should come here to the Federal Government.

One of the arguments used against this amendment is, ''Uh-oh, it is going to cost the Government some money.'' Cost the Government some money by leaving the money in the State or locally, or leaving it in the pockets of the American people as that same argument is used in tax increases? Hardly would it be difficult for the small amounts, I do not even know the exact amount of money that might be lost to the Treasury because some of these funds might not flow here in this direction, but it cannot be a tremendous amount. But what is wrong with the suggestion that we just cut something? There are so many places that we can cut. Instead, all we do around here is look around for more places to spend money. Today we are even talking about increasing taxes by three-quarters of a trillion dollars on a tobacco program. We are always looking for more revenues and more spending programs and we are worried about paying for a little less revenues coming into the Federal Government.

Once again, this amendment is very clear. It states that in the order of designating these funds on unsecured

creditors, local government would get the money first, then State government, and then the Federal Government.

□ 1615

In the 1980s, in the early 1990s, when Texas and California had trouble, money flowed up here in the middle of bankruptcies at the same time school districts were suffering, putting a greater burden on local school districts. So this is to me a very clear principled position to state that we should have local government, not Federal Government, that we should not enhance the power and the authority of the Federal Government and certainly should not put the IRS and the Federal Government on the top of the pecking order. They should be at the bottom where they deserve to be.

So I would ask my colleagues to endorse this legislation and this amendment to this legislation. I support the legislation. I am hopeful that this amendment will be passed.

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

Mr. GEKAS. Mr. Chairman, I yield myself such time as I might consume.

Mr. Chairman, I rise in friendly opposition to the amendment because down deep I agree with the gentleman's contentions about the tax structure and the relevant priorities that we have for too long imposed upon the American public with respect to the balance between local taxation and local interests and States for that matter and vis-a-vis the Federal overplay in both taxation and regulation and all the gamut of items that have harmed private enterprise over the years and have harmed actually the rights of citizens. So from that standpoint, I am in full agreement with the gentleman.

The reservations that I have stem about my duty in handling this bill which is a bill in bankruptcy which is embedded in the Constitution. Therefore, the entire panoply of provisions that have to do with bankruptcy have a national flavor, a national aegis, a national emblem, and so concomitant with that goes the Federal revenues and Federal Treasury that is a part of the total bankruptcy law. I am afraid that if we reverse these priorities as they are now constituted, that we will be infringing upon the Federal jurisdiction of bankruptcy itself, and I can not do that.

What I want to do is to assure the gentleman that wherever we can in pursuit of the finalization of this bill, in conference and thereafter, that we take into account what the gentleman has said, and perhaps in another forum and in another committee jurisdiction, Ways and Means for instance, we can try to work out his set of priorities in a different way. But now I am constrained to fight for the preservation of our bill as we have constructed it with the Federal jurisdiction both in taxation and in bankruptcy courts remaining paramount, and for that reason I would oppose the amendment at this juncture.

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

Mr. PAUL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just like to respond by saying I certainly do recognize responsibility of the U.S. Congress in dealing with national legislation dealing with bankruptcy and that bankruptcy laws should be uniform and fair. But this does not preclude us from thinking about the particulars of a piece of legislation designating the importance of the different governmental bodies, so everything I say about emphasizing local government over Federal Government is certainly legitimate and does not contradict in any way the notion that we should not deal with this at all because certainly we have this authority to do so.

And it still remains to be seen with much of a cost at all involved here; I happen to think not very much, but I would like to emphasize once again the importance of dealing with cutting spending rather than always resorting to say how do we pay something, pay for something, by merely raising taxes elsewhere if we happen to work in a benefit on a program such as this.

So I would say that it is very important that we do think about local government over Federal government, think about less taxes and less bureaucracy, because unless we change our mind set on this, we will continue to put the priorities of the Federal Government and the IRS up at the top. I want them at the bottom. That is where they deserve. They do not know how to spend their money. They do not know how to spend their money, and we ought to see to it that they get a lot less of it.

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

The more I hear the gentleman speak, the more I am inclined to agree with him because he makes sense with respect to the priorities that we have allowed the IRS to grab for itself. But in any event, I will ask for a no vote with due honor to the proposition offered by the gentleman from Texas (Mr. PAUL).

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. PAUL).

The amendment was rejected.

The CHAIRMAN. It is now in order to consider Amendment No. 8 printed in House Report 105—573.

AMENDMENT NO. 8 OFFERED BY MR. GEKAS

Mr. GEKAS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 printed in House Report 105–573 offered by Mr. PAUL:

Beginning on page 82, strike line 23 and all that follows through line 19 on page 83, and insert the following:

SEC. 182. LIMITATION.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)(2)(A) by inserting ''subject to subsection (n),'' before ''any property''; and

(2) by adding at the end the following:

''(n) For purposes of subsection(b)(2)(A) and notwithstanding subsection (a), the value of an interest in—

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

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

''(3) a burial plot for the debtor or a dependent of the debtor;

shall be reduced to the extent such value is attributable to any portion of any property that the debtor disposed of in the 365-day period ending of the date of the filing of the petition, with the intent to hinder, delay, or defraud a creditor and that the debtor could not exempt, or that portion that the debtor could not exempt, under subsection (b) if on such date the debtor had held the property so disposed of.''.

The CHAIRMAN. Pursuant to House Resolution 462, the gentleman from Pennsylvania (Mr. GEKAS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, from the very first moment that I began to become involved in the bankruptcy issue and intent on preparing a product which we have before us now which will do a great deal of good over the next 10–15 years, I always wanted to maintain the States' rights to describe their own set of exemptions, particularly homestead exemptions, because I felt that was necessary for a variety of reasons to honor the State's determination of what it wanted to grant as an exemption, and the first proposal that I made that became a part of this bill did so, it did honor that.

At the full Committee on the Judiciary, after an offer of an amendment was made by the gentleman from Massachusetts (Mr. DELAHUNT) to put in a $100,000 figure that would be a cap that reflected what the Senate has done, that was adopted by the full committee mostly on the basis that it paralleled the Senate version, as I recall. At the same time I did indicate that I would not be bound, that I could reserve the right to change that when we came to the full floor. Hence we are here.

Mr. Chairman, I yield for a period of 2½ minutes to the gentleman from Florida (Mr. MCCOLLUM) to explain and to propound the amendment.

Mr. MCCOLLUM. Mr. Chairman, I thank the gentleman for yielding this time to me.

I want to explain this amendment. It strikes the $100,000 homestead exemption cap that is in the bill and reverts back to current law in that respect. But it does a little more than that.

In addition it denies the right of homestead exemption to somebody who within a year of filing bankruptcy

takes assets, cash or whatever and places that into a home for the purposes of defrauding creditors to avoid paying the creditors. I think that is a very important provision that will get around the problems we are seeing people complain about on homestead exemption law abuse, but at the same time it will not deny the States the right to do what they have done since 1792, and that is to decide what property is exempt.

I think that is a very important decision to be left to the States to decide. If we put this $100,000 cap in, we are going to dictate to the States; some States have no cap currently, some States have 100,000, some like Massachusetts have 100,000 until you are 62, and then they have 200,000.

And it also protects, our proposal to strike this cap, the situation where a widow or an elderly person has paid fully for their home. Let us say they have a modest priced home. In many States, very modest, $110,000 value. The entire thing is mortgage fee. And the creditors want to get at under this bill the way it is now written at the $10,000. They are going to force that widow to sell the home, and I do not think that is what we want to do. I think it is very important that we protect it and adopt the Gekas-McCollum-Smith amendment to strike the provisions in the bill as they are now on the cap and go to the provisions that I just indicated to deny fraudulent use of the homestead exemption.

Mr. BENTSEN. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I yield to the gentleman from Texas.

Mr. BENTSEN. I appreciate the gentleman yielding to me.

It is no secret that I wish this bill had nothing to do with the homestead and we had dropped it out, but I will support the gentleman's amendment, but I do have a question that might give some clarification.

With respect to the transfer of assets within the 1-year period, would it be the intent if one were to prepay part of the mortgage or pay down or even a scheduled payment on a mortgage, would those funds be considered a transfer of assets?

Mr. MCCOLLUM. No, it would not be. It has to be done with the intent, a special extra amount of money, whatever it is, to defraud the creditors so it is actually going out and trying to get around the rules of the game, and that requires an element that would be far beyond a normal routine payment. They obviously can make their routine payments on their home, and this amendment would not affect that.

Mr. BENTSEN. Including prepayments.

Mr. MCCOLLUM. Including prepayments. It would not affect it if they have already got scheduled prepayments, and they have a right to make those prepayments now. Obviously somebody can come in and decide they are going to pay off the entire mortgage, and that might present a problem of intent where other evidence could come into play because, remember, the question here is the intent of the person who is trying to get around the law.

I urge the adoption of the amendment. It is a good amendment.

Mr. DELAHUNT. Mr. Chairman, I rise in opposition to the amendment and yield 2½ minutes to the distinguished gentleman from Wisconsin (Mr. BARRETT).

Mr. BARRETT of Wisconsin. Mr. Chairman, this is a doozie of an amendment. Please listen to the debate on this amendment. Supporters of this bill have said over and over again that the bankruptcy code should not be used as a financial planning tool. Yet the very people who are sponsoring the bill have offered this amendment to let wealthy debtors continue to use the bankruptcy system as a financial planning tool that enables them to shelter millions of dollars from the creditors. This bill makes it tougher for people of limited means to escape their debts by using the bankruptcy system.

Personal responsibility; that is what we all want. But what about the personal responsibility of people who have a lot of assets? If this amendment passes, wealthy individuals with expensive homes in one of the five States with an unlimited homestead exemption will be able to declare bankruptcy and enjoy a life of luxury at the expense of their creditors.

So who are these people? People like the owner of a failed S&L who paid off only a fraction of the $300 million in bankruptcy claims while keeping his multimillion dollar ranch in Florida, or the convicted Wall Street financier who filed bankruptcy while owing some $50 million in debts and fines but still kept his $5 million Florida mansion complete with 11 bedrooms and 21 baths, or the physician with no malpractice insurance who has been named in 4 separate lawsuits. He filed for bankruptcy protection and kept a $500,000 home with a 100-foot swimming pool.

The situation has become so notorious that one Miami bankruptcy judge told the New York Times, quote:

''Theoretically, you could shelter the Taj Mahal in this State, and no one could do anything about it.''

Fortunately, during its markup of H.R. 3150, the Committee on the Judiciary did do something about it, unanimously approving language recommended by the National Bankruptcy Review Commission to place a nationwide $100,000 cap on the amount a debtor can claim under the exemption. A similar bipartisan amendment was unanimously approved in the Senate. This cap would have no effect in the 43 States.

We hear two arguments against this. One is $100,000 is too low. This is $100,000 equity, and there are only 15 percent of the people in this country that have $100,000 equity in their home. The other is that it violates the Constitution or State rights. This is Federal bankruptcy courts, not State courts, Federal bankruptcy courts.

What this amendment allows someone to do if they are doing financial planning, they want to declare bankruptcy and they live in New York: buy a beautiful piece of property in Miami, stay in New York for 365 days, go down, live in that beautiful piece of property and rip off the people they owe money to.

This amendment is a sham.

Mr. DELAHUNT. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Pennsylvania (Mr. KANJORSKI).

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

□ 1630

Mr. KANJORSKI. Mr. Chairman, I am what I classify as a moderate Democrat, and I think that reform of bankruptcy is something that is necessary. I think there has been an abuse in the country. I would say some of the abusers are in the banking industry themselves, by sending out these credit cards to people that are even in bankruptcy are receiving credit cards.

But forgetting that, as we may, this is really a killer amendment for me and I think a lot of moderate people who would like to support bankruptcy. This is opening up the largest loophole in the whole bankruptcy act.

This is saying to people, come to Florida, Texas, figure out what you are going to do, and shelter your assets. You are saying to people in Pennsylvania and 45 other states that will not have any great benefit from this loophole, oh, you are going to be able to be wiped out in bankruptcy. You can only keep $16,500 of your exemption. But if you come to Florida, and even if you participated in fraud, abuse and theft in the savings and loan industry, you can remain living in your $5 million mansion and you have wiped out all other creditors through bankruptcy, because we have this exemption.

I understand we have this teetering and tottering here. We have some people that are for states' rights and they want the ability to have the exemption, but, on the other hand, they want to have a national statute that makes the credit card owner pay for it. I say pox on both our houses.

If we are going to do the fair thing, the underlying bill here gave a $100,000 exemption. How much more do you want? How much more blood from Pennsylvanians, from New Yorkers, from people in 45 states of this union that want to have responsible payment of debt, but do not want loopholes and favoritism?

I suggest, Mr. Chairman, that if you persist in this course and this amendment wins, here is one Member who is going to vote for no for this bill, who had been all along the support of this bill, because I think it should move

through the process so we can get some reform in bankruptcy. But if I see this type of extremity going in, I know we are not going to get the type of reform that the constituents in my State and district could allow.

The CHAIRMAN pro tempore. The gentleman from Pennsylvania (Mr. GEKAS) has 1 minute remaining and has the right to close, and the gentleman from Massachusetts (Mr. DELAHUNT) has 30 seconds remaining.

Mr. DELAHUNT. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I will be very brief. I want to address the scenario that the gentleman from Florida raised about the poor widow and her family. The manager's amendment offered by the gentleman from Illinois (Mr. HYDE), which I think was accepted and will receive support from both sides of the aisle, if a creditor forced someone into involuntary bankruptcy, the cap on the homestead exemption is automatically lifted. I think it is very important that Members know that. We are not going to have the kind of scenarios that were put forth by the gentleman who has sponsored this bill, the gentleman from Florida (Mr. MCCOLLUM).

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

Mr. GEKAS. I yield the balance of my time to the gentleman from Texas (Mr. SMITH).

The CHAIRMAN pro tempore (Mr. CALVERT). The gentleman from Texas is recognized for 1 minute.

Mr. SMITH of Texas. Mr. Chairman, I rise in support of the Gekas-McCollum-Smith amendment that preserves the rights of the states to set their own individual homestead exemptions.

H.R. 3150, the Bankruptcy Reform Act of 1998, is a necessary reform of our Nation's bankruptcy laws. But since 1867, Federal lawmakers have recognized the role of the states in determining what property is exempt under bankruptcy laws. Unfortunately, the language in this bill runs contrary to the Texas Constitution, as well as the Constitution of several other states.

The homestead exemption was originally intended to protect families by ensuring that if a family hit hard times, they would retain some means of support. The need to protect families is no less important today.

Our amendment simply preserves the right of states to provide a homestead exemption, and maintains a historical balance between the Federal Government and the states. It would also prevent State homestead exemptions from being abused by prohibiting the conversion of nonexempt assets into exempt homestead property within one year of filing for bankruptcy. That is a protection that needs to be emphasized.

Mr. Chairman, this amendment both prevents abuses of the exemption and protects states' rights, and I urge my colleagues to support this amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. GEKAS).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. DELAHUNT. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House Resolution 462, further proceedings on the amendment offered by the gentleman from Pennsylvania (Mr. GEKAS) will be postponed.

It is now in order to consider Amendment No. 9 printed in House Report 105–573.

AMENDMENT NO. 9 OFFERED BY MR. SCOTT

Mr. SCOTT. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows.

Amendment No. 9 printed in House Report 105–573 offered by Mr. SCOTT:

Beginning on page 90, strike line 19 and all that follows through line 10 on page 91 (and make such technical and conforming changes as may be appropriate).

The CHAIRMAN pro tempore. Pursuant to House Resolution 462, the gentleman from Virginia (Mr. SCOTT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, this amendment would eliminate section 212 of the bill, which singles out the recording artists for detrimental treatment to the exclusive benefit of recording companies in regard to personal service contracts.

Although section 212 in this bill is an improvement over its original version, it still provides an exclusive benefit to recording companies and still singles out recording artists for harsher treatment than other debtors filing for bankruptcy protection. This is without any showing that recording companies are entitled to this exclusive benefit in bankruptcy or that artists are abusing bankruptcy laws in any way that cannot be addressed through other provisions of bankruptcy laws that apply to everybody else.

Furthermore, whereas approximately 1 percent of all American adults filed for bankruptcy in 1997, according to Billboard Magazine, not even one-tenth of 1 percent of recording artists file for bankruptcy annually. There have been no hearings on section 212. In fact, it was not even considered in subcommittee markup. This special interest provision only appeared in a 177 page substitute which was first presented at full committee consideration of the bill.

Section 212 provides a new legal standard which will penalize recording artists for using provisions of the bankruptcy code available without such penalty to all other debtors similarly situated. Section 2812 does not apply to actors, does not apply to athletes, doctors, lawyers, professors, authors or anyone else who signed a personal service contract.

No justification has been offered to explain why recording artists in bankruptcy should be forced into continued servitude under what may be totally unfair and unduly burdensome contracts, especially since the contract itself may have contributed to the bankruptcy in the first place.

I urge support for this amendment, which eliminates an unnecessary, unfair, undesirable and, in some cases, unconscionable provision.

Mr. GEKAS. Mr. Chairman, I seek the time in opposition.

The CHAIRMAN pro tempore. The gentleman from Pennsylvania is recognized for 5 minutes.

Mr. GEKAS. Mr. Chairman, I yield one minute to the gentleman from Florida (Mr. MCCOLLUM).

Mr. MCCOLLUM. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I want to oppose this amendment in the strongest of terms. The provision that is now in this bill based on the managers' amendment would provide a solution in a flexible manner for some very serious problems that we have with some recording artists who have just filed bankruptcy to get out of studio contracts. That is not right.

What we are providing in the bill that the gentleman from Virginia (Mr. SCOTT) wants to strike is a provision that allows, permits, does not require, but allows bankruptcy judges to stop recording artists' abuse of bankruptcy laws. The underlying provision only affects artists paid royalty advances on a promise to perform exclusively for a studio. Under those conditions, why should anybody be allowed to file bankruptcy, just for the purpose of getting out of a studio contract?

We may want to argue that there are other inequitable situations that occur in contract law concerning bankruptcies. I cannot profess to address all of them, but I can say we ought to address this one while we have the opportunity today, and give bankruptcy judges the discretion to decide if indeed somebody is trying to in essence defraud the system by using bankruptcy to break these contracts in situations where they have made a promise to perform exclusively for a studio.

Mr. Chairman, I urge a no vote in the strongest terms on the Scott amendment to allow this to continue to happen.

Mr. SCOTT. Mr. Chairman, I yield 2½ minutes to the gentleman from Michigan (Mr. CONYERS), the ranking member of the Committee on the Judiciary.

Mr. CONYERS. Mr. Chairman, I commend my good friend, the gentleman from Virginia (Mr. SCOTT) for this amendment.

Mr. Chairman, now, how outrageous can the gentleman from Florida (Mr. MCCOLLUM) get? Our friends in the record industry, and I am a friend of the record industry, they go to the gentleman to sneak in this amendment, not known to anybody until we discovered it; not a hearing, not a word. I do

not know who I am more disgusted at, the gentleman or them. I guess I will just be disgusted at both of you.

Now, why did the gentleman do it? For what reason? Section 707 protects everybody from phony filings. Everybody. Nobody in America has this exception but your buddies in the record industry. This is a disgrace, and I am really angry that you would try to pull this and that my friends in the entertainment industry would pull it on me.

I hope everybody votes against this amendment. There is absolutely no justification for it at all. Besides, it is directed at minority artists and entertainers, who frequently get cheated out of their earnings and have to go into bankruptcy, I would say to the gentleman from Pennsylvania (Mr. GEKAS).

So, please, have a heart.

Mr. GEKAS. Mr. Chairman, I yield one minute to the gentleman from Tennessee (Mr. CLEMENT).

Mr. CLEMENT. Mr. Chairman, I rise in opposition to the Scott amendment.

Mr. Chairman, as everyone in the chamber knows, I am proud to say I am from Nashville, Tennessee, Music City, USA, home of some of the best music and the best artists in the world. These artists work hard to earn their living and achieve success by virtue of their talent, ingenuity and just plain sweat.

Unfortunately, there are some cases of unscrupulous lawyers and agents who threaten to tarnish the reputation of many fine artists by declaring bankruptcy for some artists as a ploy to renegotiate a new contract. I am talking about some that have the money, but are willing to take short cuts and want a better contract and do not live up to their contract that they are in at the present time. That just is not right, and it threatens to spoil the reputation of the hard-working artists who play fairly.

Mr. Chairman, I urge my colleagues to vote against the Scott amendment.

Mr. SCOTT. Mr. Chairman, I yield one minute to the gentleman from Florida (Mr. SCARBOROUGH).

Mr. SCARBOROUGH. Mr. Chairman, I have heard the words ''outrageous'' and ''this is a disgrace.'' Well let me tell you what is outrageous and is a disgrace. What is outrageous is that you will have a multimillion dollar artist that is in the middle of a contract and decides, as I have read in one case, does not want to make $15 million in the next album, but they want to make $30 million on the next album so they go to bankruptcy court, and in bankruptcy court, they try to get it thrown out so they can go back and renegotiate a new contract and make $30 million.

Let us not talk about poor starving artists. We have documented cases of people that are making multi-multimillions on albums, and they just simply want to renegotiate their deal. That is outrageous. Sign a deal, and live by the terms of that deal.

Now, I have heard also the race card has been used. If there is any color involved in this issue, it is the color green, the color of money, because this affects every artist, whether they are black or white, or whether they are Hispanic, whether they are working in L.A., Nashville or New York. This is race neutral. It is simply saying to the bankruptcy court, you have the discretion to decide whether somebody is using the rules to break a valid contract. I oppose the Scott amendment.

□ 1645

Mr. GEKAS. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Mr. Chairman, I rise to oppose the Scott amendment to strike section 212 of this bill.

Under section 212 of H.R. 3150, bankruptcy judges would have the right to deny the termination of contracts with recording artists if it is clear that the bankruptcy filing is a ploy to end the contract. It provides judges with the authority to prevent fraudulent filers from using the bankruptcy system simply to advance other business objectives.

At issue in this provision is not who is filing for bankruptcy, but why they are filing for bankruptcy. Regardless of the circumstances, bankruptcy judges should have the authority to prevent fraudulent filings.

Mr. Chairman, this provision would not deny anyone access to bankruptcy. It would not deny debtors in genuine economic stress the ability to rehabilitate their finances, and it would not deny or not give recording companies a preferred creditor position.

I urge my colleagues to oppose the Scott amendment and support H.R. 3150.

Mr. GEKAS. Mr. Chairman, I reserve the balance of my time.

Mr. SCOTT. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, to the extent that debtors are denied a new contract, other creditors are less likely to be paid. It is normal to renegotiate contracts in bankruptcy. In fact, in our Saturday paper, a race track in my district was in financial trouble, and the article pointed out that, if they filed bankruptcy, they would be able to renegotiate contracts that have put it into financial distress.

But whatever the merits of this argument, they ought to apply to everyone. There is nothing so unique about this particular special interest group that they should be given the advantage of section 212, a provision stuck into the bill without a hearing. For the merits of the argument in support of this section to make any sense, it ought to apply to everyone; otherwise, it just looks like a special favor for one particular special interest group, and that is why it ought it be struck. Mr. Chairman, I hope we can support this amendment.

The CHAIRMAN pro tempore (Mr. CALVERT). The gentleman from Virginia (Mr. SCOTT) yields back the balance of his time.

Mr. GEKAS. Mr. Chairman, I yield to myself the balance of the time remaining.

The CHAIRMAN pro tempore. The gentleman from Pennsylvania is recognized for 1 minute.

Mr. GEKAS. Mr. Chairman, as I recall the negotiations that were taking place during the time of consideration by the full committee, I thought that the gentleman from Florida (Mr. MCCOLLUM) and the gentleman from Virginia (Mr. SCOTT) had become on the verge of reaching some compromised language. Then I learned that, indeed, they had, or at least it looked like we had, and so that the manager's amendment did contain some language that would seem to satisfy both sides.

Now I find out that that was not the case; therefore, we have to rely on what is now in the manager's amendment, and we respectfully reject the Scott amendment, and I ask everybody to vote no.

Mr. SCOTT. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Virginia for the remaining time.

Mr. SCOTT. Mr. Chairman, I would acknowledge that the present version is not as bad as what we considered in committee, but we did not reach an agreement.

Mr. GEKAS. I know that. I know that.

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

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Virginia (Mr. SCOTT).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. SCOTT. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House Resolution 462, further proceedings on the amendment offered by the gentleman from Virginia (Mr. Scott) will be postponed.

It is now in order to consider amendment number 10 printed in House Report 105–573.

AMENDMENT NO. 10 OFFERED BY MS. VELAZQUEZ

Ms. VELÁZQUEZ. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 printed in House Report 105–573 offered by Ms. VELÁZQUEZ:

Page 110, after line 2, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 244. STUDY OF OPERATION OF TITLE 11 OF THE UNITED STATES CODE WITH RESPECT TO SMALL BUSINESSES.

Not later than 2 years after the date of the enactment of this Act, the Small Business Administration, in consultation with the Attorney General, the Director of the Administrative Office of United States Trustees, and the Director of the Administrative Office of the United States Courts, shall—

(1) conduct a study to determine—

(A) the internal and external factors that cause small businesses to become debtors in cases under title 11 of the United States Code and that cause certain small businesses to successfully complete cases under chapter 11 of such title; and

(B) how Federal laws relating to bankruptcy can be made more effective and efficient in assisting small businesses to remain viable; and

(2) submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report summarizing such study.

The CHAIRMAN pro tempore. Pursuant to House Resolution 462, the gentlewoman from New York (Ms. VELÁZQUEZ) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from New York (Ms. VELÁZQUEZ).

Ms. VELÁZQUEZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as we move to rewrite our Nation's bankruptcy laws, it is important that we make the proper changes. My amendment ensures that we have all the facts on how these revisions will affect small business. I urge its adoption.

The purpose of my amendment is to direct the Small Business Administrator in consultation with the Attorney General, the Director of the Administrative Office of United States Trustees, and the Director of the Administrative Office of the United States Courts to conduct a study into the causes of small business bankruptcy.

This study will examine the internal and external factors that cause small businesses to become debtors under Chapter 11. It would also study the factors that enable viable businesses to successfully reorganize. From these findings, the SBA will make recommendations on how bankruptcy law can be made more effective and efficient to assist small businesses remain viable.

Mr. Chairman, small businesses have been a critical component in the recent upturn in our economy. They have created the vast majority of the jobs and economic growth.

If you couple this job growth with the current explosion of technology, where we see businesses constantly emerging and reinventing themselves, it becomes critical that we monitor how changes to our national bankruptcy system affect small business. More importantly, these changes must not be allowed to dampen the entrepreneurial spirit that our national economy relies on so heavily.

The fact remains that of the 1.4 million bankruptcies filed in 1997, only 9,694 of Chapter 11 and 11,095 in Chapter 13 were business related. That represents less than 1 percent of all bankruptcies. Taking into account that over the last 10 years business bankruptcies have actually declined, we must make sure that these trends continue.

It is true that the provisions in this legislation were taken on recommendation from the National Bankruptcy Review Commission Report. Unfortunately, the Commission developed these guidelines without obtaining any statistical information. They also failed to seek the recommendations from the Small Business Administration or the Office of Advocacy.

We should not move forward with such drastic changes to our bankruptcy system without the proper consultation and examination into the issue. My amendment will ensure that all factors are properly scrutinized. If we fail to act properly, the provisions contained in this bill could end up doing more harm than good.

Mr. Chairman, no one will deny that our Nation is in dire need of bankruptcy reform. What I am concerned about is that we do this in a manner that improves our system, not make it worse. While studying how these changes impact small business will not ensure success, it will provide a safety net for our Nation's small business.

I urge the adoption of this amendment.

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

The CHAIRMAN pro tempore. Does any Member rise in opposition?

Mr. GEKAS. Mr. Chairman, I rise in opposition only for the purpose of claiming the time, to tell the truth.

The CHAIRMAN pro tempore. The gentleman from Pennsylvania (Mr. GEKAS) is recognized for 5 minutes.

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

(The gentleman from Pennsylvania spoke in Spanish.)

Ms. VELAZQUEZ. (The gentlewoman from New York spoke in Spanish.)

Mr. GEKAS. (The gentleman from Pennsylvania spoke in Spanish.)

We will accept the amendment as offered by the gentlewoman from New York in both English and Spanish.

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

Ms. VELAZQUEZ. Mr. Chairman, I thank the gentleman from Pennsylvania for supporting my amendment.

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

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from New York (Ms. VELÁZQUEZ).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 11 printed in House Report 105–573.

AMENDMENT NO. 11 OFFERED BY MR. BALDACCI

Mr. BALDACCI. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 printed in House Report 105–573 offered by Mr. BALDACCI:

Page 131, after line 7, insert the following:

SEC. 414. STUDY OF BANKRUPTCY IMPACT OF CREDIT EXTENDED TO DEPENDENT STUDENTS.

Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall—

(1) conduct a study regarding the impact that 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 post-secondary educational institutions;

has on the rate of cases filed under title 11 of the United States Code; and

(2) submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report summarizing such study.

The CHAIRMAN pro tempore. Pursuant to House Resolution 462, the gentleman from Maine (Mr. BALDACCI) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Maine (Mr. BALDACCI).

Mr. BALDACCI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to offer my student credit study amendment to bankruptcy reform legislation we are considering today.

My amendment directs the Comptroller General to conduct a study on the impact of the Nation's bankruptcy rate of the extension of credit to students enrolled in postsecondary education programs who are claimed as dependents for tax purposes by their parents or legal guardians.

The intent of my amendment is to compile information on the impact the extension of credit may have on families when it is extended to dependent students in college or trade school when they may have little or no income with which to pay debts from occurred through credit cards.

Again, I am not talking about students who are, for all intents and purposes on their own, financially independent, but those who are claimed as dependents by their parents for tax purposes.

I have received numerous inquiries from constituents who have expressed concern about the seemingly haphazard extension of credit to students who have no visible means of support, other than that of their family.

Some of you have seen the ''Dear Colleague'' sent out by the gentleman from Massachusetts (Mr. DELAHUNT) yesterday. Apparently, his college-aged daughter was sent an offer of credit in the form of a check for $2,875. That kind of money can be hard to resist for some students. You are away from home. Lots of strange new faces and very little cash. Those of you who are parents will probably understand where I am going with this.

I think the majority of students would be intelligent, responsible young adults. However, the temptation for some students to take on more debt than they could reasonably handle would be strong in some of these situations. As a dependent, your parents

may feel a moral obligation to pay that debt. I think it is incumbent upon us to see if this is in fact a problem and the extent to which it effects American families.

Having said that, Mr. Chairman, I would urge the adoption of the amendment that I have offered.

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

The CHAIRMAN pro tempore. Does any Member rise this opposition to the amendment?

Mr. GEKAS. Mr. Chairman, I rise in opposition only for the purpose of claiming the time.

The CHAIRMAN pro tempore. The gentleman from Pennsylvania (Mr. GEKAS) is recognized for 5 minutes.

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to be intellectually honest about that, maybe for the first time in my career, but anyway, I agree with the concept that has been advanced by the gentleman from Maine and would urge a yes vote on his amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Maine (Mr. BALDACCI).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider Amendment No. 12 printed in House Report 105–573.

AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 12 OFFERED BY MR. NADLER

Mr. NADLER. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment of the nature of a substitute is as follows:

Amendment in the nature of a substitute No. 12 printed in House Report 105–573 offered by Mr. NADLER:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

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

Sec. 1. Short title; table of contents.

TITLE I—CONSUMER BANKRUPTCY PROVISIONS

Subtitle A—Needs-Based Bankruptcy

Sec. 101. Dismissal or conversion of a chapter 7 case.
Sec. 102. Debtor participation in credit counseling program.

Subtitle B—Adequate Protections for Consumers

Sec. 111. Notice of alternatives.
Sec. 112. Debtor financial management training test program.
Sec. 113. Definitions.
Sec. 114. Disclosures.
Sec. 115. Debtor's bill of rights.
Sec. 116. Enforcement.
Sec. 117. Sense of the Congress.
Sec. 118. Charitable contributions.
Sec. 119. Reinforce the fresh start.
Sec. 119A. Chapter 11 discharge of debts arising from tobacco-related debts.

Subtitle C—Adequate Protections for Secured Creditors

Sec. 121. Discouraging bad faith repeat filings.
Sec. 122. Definition of household goods.
Sec. 123. Debtor retention of personal property security.
Sec. 124. Relief from stay when the debtor does not complete intended surrender of consumer debt collateral.
Sec. 125. Giving secured creditors fair treatment in chapter 13.
Sec. 126. Prompt relief from stay in individual cases.
Sec. 127. Stopping abusive conversions from chapter 13.
Sec. 128. Restraining abusive purchases on secured credit.
Sec. 129. Fair valuation of collateral.
Sec. 130. Protection of holders of claims secured by debtor's principal residence.
Sec. 131. Aircraft equipment and vessels.

Subtitle D—Adequate Protections for Unsecured Creditors

Sec. 141. Fraudulent debts are nondischargeable in chapter 13 cases.
Sec. 142. Applying the codebtor stay only when it protects the debtor.
Sec. 143. Nondischargeability of certain debts for alimony, maintenance, and support.
Sec. 144. Other exceptions to discharge.
Sec. 145. Fees arising from certain ownership interests.
Sec. 146. Adequate protection for investors.
Sec. 147. Super-priority for child and spousal support claims.
Sec. 148. Debts for alimony, maintenance, and support.
Sec. 149. Protection of child support and alimony.

Subtitle E—Adequate Protections for Lessors

Sec. 161. Giving debtors the ability to keep leased personal property by assumption.

Subtitle F—Bankruptcy Relief Less Frequently Available for Repeat Filers

Sec. 171. Extend period between bankruptcy discharges.

Subtitle G—Exemptions

Sec. 181. Exemptions.
Sec. 182. Limitation.
Sec. 183. Provide fair property exemptions and prevent high-rollers from abusing the system.

TITLE II—BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Provisions

Sec. 201. Limitation relating to the use of fee examiners.
Sec. 202. Sharing of compensation.
Sec. 203. Chapter 12 made permanent law.
Sec. 204. Meetings of creditors and equity security holders.
Sec. 205. Creditors' and equity security holders' committees.
Sec. 206. Postpetition disclosure and solicitation.
Sec. 207. Preferences.
Sec. 208. Venue of certain proceedings.
Sec. 209. Cases ancillary to foreign proceedings involving foreign insurance companies that are engaged in the business of insurance or reinsurance in the United States.
Sec. 210. Period for filing plan under chapter 11.
Sec. 211. Unexpired leases of nonresidential real property.
Sec. 212. Definition of disinterested person.

CHAPTER 1—SMALL BUSINESS BANKRUPTCY

Sec. 231. Definitions.
Sec. 232. Flexible rules for disclosure statement and plan.
Sec. 233. Standard form disclosure statements and plans.
Sec. 234. Uniform national reporting requirements.
Sec. 235. Uniform reporting rules and forms.
Sec. 236. Duties in small business cases.
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TITLE I—CONSUMER BANKRUPTCY PROVISIONS

Subtitle A—Needs-Based Bankruptcy

SEC. 101. DISMISSAL OR CONVERSION OF A CHAPTER 7 CASE.

(a) AMENDMENTS TO CHAPTER 7.—Section 707 of title 11, United States Code, is amended—

(1) by amending the heading to read as follows:

"§ 707 Dismissal or conversion of case";

(2) by amending subsection (b) to read as follows:

''(b)(1) In a case filed by an individual debtor who has regular income and whose debts are primarily consumer debts, the court—

''(A) on its own motion, or on a motion by the United States trustee or the trustee; or

''(B) on a motion filed by a party in interest, if the household income with respect to the debtor during the 1-year period ending on the date the case is commenced exceeds the sum of $60,000 and $5,000 for each household member exceeding 4, adjusted to reflect the change in the Consumer Price Index for All Urban Consumers, published by the Department of Labor, for the period beginning on the 1st January 1 occurring after the effective date of this subparagraph and ending immediately before the most recent January 1 occurring before the commencement of the case;

and after notice and a hearing, shall dismiss the case, or convert the case with the consent of the debtor to a case under another chapter of this title, if the court finds that granting relief would be an abuse of the provisions of this chapter.

''(2) For purposes of paragraph (1)—

''(A) 'an abuse of the provisions of this chapter' means that—

''(i)(I) the debtor has, and is expected to have, disposable income that is sufficient, after paying allowed claims (whether secured or unsecured) for a debt secured only by the principal residence of the debtor, allowed secured claims, claims that have priority under section 507 of this title, allowed unsecured claims arising under not more than 1 motor vehicle lease in effect on the date the case is commenced, and debts arising in the 3-year period beginning on such date under not more than 1 motor vehicle lease in effect on the such date, to pay during such 3-year period not less than 30 percent of the aggregate amount of the remaining allowed unsecured claims; and

''(II) household income received with respect to the debtor during the 1-year period ending on the date the case is commenced exceeds the sum of $40,000 and $5,000 for each household member exceeding 2, adjusted to reflect the change in the Consumer Price Index for All Urban Consumers, published by the Department of Labor, for the period beginning on the 1st January 1 occurring after the effective date of this subparagraph and ending immediately before the most recent January 1 occurring before the commencement of the case; or

''(ii) the debtor commenced a case under this chapter, or converted a case to a case under this chapter, in bad faith;

''(B) 'disposable income' means income that is received by the debtor and that is not reasonably necessary to be expended for the maintenance or support of the debtor or a dependent of the debtor;

''(C) 'household income' means—

''(i) in an individual case, the sum of—

''(I) the debtor's income; and

''(II) the income of any other household member of the debtor; and

''(ii) in a joint case, the sum of—

''(I) the debtor's income;

''(II) the income of the debtor's spouse; and

''(III) the income of any other household member of the debtor or of the debtor's spouse;

''(D) 'household member' means—

''(i) the debtor;

''(ii) the debtor's spouse if the debtor's spouse maintains a common principal residence with the debtor on the date the case is commenced; or

''(iii) a relative (by affinity, consanguinity, or adoption) of the debtor or the debtor's spouse who—

''(I) maintains a common principal residence with the debtor on the date the case is commenced; and

''(II) is dependent on the debtor, or on the debtors' spouse if the debtor's spouse maintains a common principal residence with the debtor on the date the case is commenced, for substantially all financial support during the 180-day period ending on the date the case is commenced.

''(3) Except as provided in paragraph (2)(C), this subsection shall apply jointly to debtors in a joint case.''; and

(3) by adding at the end the following:

''(c) If the court denies a motion filed under this section by a party in interest, the court shall award to the debtor—

''(1) costs and a reasonable attorney's fee incurred by the debtor to oppose the motion; and

''(2) damages of not less than $5000;

unless the position of such party in interest is substantially justified.''.

SEC. 102. DEBTOR PARTICIPATION IN CREDIT COUNSELING PROGRAM.

(a) WHO MAY BE A DEBTOR.—Section 109 of title 11, United States Code is amended by adding at the end the following:

''(i)(1) Subject to paragraph (2) and notwithstanding any other provision of this section, an individual may not be a debtor under this title unless such individual has, during the 90-day period preceding the date of filing of the petition, made a good-faith attempt to create a debt repayment plan outside the judicial system for bankruptcy law (commonly referred to as the 'bankruptcy system'), through a credit counseling program offered through credit counseling services described in section 342(b)(2) that has been approved by—

''(A) the United States trustee; or

''(B) the bankruptcy administrator for the district in which the petition is filed.

''(2) The United States trustee or bankruptcy administrator may not approve a program for inclusion on the list under paragraph (1) unless the counseling service offering the program offers the program without charge, or at an appropriately reduced charge, if payment of the regular charge would impose a hardship on the debtor or the debtor's dependents.

''(3) The United States trustee or bankruptcy administrator shall designate any geographical areas in the United States trustee region or judicial district, as the case may be, as to which the United States trustee or bankruptcy administrator has determined that credit counseling services needed to comply with this subsection are not available or are too geographically remote for debtors residing within the designated geographical areas. The clerk of the bankruptcy court for each judicial district shall maintain a list of the designated areas within the district.

''(4) The clerk shall exclude a particular counseling service from the list maintained under section 342(b)(2) of this title if the United States trustee or bankruptcy administrator orders that the counseling service not be included in the list.

''(5) The court may waive the requirement specified in paragraph (1) if—

''(A) no credit counseling services are available as designated under paragraphs (2) and (3);

''(B) the providers of credit counseling services available in the district are unable or unwilling to provide such services to the debtor in a timely manner; or

''(C) foreclosure, garnishment, attachment, eviction, levy of execution, utility termination, repossession, or similar claim enforcement procedure that would have deprived the individual of property had commenced or threatened to commence before the debtor could complete a good-faith attempt to create such a repayment plan.

''(6) A debtor who is subject to the exemption under paragraph (5)(C) shall be required to make a good-faith attempt to create a debt repayment plan outside the judicial system in the manner prescribed in paragraph (1) during the 30-day period beginning on the date of filing of the petition of that debtor.

''(7) A debtor shall be exempted from the bad faith presumption for repeat filing under section 362(c) of title 11 if the case is dismissed due to the creation of a debt repayment plan.

''(8) Only the United States trustee may make a motion for dismissal on the ground that the debtor did not comply with this subsection.''.

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by sections 406 and 407, is amended by adding at the end the following:

''(g)(1) In addition to the requirements under subsection (a), an individual debtor shall file with the court—

''(A) a certificate from the credit counseling services that provided the debtor services under section 109(i), or a verified statement as to why such attempt was not required under section 109(i) or other substantial evidence of a good-faith attempt to create a debt repayment plan outside the bankruptcy system in the manner prescribed in section 109(i); and

''(B) a copy of the debt repayment plan, if any, developed under section 109(i) through the credit counseling service referred to in paragraph (1).

''(2) Only the United States trustee may make a motion for dismissal on the ground that the debtor did not comply with this subsection.''.

Subtitle B—Adequate Protections for Consumers

SEC. 111. NOTICE OF ALTERNATIVES.

(a) Section 342(b) of title 11, United States Code, is amended to read as follows:

''(b)(1) Before the commencement of a case under this title by an individual whose debts are primarily consumer debts, the individual shall be given or obtain (as required to be certified under section 521(a)(1)(B)(viii)) a written notice that is prescribed by the United States trustee for the district in which the petition is filed pursuant to section 586 of title 28 and that contains the following:

''(A) A brief description of chapters 7, 11, 12 and 13 of this title and the general purpose, benefits, and costs of proceeding under each of such chapters.

''(B) A brief description of services that may be available to the individual from an independent nonprofit debt counselling service.

''(C) The name, address, and telephone number of each nonprofit debt counselling service (if any)—

''(i)(I)with an office located in the district in which the petition is filed; or

''(ii)(II) that offers toll-free telephone communication to debtors in such district; and

''(ii) that provides such service without charge or on an appropriate reduced fee basis.

''(2) Any such nonprofit debt counselling service that registers with the clerk of the bankruptcy court on or before December 10 of the preceding year shall be included in such list unless the chief bankruptcy judge of the district, after notice to the debt counselling service and the United States trustee and opportunity for a hearing, for good cause, orders that such debt counselling service shall not be so listed.

''(3) The clerk shall make such notice available to individuals whose debts are primarily consumer debts.

''(4) The United States trustee may file a motion with the bankruptcy court to request the removal of any debt counseling service from such list.''.

(b) Section 586(a) of title 28, 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) on or before January 1 of each calendar year, and also within 30 days of any change in the nonprofit debt counselling services registered with the bankruptcy court, prescribe and make available on request the notice described in section 342(b)(1) of title 11 for each district included in the region.''.

SEC. 112. DEBTOR FINANCIAL MANAGEMENT TRAINING TEST PROGRAM.

(a) DEVELOPMENT OF FINANCIAL MANAGEMENT AND TRAINING CURRICULUM AND MATERIALS.—The Director of the Executive Office for United States Trustees (in this section referred to as the ''Director'') shall consult with a wide range of individuals who are experts in the field of debtor education, including trustees who are appointed under chapter 13 of title 11 of the United States Code and who operate financial management education programs for debtors, and shall develop a financial management training curriculum and materials that can be used to educate individual debtors on how to better manage their finances.

(b) TEST—(1) The Director shall select 3 judicial districts of the United States in which to test the effectiveness of the financial management training curriculum and materials developed under subsection (a).

(2) For a 1-year period beginning not later than 180 days after the date of the enactment of this Act, such curriculum and materials shall be made available by the Director, directly or indirectly, on request to individual debtors in cases filed in such 1-year period under chapter 7 or 13 of title 11 of the United States Code.

(3) The bankruptcy courts in each of such districts may require individual debtors in such cases to undergo such financial management training as a condition to receiving a discharge in such case.

(c) EVALUATION.—(1) During the 1-year period referred to in subsection (b), the Director shall evaluate the effectiveness of—

(A) the financial management training curriculum and materials developed under subsection (a); and

(B) a sample of existing consumer education programs such as those described in the Report of the National Bankruptcy Review Commission (October 20, 1997) that are representative of consumer education programs carried out by the credit industry, by trustees serving under chapter 13 of title 11 of the United States Code, and by consumer counselling groups.

(2) Not later than 3 months after concluding such evaluation, the Director shall submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate, for referral to the appropriate committees of the Congress, containing the findings of the Director regarding the effectiveness of such curriculum, such materials, and such programs.

SEC. 113. DEFINITIONS.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (3) the following:

''(3A) 'assisted person' means any person whose debts consist primarily of consumer debts and whose non-exempt assets are less than $150,000;'';

(2) by inserting after paragraph (4) the following:

''(4A) 'bankruptcy assistance' means any goods or services sold or otherwise provided to an assisted person with the express or implied purpose of providing information, advice, counsel, document preparation or filing, or attendance at a creditors' meeting or appearing in a proceeding on behalf of another or providing legal representation with respect to a proceeding under this title;''; and

(3) by inserting after paragraph (12A) the following:

''(12B) 'debt relief counselling agency' means any person who provides any bankruptcy assistance to an assisted person in return for the payment of money or other valuable consideration, or who is a bankruptcy petition preparer pursuant to section 110 of this title, but does not include any person that is any of the following or an officer, director, employee or agent thereof—

''(A) any nonprofit organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

''(B) any creditor of the person to the extent the creditor is assisting the person to restructure any debt owed by the person to the creditor; or

''(C) any depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or any Federal credit union or State credit union (as those terms are defined in section 101 of the Federal Credit Union Act), or any affiliate or subsidiary of such a depository institution or credit union;''.

(b) CONFORMING AMENDMENT.—In section 104(b)(1) by inserting ''101(3),'' after ''sections''.

SEC. 114. DISCLOSURES.

(a) DISCLOSURES.—Subchapter II of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

''§ 526. Disclosures

''(a) A debt relief counselling agency providing bankruptcy assistance to an assisted person shall provide the following notices to the assisted person:

''(1) the written notice required under section 342(b)(1) of this title; and

''(2) to the extent not covered in the written notice described in paragraph (1) of this section and no later than three business days after the first date on which a debt relief counselling agency first offers to provide any bankruptcy assistance services to an assisted person, a clear and conspicuous written notice advising assisted persons of the following—

''(A) all information the assisted person is required to provide with a petition and thereafter during a case under this title must be complete, accurate and truthful;

''(B) all assets and all liabilities must be completely and accurately disclosed in the documents filed to commence the case, and the value of each asset as defined in section 506 of this title must be stated in those documents where requested after reasonable inquiry to establish such value;

''(C) household income, and, in a chapter 13 case, disposable income, must be stated after reasonable inquiry; and

''(D) that information an assisted person provides during their case may be audited pursuant to this title and that failure to provide such information may result in dismissal of the proceeding under this title or other sanction including, in some instances, criminal sanctions.

''(b) A debt relief counselling agency providing bankruptcy assistance to an assisted person shall provide each assisted person at the same time as the notices required under subsection (a)(1) with the following statement, to the extent applicable, or one substantially similar. The statement shall be clear and conspicuous and shall be in a single document separate from other documents or notices provided to the assisted person:

''''IMPORTANT INFORMATION ABOUT BANKRUPTCY ASSISTANCE SERVICES FROM AN ATTORNEY OR BANKRUPTCY PETITION PREPARER

''''If you decide to seek bankruptcy relief, you can represent yourself, you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer who is not an attorney. THE LAW REQUIRES AN ATTORNEY OR BANKRUPTCY PETITION PREPARER TO GIVE YOU A WRITTEN CONTRACT SPECIFYING WHAT THE ATTORNEY OR BANKRUPTCY PETITION PREPARER WILL DO FOR YOU AND HOW MUCH IT WILL COST. Ask to see the contract before you hire anyone.

''''The following information helps you understand what must be done in a routine bankruptcy case to help you evaluate how much service you need. Although bankruptcy can be complex, many cases are routine.

''''Before filing a bankruptcy case, either you or your attorney should analyze your eligibility for different forms of debt relief made available by the Bankruptcy Code and which form of relief is most likely to be beneficial for you. Be sure you understand the relief you can obtain and its limitations. To file a bankruptcy case, documents called a Petition, Schedules and Statement of Financial Affairs, as well as in some cases a Statement of Intention need to be prepared correctly and filed with the bankruptcy court. You will have to pay a filing fee to the bankruptcy court. Once your case starts, you will have to attend the required first meeting of creditors where you may be questioned by a court official called a ''trustee'' and by creditors.

''''If you select a chapter 7 proceeding, you may be asked by a creditor to reaffirm a debt. You may want help deciding whether to do so.

''''If you select a chapter 13 proceeding in which you repay your creditors what you can afford over three to seven years, you may also want help with preparing your chapter 13 plan and with the confirmation hearing on your plan which will be before a bankruptcy judge.'

''''If you select another type of proceeding under the Bankruptcy Code other than chapter 7 or chapter 13, you will want to find out

what needs to be done from someone familiar with that type of proceeding.

''`Your bankruptcy proceeding may also involve litigation. You are generally permitted to represent yourself in litigation in bankruptcy court, but only attorneys, not bankruptcy petition preparers, can represent you in litigation.'.

''(c) Except to the extent the debt relief counselling agency provides the required information itself after reasonably diligent inquiry of the assisted person or others so as to obtain such information reasonably accurately for inclusion on the petition, schedules or statement of financial affairs, a debt relief counselling agency providing bankruptcy assistance to an assisted person, to the extent authorized by applicable nonbankruptcy law, shall provide each assisted person at the time required for the notice required under subsection (a)(1) reasonably sufficient information (which may be provided orally or in a clear and conspicuous writing) to the assisted person on how to provide all the information the assisted person is required to provide under this title pursuant to section 521, including—

''(1) how to value assets at replacement value, determine household income and, in a chapter 13 case, disposable income, and related calculations;

''(2) how to complete the list of creditors, including how to determine what amount is owed and what address for the creditor should be shown;

''(3) how to determine what property is exempt and how to value exempt property as defined in section 506 of this title; and

''(4) a clear and conspicuous statement that an employee of such service may not provide legal advice unless such employee is an attorney.

''(d) A debt relief counselling agency shall maintain a copy of the notices required under subsection (a) of this section for two years after the later of the date on which the notice is given the assisted person.''.

(b) CONFORMING AMENDMENT.—The table of section for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 525 the following:

''526. Disclosures.''.

SEC. 115. DEBTOR'S BILL OF RIGHTS.

(a) DEBTOR'S BILL OF RIGHTS.—Subchapter II of chapter 5 of title 11, United States Code, as amended by section 114, is amended by adding at the end the following:

''§ 527. Debtor's bill of rights

''(a) A debt relief counselling agency shall—

''(1) no later than three business days after the first date on which a debt relief counselling agency provides any bankruptcy assistance services to an assisted person, execute a written contract with the assisted person specifying clearly and conspicuously the services the agency will provide the assisted person and the basis on which fees or charges will be made for such services and the terms of payment, and give the assisted person a copy of the fully executed and completed contract in a form the person can keep;

''(2) disclose in any advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public (whether in general media, seminars or specific mailings, telephonic or electronic messages or otherwise) that the services or benefits are with respect to proceedings under this title, clearly and conspicuously using the following statement: 'We are a debt relief counselling agency. We help people file Bankruptcy petitions to obtain relief under the Bankruptcy Code.' or a substantially similar statement. An advertisement shall be of bankruptcy assistance services if it describes or offers bankruptcy assistance with a chapter 13 plan, regardless of whether chapter 13 is specifically mentioned, including such statements as 'federally supervised repayment plan' or 'Federal debt restructuring help' or other similar statements which would lead a reasonable consumer to believe that help with debts was being offered when in fact in most cases the help available is bankruptcy assistance with a chapter 13 plan; and

''(3) if an advertisement directed to the general public indicates that the debt relief counselling agency provides assistance with respect to credit defaults, mortgage foreclosures, lease eviction proceedings, excessive debt, debt collection pressure, or inability to pay any consumer debt, disclose conspicuously in that advertisement that the assistance is with respect to or may involve proceedings under this title, using the following statement: ''We are a debt relief counselling agency. We help people file Bankruptcy petitions to obtain relief under the Bankruptcy Code.'' or a substantially similar statement.

''(b) A debt relief counselling agency shall not—

''(1) fail to perform any service which the debt relief counseling agency has told the assisted person or prospective assisted person the agency would provide that person in connection with the preparation for or activities during a proceeding under this title;

''(2) make any statement, or counsel or advise any assisted person to make any statement in any document filed in a proceeding under this title, which is untrue or misleading and which upon the exercise of reasonable care, should be known by the debt relief counselling agency to be untrue or misleading;

''(3) misrepresent to any assisted person or prospective assisted person, directly or indirectly, affirmatively or by material omission, what services the debt relief counselling agency can reasonably expect to provide that person, or the benefits an assisted person may obtain or the difficulties the person may experience if the person seeks relief in a proceeding pursuant to this title; or

''(4) advise an assisted person or prospective assisted person to incur more debt in contemplation of that person filing a proceeding under this title or in order to pay an attorney or bankruptcy petition preparer fee or charge for services performed as part of preparing for or representing a debtor in a proceeding under this title.''.

(b) CONFORMING AMENDMENT.—The table of section for chapter 5 of title 11, United States Code, as amended by section 114, is amended by inserting after the item relating to section 526, the following:

''527. Debtor's bill of rights.''.

SEC. 116. ENFORCEMENT.

(a) ENFORCEMENT.—Subchapter II of chapter 5 of title 11, United States Code, as amended by sections 114 and 115, is amended by adding at the end the following:

''§ 528. Debt relief counselling agency enforcement

''(a) ASSISTED PERSON WAIVERS INVALID.—Any waiver by any assisted person of any protection or right provided by or under section 526 or 527 of this title shall be void and may not be enforced by any Federal or State court or any other person.

''(b) NONCOMPLIANCE.—

''(1) Any contract between a debt relief counselling agency and an assisted person for bankruptcy assistance which does not comply with the requirements of section 526 or 527 of this title shall be treated as void and may not be enforced by any Federal or State court or by any other person.

''(2) Any debt relief counselling agency which has been found, after notice and hearing, to have—

''(A) failed to comply with any provision of section 526 or 527 with respect to a bankruptcy case or related proceeding of an assisted person; or

''(B) negligently or intentionally disregarded the requirements of this title or the Federal Rules of Bankruptcy Procedure applicable to such debt relief counselling agency shall be liable to the assisted person in the amount of any fees and charges in connection with providing bankruptcy assistance to such person which the debt relief counselling agency has already been paid on account of that proceeding and if the case has not been closed, the court may in addition require the debt relief counselling agency to continue to provide bankruptcy assistance services in the pending case to the assisted person without further fee or charge or upon such other terms as the court may order.

''(3) In addition to such other remedies as are provided under State law, whenever the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating section 526 or 527 of this title, the State—

''(A) may bring an action to enjoin such violation;

''(B) may bring an action on behalf of its residents to recover the actual damages of assisted persons arising from such violation, including any liability under paragraph (2); and

''(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorney fees as determined by the court.

''(4) The United States District Court for any district located in the State shall have concurrent jurisdiction of any action under subparagraph (A) or (B) of paragraph (3).

''(5) The rights and remedies provided in this section are in addition to any rights and remedies provided under any other provision of Federal law.

''(c) RELATION TO STATE LAW.—This section and sections 526 and 527 shall not annul, alter, affect or exempt any person subject to those sections from complying with any law of any State.''.

(b) CONFORMING AMENDMENT.—The table of section for chapter 5 of title 11, United States Code, as amended by sections 114 and 115, is amended by inserting after the item relating to section 527, the following:

''528. Debt relief counselling agency enforcement.''.

SEC. 117. SENSE OF THE CONGRESS.

It is the sense of the Congress that States should develop curricula relating to the subject of personal finance, designed for use in elementary and secondary schools.

SEC. 118. CHARITABLE CONTRIBUTIONS.

(a) DEFINITIONS.—Section 548(d) of title 11, United States Code, is amended by adding at the end the following:

''(3) In this section, the term 'charitable contribution' means a charitable contribution, as that term is defined in section 170(c) of the Internal Revenue Code of 1986, if that contribution—

''(A) is made by a natural person; and

''(B) consists of—

''(i) a financial instrument (as that term is defined in section 731(c)(2)(C) of the Internal Revenue Code of 1986); or

''(ii) cash.

''(4) In this section, the term 'qualified religious or charitable entity or organization' means—

''(A) an entity described in section 170(c)(1) of the Internal Revenue Code of 1986; or

''(B) an entity or organization described in section 170(c)(2) of the Internal Revenue Code of 1986.''.

(b) TREATMENT OF PREPETITION QUALIFIED CHARITABLE CONTRIBUTIONS.—

(1) IN GENERAL.—Section 548(a) of title 11, United States Code, is amended—

(A) by inserting ''(1)'' after ''(a)'';

(B) by striking ''(1) made'' and inserting ''(A) made'';

(C) by striking ''(2)(A)'' and inserting ''(B)(i)'';

(D) by striking ''(B)(i)'' and inserting ''(ii)(I)'';

(E) by striking ''(ii) was'' and inserting ''(II) was'';

(F) by striking ''(iii)'' and inserting ''(III)''; and

(G) by adding at the end the following:

''(2) A transfer of a charitable contribution to a qualified religious or charitable entity or organization shall not be considered to be a transfer covered under paragraph (1)(B) in any case in which—

''(A) the aggregate annual amount of all contributions to qualified religious or charitable entities or organizations does not exceed 15 percent of the gross annual income of the debtor for the year in which the transfer of the contribution is made; or

''(B) the contribution made by a debtor exceeded the maximum amount specified in subparagraph (A), but the transfer was consistent with the practices of the debtor in making charitable contributions.''.

(2) TRUSTEE AS LIEN CREDITOR AND AS SUCCESSOR TO CERTAIN CREDITORS AND PURCHASERS.—Section 544(b) of title 11, United States Code, is amended—

(A) by striking ''(b) The trustee'' and inserting ''(b)(1) Except as provided in paragraph (2), the trustee''; and

(B) by adding at the end the following:

''(2) Paragraph (1) shall not apply to a transfer of a charitable contribution (as that term is defined in section 548(d)(3)) that is not covered under section 548(a)(1)(B), by reason of section 548(a)(2). Any claim by any person to recover a transferred contribution described in the preceding sentence under Federal or State law in a Federal or State court shall be preempted by the commencement of the case.''.

(3) CONFORMING AMENDMENTS.—Section 546 of title 11, United States Code, is amended—

(A) in subsection (e)—

(i) by striking ''548(a)(2)'' and inserting ''548(a)(1)(B)''; and

(ii) by striking ''548(a)(1)'' and inserting ''548(a)(1)(A)'';

(B) in subsection (f)—

(i) by striking ''548(a)(2)'' and inserting ''548(a)(1)(B)''; and

(ii) by striking ''548(a)(1)'' and inserting ''548(a)(1)(A)''; and

(C) in subsection (g)—

(i) by striking ''section 548(a)(1)'' each place it appears and inserting ''section 548(a)(1)(A)''; and

(ii) by striking ''548(a)(2)'' and inserting ''548(a)(1)(B)''.

(d) TREATMENT OF POSTPETITION CHARITABLE CONTRIBUTIONS.—

(1) CONFIRMATION OF CHAPTER 13 PLAN.—Section 1325(b)(2)(A) of title 11, United States Code, is amended by inserting before the semicolon the following: '', including charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3)) to a qualified religious or charitable entity or organization (as that term is defined in section 548(d)(4)) in an amount not to exceed 15 percent of the gross income of the debtor for the year in which the contributions are made''.

(2) DISMISSAL OF CHAPTER 7 CASE.—Section 707(b) of title 11, United States Code, is amended by adding at the end the following: ''In making a determination whether to dismiss a case under this section, the court may not take into consideration whether a debtor has made, or continues to make, charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3)) to any qualified religious or charitable entity or organization (as that term is defined in section 548(d)(4)).''.

(3) CONTENTS OF CHAPTER 11 PLAN.—Section 1123 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 provide for charitable contributions (as defined in section 548(d)(3) of this title) to a qualified religious or charitable entity or organization (as defined in section 548(d)(4) of this title) in an aggregate annual amount not to exceed 15 percent of the gross income of the debtor for the year in which such contributions are made.''.

(4) CONFIRMATION OF CHAPTER 12 PLAN.—Section 1225(b)(2) of title 11, United States Code, is amended—

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

(B) in subparagraph (B) by striking the period at the end and inserting ''; or''; and

(C) by inserting adding at the end the following

''(C) for charitable contributions (as defined in section 548(d)(3) of this title) to a qualified religious or charitable entity or organization (as defined in section 548(d)(4) of this title) in an aggregate annual amount not to exceed 15 percent of the gross income of the debtor for the year in which such contributions are made.''.

(e) APPLICABILITY.—

This section and the amendments made by this section shall apply to any case brought under an applicable provision of title 11, United States Code, that is pending or commenced on or after the date of enactment of this Act.

(f) RULE OF CONSTRUCTION.—

Nothing in the amendments made by this section is intended to limit the applicability of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2002bb et seq.).

SEC. 119. REINFORCE THE FRESH START.

(a) RESTORATION OF AN EFFECTIVE DISCHARGE.—Section 523(a)(17) of title 11, United States Code, is amended—

(1) by striking ''by a court'' and inserting ''on a prisoner by any court'',

(2) by striking ''section 1915(b) or (f)'' and inserting ''subsection (b) or (f)(2) of section 1915'', and

(3) by inserting ''(or a similar non-Federal law)'' after ''title 28'' each place it appears.

(b) PROTECTION OF RETIREMENT FUNDS IN BANKRUPTCY.—Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)(2)—

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

(B) in subparagraph (B) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(C) retirement funds to the extent exempt from taxation under section 401, 403, 408, 414, 457, or 501(a) of the Internal Revenue Code of 1986.''; and

(2) in subsection (d) by adding at the end the following:

''(12) Retirement funds to the extent exempt from taxation under 401, 403, 408, 414, 457, or 501(a) of the Internal Revenue Code of 1986.''.

(c) EFFECTIVE PROTECTION FOR UTILITY SERVICE IN THE WAKE OF DEREGULATION.—Section 366 of title 11, United States Code, is amended by adding at the end the following:

''(c) For the purposes of this section, the term 'utility' includes any provider of gas, electric, telephone, telecommunication, cable television, satellite communication, water, or sewer service, whether or not such service is a regulated monopoly.''.

SEC. 119A. CHAPTER 11 DISCHARGE OF DEBTS ARISING FROM TOBACCO-RELATED DEBTS.

Section 1141(d) of title 11, United States Code, is amended by adding at the end the following:

''(5) The confirmation of a plan does not discharge a debtor that is a corporation from any debt arising from a judicial, administrative, or other action or proceeding that is—

''(A) related to the consumption or consumer purchase of a tobacco product; and

''(B) based in whole or in part on false pretenses, a false representation, or actual fraud.''.

Subtitle C—Adequate Protections for Secured Creditors

SEC. 121. DISCOURAGING BAD FAITH REPEAT FILINGS.

Section 362(c) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking ''and'' at the end;

(2) in paragraph (2) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

''(3) If a single or joint case is filed by or against an individual debtor under chapter 7, 11, or 13, and if a single or joint case of that debtor was pending within the previous 1-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b) of this title, the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease will terminate with respect to the debtor on the 30th day after the filing of the later case. If a party in interest requests, the court may extend the stay in particular cases as to any or all creditors (subject to such conditions or limitations as the court may then impose) after notice and a hearing completed before the expiration of the 30-day period only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed. A case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

''(A) as to all creditors if—

''(i) more than 1 previous case under any of chapters 7, 11, or 13 in which the individual was a debtor was pending within such 1-year period;

''(ii) a previous case under any of chapters 7, 11, or 13 in which the individual was a debtor was dismissed within such 1-year period, after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to provide adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

''(iii) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under any of chapters 7, 11, or 13 of this title, or any other reason to conclude that the later case will be concluded, if a case under chapter 7 of this title, with a discharge, and if a chapter 11 or 13 case, a confirmed plan which will be fully performed;

''(B) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of that case, that

action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to actions of that creditor.

''(4) If a single or joint case is filed by or against an individual debtor under this title, and if 2 or more single or joint cases of that debtor were pending within the previous year but were dismissed, other than a case refiled under section 707(b) of this title, the stay under subsection (a) will not go into effect upon the filing of the later case. On request of a party in interest, the court shall promptly enter an order confirming that no stay is in effect. If a party in interest requests within 30 days of the filing of the later case, the court may order the stay to take effect in the case as to any or all creditors (subject to such conditions or limitations as the court may impose), after notice and hearing, only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed. A stay imposed pursuant to the preceding sentence will be effective on the date of entry of the order allowing the stay to go into effect. A case is presumptively not filed in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

''(A) as to all creditors if—

''(i) 2 or more previous cases under this title in which the individual was a debtor were pending within the 1-year period;

''(ii) a previous case under this title in which the individual was a debtor was dismissed within the time period stated in this paragraph after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to pay adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

''(iii) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under this title, or any other reason to conclude that the later case will not be concluded, if a case under chapter 7, with a discharge, and if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; or

''(B) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of that case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to action of that creditor.

''(5)(A) If a request is made for relief from the stay under subsection (a) with respect to real or personal property of any kind, and such request is granted in whole or in part, the court may order in addition that the relief so granted shall be in rem either for a definite period not less than 1 year or indefinitely. After the issuance of such an order, the stay under subsection (a) shall not apply to any property subject to such an in rem order in any case of the debtor under this title. If such an order so provides, such stay shall also not apply in any pending or later-filed case of any entity under this title that claims or has an interest in the subject property other than those entities identified in the court's order.

''(B) The court shall cause any order entered pursuant to this paragraph with respect to real property to be recorded in the applicable real property records, which recording shall constitute notice to all parties having or claiming an interest in such real property for purpose of this section.

''(6) For the purposes of this section, a case is pending from the time of the order for relief until the case is closed.''.

SEC. 122. DEFINITION OF HOUSEHOLD GOODS.

Section 101 of title 11, United States Code, is amended by inserting after paragraph (27) the following:

''(27A) 'household goods' has the meaning given such term in the Trade Regulation Rule on Credit Practices promulgated by the Federal Trade Commission (16 C.F.R. 444.1(i)), as in effect on the effective date of this paragraph, but includes any tangible personal property reasonably necessary for the maintenance or support of a dependent child, including children's toys;''.

SEC. 123. DEBTOR RETENTION OF PERSONAL PROPERTY SECURITY.

Title 11, United States Code, is amended—

(1) in section 521—

(A) in paragraph (4) by striking ''and'' at the end;

(B) in paragraph (5) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(6) in an individual case under chapter 7 of this title, not retain possession of personal property having a value exceeding $5,000 as to which a creditor has an allowed claim for the purchase price secured in whole or in part by an interest in that personal property unless, in the case of an individual debtor, the debtor takes 1 of the following actions within 30 days after the first meeting of creditors under section 341(a)—

''(A) enters into a reaffirmation agreement with the creditor pursuant to section 524(c) of this title with respect to the claim secured by such property; or

''(B) redeems such property from the security interest pursuant to section 722 of this title.

''If the debtor fails to so act within the 30-day period, the personal property affected shall no longer be property of the estate, and the creditor may take whatever action as to such property as is permitted by applicable nonbankruptcy law, unless the court determines on the motion of the trustee, and after notice and a hearing, that such property is of consequential value or benefit to the estate.''; and

(2) in section 722 by inserting ''in full at the time of redemption'' before the period at the end.

SEC. 124. RELIEF FROM STAY WHEN THE DEBTOR DOES NOT COMPLETE INTENDED SURRENDER OF CONSUMER DEBT COLLATERAL.

Title 11, United States Code, is amended as follows—

(1) in section 362—

(A) by striking ''(e), and (f)'' in subsection (c) and inserting in lieu thereof ''(e), (f), and (h)''; and

(B) by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following:

''(h) In an individual case pursuant to chapter 7, 11, or 13 the stay provided by subsection (a) is terminated with respect to property of the estate having a value exceeding $5000 and securing in whole or in part a claim, or subject to an unexpired lease, if the debtor fails within the applicable time set by section 521(a)(2) of this title—

''(1) to file timely any statement of intention required under section 521(a)(2) of this title with respect to that property or to indicate therein that the debtor will either surrender the property or retain it and, if retaining it, either redeem the property pursuant to section 722 of this title, reaffirm the debt it secures pursuant to section 524(c) of this title, or assume the unexpired lease pursuant to section 365(p) of this title if the trustee does not do so, as applicable; or

''(2) to take timely the action specified in that statement of intention, as it may be amended before expiration of the period for taking action, unless the statement of intention specifies reaffirmation and the creditor refuses to reaffirm on the original contract terms;

unless the court determines on the motion of the trustee, and after notice and a hearing, that such property is of consequential value or benefit to the estate.'';

(2) in section 521, as amended by sections 104, 406, and 407—

(A) in paragraph (2) by striking ''consumer'';

(B) in paragraph (2)(B)—

(i) by striking ''forty-five days after the filing of a notice of intent under this section'' and inserting ''30 days after the first date set for the meeting of creditors under section 341(a)''; and

(ii) by striking ''forty-five day'' the second place it appears and inserting ''30-day'';

(C) in paragraph (2)(C) by inserting ''except as provided in section 362(h)'' before the semicolon; and

(D) by adding at the end the following:

''(h) If the debtor fails timely to take the action specified in subsection (a)(6) of this section, or in paragraphs (1) and (2) of section 362(h) of this title, with respect to property which a lessor or bailor owns and has leased, rented, or bailed to the debtor or as to which a creditor holds a security interest not otherwise voidable under section 522(f), 544, 545, 547, 548, or 549, nothing in this title shall prevent or limit the operation of a provision in the underlying lease or agreement which has the effect of placing the debtor in default under such lease or agreement by reason of the occurrence, pendency, or existence of a proceeding under this title or the insolvency of the debtor. Nothing in this subsection shall be deemed to justify limiting such a provision in any other circumstance.''.

SEC. 125. GIVING SECURED CREDITORS FAIR TREATMENT IN CHAPTER 13.

Section 1325(a)(5)(B)(i) of title 11, United States Code, is amended to read as follows:

''(i) the plan provides that the holder of such claim retain the lien securing such claim until the earlier of payment of the underlying debt determined under nonbankruptcy law or discharge under section 1328, and that if the case under this chapter is dismissed or converted without completion of the plan, such lien shall also be retained by such holder to the extent recognized by applicable nonbankruptcy law; and''.

SEC. 126. PROMPT RELIEF FROM STAY IN INDIVIDUAL CASES.

Section 362(e) of title 11, United States Code, is amended by inserting at the end the following:

''Notwithstanding the foregoing, in the case of an individual filing under chapter 7, 11, or 13, the stay under subsection (a) shall terminate 60 days after a request under subsection (d) of this section, unless—

''(1) a final decision is rendered by the court within such 60-day period; or

''(2) such 60-day period is extended either by agreement of all parties in interest or by the court for a specific time which the court finds is required by compelling circumstances.''.

SEC. 127. STOPPING ABUSIVE CONVERSIONS FROM CHAPTER 13.

Section 348(f)(1) of title 11, United States Code, is amended—

(1) by striking in subparagraph (B) ''in the converted case, with allowed secured claims'' and inserting in lieu thereof ''only in a case converted to chapter 11 or 12 but not in one converted to chapter 7, with allowed secured claims in cases under chapters 11 and 12''; and

(2) in subparagraph (A) by striking ''and'' at the end;

(3) in subparagraph (B) by striking the period and inserting ''; and''; and

(4) by adding at the end the following:

''(C) with respect to cases converted from chapter 13, the claim of any creditor holding security as of the date of the petition shall continue to be secured by that security unless the full amount of that claim determined under applicable nonbankruptcy law has been paid in full as of the date of conversion, notwithstanding any valuation or determination of the amount of an allowed secured claim made for the purposes of the case under chapter of this title. Unless a prebankruptcy default has been fully cured pursuant to the plan at the time of conversion, in any proceeding under this title or otherwise, the default shall have the effect given under applicable nonbankruptcy law.''.

SEC. 128. RESTRAINING ABUSIVE PURCHASES ON 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) subsection (a) shall not apply to an allowed claim to the extent attributable in whole or in part to the purchase price of personal property acquired by the debtor within 90 days of the filing of the petition, except for the purpose of applying paragraph (3) of this subsection;

''(2) if such allowed claim attributable to the purchase price is secured only by the personal property so acquired, the value of the personal property and the amount of the allowed secured claim shall be the sum of the unpaid principal balance of the purchase price and accrued and unpaid interest and charges at the contract rate;

''(3) if such allowed claim attributable to the purchase price is secured by the personal property so acquired and other property, the value of the security may be determined under subsection (a), but the value of the security and the amount of the allowed secured claim shall be not less than the unpaid principal balance of the purchase price of the personal property acquired and unpaid interest and charges at the contract rate; and

''(4) in any subsequent case under this title that is filed by or against the debtor in the 2-year period beginning on the date the petition is filed in the original case, the value of the personal property and the amount of the allowed secured claim shall be deemed to be not less than the amount provided under paragraphs (2) and (3).''.

SEC. 129. FAIR VALUATION OF COLLATERAL.

The last sentence of section 506(a) of title 11, United States Code, is amended to read as follows:

''Such value shall be the liquidation value of the property which shall be not more than the cash wholesale value of the property and shall be determined in conjunction with any hearing on a plan or after notice and a hearing pursuant to any other provision of this title when they are paid in full.''.

SEC. 130. PROTECTION OF HOLDERS OF CLAIMS SECURED BY DEBTOR'S PRINCIPAL RESIDENCE.

Title 11, United States Code, is amended—

(1) in section 101 by inserting after paragraph (13) the following:

''(13A) 'debtor's principal residence' means a residential structure including incidental property when the structure contains 1 to 4 units, whether or not that structure is attached to real property, and includes, without limitation, an individual condominium or cooperative unit or mobile or manufactured home or trailer;

''(13B) 'incidental property' means property incidental to such residence including, without limitation, property commonly conveyed with a principal residence where the real estate is located, window treatments, carpets, appliances and equipment located in the residence, and easements, appurtenances, fixtures, rents, royalties, mineral rights, oil and gas rights, escrow funds and insurance proceeds;'';

(2) in section 362(b)—

(A) in paragraph (17) by striking ''or'' at the end thereof;

(B) in paragraph (18) by striking the period at the end and inserting ''; or''; and

(C) by inserting after paragraph (18) the following:

''(19) under subsection (a), until a prepetition default is cured fully in a case under chapter 13 of this title case by actual payment of all arrears as required by the plan, of the postponement, continuation or other similar delay of a prepetition foreclosure proceeding or sale in accordance with applicable nonbankruptcy law, but nothing herein shall imply that such postponement, continuation or other similar delay is a violation of the stay under subsection (a).''; and

(3) by amending section 1322(b)(2) to read as follows:

''(2) modify the rights of holders of secured claims, other than a claim secured primarily by a security interest in property used as the debtor's principal residence at any time during 180 days prior to the filing of the petition, or of holders of unsecured claims, or leave unaffected the rights of holders of any class of claims;''.

SEC. 131. AIRCRAFT EQUIPMENT AND VESSELS.

Section 1110(a)(1) of title 11, United States Code, is amended—

(1) in subparagraph (A) by striking ''that become due on or after the date of the order'';

(2) in subparagraph (B)—

(A) in clause (i) by striking ''and'' at the end; and

(B) in clause (ii)—

(i) by inserting ''and within such 60-day period'' after ''order''; and

(ii) in subclause (II) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(iii) that occurs after the date of the order and such 60-day period is cured in accordance with the terms of such security agreement, lease, or conditional sale contract.''.

Subtitle D—Adequate Protections for Unsecured Creditors

SEC. 141. FRAUDULENT DEBTS ARE NONDISCHARGEABLE IN CHAPTER 13 CASES.

Section 1328(a)(2) of title 11, United States Code, is amended—

(1) by inserting ''(2), (3)(B), (4),'' after ''paragraph''; and

(2) by inserting ''(6),'' after ''(5),''.

SEC. 142. APPLYING THE CODEBTOR STAY ONLY WHEN IT PROTECTS THE DEBTOR.

Section 1301(b) of title 11, United States Code, is amended—

(1) by inserting ''(1)'' after ''(b)''; and

(2) by adding at the end the following:

''(2) When the debtor did not receive the consideration for the claim held by a creditor, the stay provided by subsection (a) does not apply to such creditor, notwithstanding subsection (c), to the extent the creditor proceeds against the individual which received such consideration or against property not in the possession of the debtor which secures such claim, after notice and a hearing to the person in possession of such property, but this subsection shall not apply if the debtor is primarily obligated to pay the creditor in whole or in part with respect to the claim under a legally binding separation agreement, or divorce or dissolution decree, with respect to such individual or the person who has possession of such property.

''(3) When the debtor's plan provides that the debtor's interest in personal property subject to a lease as to which the debtor is the lessee will be surrendered or abandoned or no payments will be made under the plan on account of the debtor's obligations under the lease, the stay provided by subsection (a) shall terminate as of the date of confirmation of the plan notwithstanding subsection (c).''.

SEC. 143. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.

Section 523(a)(5) of title 11, United States Code, is amended to read as follows:

''(5) to a spouse, former spouse, or child of the debtor for alimony to, maintenance for, or support of such spouse or child, or to a spouse, former spouse, or child of the debtor, to the extent such debt is the result of a property settlement agreement, a hold harmless agreement, or any other type of debt that is not in the nature of alimony, maintenance, or support in connection with or incurred by the debtor in the course of a separation agreement, divorce decree, any modifications thereof, or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, but not to the extent that such debt is assigned to another entity, voluntarily, by operation of law, or otherwise (other than debts assigned pursuant to section 408(a)(3) of the Social Security Act, or such debt that has been assigned to the Federal government, or to a State or political subdivision of such State, or the creditor's attorney);''.

SEC. 144. OTHER EXCEPTIONS TO DISCHARGE.

Section 523 of title 11, United States Code, is amended—

(1) by striking subsection (a)(15), as added by section 304(e)(1) of Public Law 103–394;

(2) in subsection (a)(7) by inserting ''an order of disgorgement or restitution obtained by a governmental unit'' after ''such debt is for''; and

(3) in subsection (c)(1) by striking ''(6), or (15)'' and inserting ''or (6)''.

SEC. 145. FEES ARISING FROM CERTAIN OWNERSHIP INTERESTS.

(a) EXCEPTION TO DISCHARGE.—Section 523(a)(16) of title 11, United States Code, is amended—

(1) by striking ''dwelling'' the 1st place it appears;

(2) by striking ''ownership or'' and inserting ''ownership,'';

(3) by striking ''housing'' the 1st place it appears; and

(4) by striking ''but only'' and all that follows through ''such period,'', and inserting ''or a lot in a homeowners association, for as long as the debtor or the trustee has a legal, equitable, or possessory ownership interest in such unit, such corporation, or such lot,''.

(b) EXECUTORY CONTRACTS.—Section 365 of title 11, United States Code, as amended by section 161, is amended by adding at the end the following:

''(q) A debt of a kind described in section 523(a)(16) of this title shall not be considered to be a debt arising from an executory contract.''

SEC. 146. ADEQUATE PROTECTION FOR INVESTORS.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (48) the following:

''(48A) 'securities self regulatory organization' means either a securities association registered with the Securities and Exchange Commission pursuant to section 15A of the Securities Exchange Act of 1934 or a national

securities exchange registered with the Securities and Exchange Commission pursuant to section 6 of the Securities Exchange Act of 1934;''.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, is amended—

(1) in paragraph (17) by striking ''or'' at the end;

(2) in paragraph (18) by striking the period at the end and a inserting ''; or''; and

(3) by adding at the end the following:

''(19) under subsection (a) of this section, of the commencement or continuation of an investigation or action by a securities self regulatory organization to enforce such organization's regulatory power; of the enforcement of an order or decision, other than for monetary sanctions, obtained in an action by the securities self regulatory organization to enforce such organization's regulatory power; or of any act taken by the securities self regulatory organization to delist, delete, or refuse to permit quotation of any stock that does not meet applicable regulatory requirements.''.

SEC. 147. SUPER-PRIORITY FOR CHILD AND SPOUSAL SUPPORT CLAIMS.

Section 507 of title 11, United States Code, is amended by adding at the end the following:

''(e) Notwithstanding any other provision of this title, a claim entitled to priority under subsection (a)(7) shall have first priority over any expense or claim that has priority under any other provision of this title, except that administrative expenses may be paid under the priority provided in subsection (a)(1) if the failure to do so would result in less property being distributed to the holder of a claim of a kind specified in subsection (a)(7).''.

SEC. 148. DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.

(a) NONDISCHARGEABILITY.—Section 523(a)(18) of title 11, United States Code, is amended—

(1) by inserting ''(including interest)'' after ''law''; and

(2) in subparagraph (A) by striking ''and'' at the end and inserting ''or''.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by section 130, is amended—

(1) in paragraph (19) by striking ''or'' at the end;

(2) in paragraph (19) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(20) under subsection (a) with respect to the withholding of income pursuant to an order for support that is owed to a spouse, former spouse, or child of the debtor; or

''(21) under subsection (a) with respect to the withholding, suspension, or restriction of drivers' licenses, professional and occupational licenses, and recreational licenses pursuant to State law as specified in section 466(a)(15) of the Social Security Act or with respect to the reporting of overdue support owed by an absent parent to any consumer reporting agency as specified in section 466(a)(7) of the Social Security Act.''.

(c) CONTINUED LIABILITY OF PROPERTY.—Section 522(c) of title 11, United States Code, is amended by striking ''section 523(a)(1) or 523(a)(5)'' and inserting ''paragraph (1) or (5) of section 523(a)''.

(d) CONFIRMATION OF PLANS.—Title 11 of the 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 to pay alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor, the debtor has paid all amounts payable under such order for current alimony, maintenance, or support that are due after the date the petition is filed and owed to such spouse, former spouse, or child, unless such spouse, former spouse, or child waives the operation of this paragraph.'';

(2) in section 1225(a)—

(A) in paragraph (5) by striking ''and'' at the end;

(B) in paragraph (6) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(7) the debtor is required by a judicial or administrative order to pay alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor, the debtor has paid all amounts payable under such order for current alimony, maintenance, or support that are due after the date the petition is filed and owed to such spouse, former spouse, or child, unless such spouse, former spouse, or child waives the operation of this paragraph.''; and

(3) 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 to pay alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor, the debtor has paid all amounts payable under such order for current alimony, maintenance, or support that are due after the date the petition is filed and owed to such spouse, former spouse, or child, unless such spouse, former spouse, or child waives the operation of this paragraph.''.

(f) DISCHARGE.—Title 11 United States Code is amended—

(1) in section 1228(a) by inserting ''and only after a debtor who is required by a judicial or administrative order to pay alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor, certifies that all amounts payable under such order for alimony, maintenance, or support that are due after the date the petition is filed have been paid unless such spouse, former spouse, or child waives the operation of this paragraph,'' after ''this title,''; and

(2) in section 1328(a) by inserting ''and only after a debtor who is required by a judicial or administrative order to pay alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor, certifies that all amounts payable under such order for alimony, maintenance, or support that are due after the date the petition is filed have been paid unless such spouse, former spouse, or child waives the operation of this paragraph,'' after ''plan,'' the 1st place it appears.

(g) CONFORMING AMENDMENTS.—Section 456(b) of the Social Security Act (42 U.S.C. 656(b)) is amended—

(1) by inserting '', including interest,'' after ''Code)'';

(2) by striking ''and'' and inserting ''or''; and

(3) by striking ''released by a discharge'' and inserting ''dischargeable''.

SEC. 149. PROTECTION OF CHILD SUPPORT AND ALIMONY.

(a) AMENDMENT.—Title 11 of the United States Code, as amended by section 116, is amended by inserting after section 528 the following:

''§ 529. Protection of child support and alimony payments after the discharge

''Notwithstanding the provisions of the constitution or law of any State providing a different priority, any debts of the individual who has received a discharge under this title to a spouse, former spouse, or child for alimony to, maintenance for, or support of such spouse or child, in connection with a separation agreement, divorce decree, or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement, but not to the extent that such debt—

''(1) is assigned to another entity, voluntarily, by operation of law, or otherwise; or

''(2) includes a liability designated as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance, or support,

and any debt of a kind specified in paragraph (6), (9), or (13) of section 523(a) of this title, shall have priority in payment and collection over a creditor's claim which is not discharged in the individual's case pursuant to paragraph (2) or (4) of section 523(a) of this title, but such priority shall not affect the priority of any consensual lien, mortgage, or security interest securing such creditor's claim.''.

(b) CONFORMING AMENDMENT.—The table of sections of chapter 5 of title 11, United States Code, as amended by section 116, is amended by inserting after the item relating to section 528 the following:

''529. Protection of child support and alimony.''.

Subtitle E—Adequate Protections for Lessors

SEC. 161. GIVING DEBTORS THE ABILITY TO KEEP LEASED PERSONAL PROPERTY BY ASSUMPTION.

Section 365 of title 11, United States Code, is amended by adding at the end the following:

''(p)(1) If a lease of personal property with an aggregate value of not less than $5,000 leased by the debtor is rejected or not timely assumed by the trustee under subsection (d), the leased property is no longer property of the estate and the stay under section 362(a) of this title is automatically terminated.

''(2) In the case of an individual under chapter 7, the debtor may notify the creditor in writing that the debtor desires to assume the lease. Upon being so notified, the creditor may, at its option, notify the debtor that it is willing to have the lease assumed by the debtor and may condition such assumption on cure of any outstanding default on terms set by the lessor. If within 30 days of such notice the debtor notifies the lessor in writing that the lease is assumed, the liability under the lease will be assumed by the debtor and not by the estate. The stay under section 362 of this title and the injunction under section 524(a)(2) of this title shall not be violated by notification of the debtor and negotiation of cure under this subsection.

''(3) In a case under chapter 11 of this title in which the debtor is an individual and in a case under chapter 13 of this title, if the debtor is the lessee with respect to personal property and the lease is not assumed in the plan confirmed by the court, the lease is deemed rejected as of the conclusion of the hearing on confirmation. If the lease is rejected, the stay under section 362 of this title and any stay under section 1301 is automatically terminated with respect to the property subject to the lease.''.

Subtitle F—Bankruptcy Relief Less Frequently Available for Repeat Filers

SEC. 171. EXTEND PERIOD BETWEEN BANKRUPTCY DISCHARGES.

Section 727(a)(8) of title 11, United States Code, is amended by striking ''six'' and inserting ''7''.

Subtitle G—Exemptions

SEC. 181. EXEMPTIONS.

Section 522(b)(2)(A) of title 11, United States Code, is amended—

(1) by striking ''180'' and inserting ''365''; and

(2) by striking '', or for a longer portion of such 180-day period than in any other place''.

SEC. 182. LIMITATION.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)(2)(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)(2)(A) to exempt property under State or local law, a debtor may not exempt any interest to the extent that such interest exceeds $100,000 in value, in the aggregate, 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—

''(A) an exemption claimed under subsection (b)(2)(A) by a family farmer for the principal residence of that farmer; or

''(B) a case commenced under section 303 of this title.''.

SEC. 183. PROVIDE FAIR PROPERTY EXEMPTIONS AND PREVENT HIGH-ROLLERS FROM ABUSING THE SYSTEM.

Section 522 of title 11, United States Code, is amended by adding at the end the following:

''(n) If, in the 1-year period ending on the date of the filing of the petition and while the debtor was insolvent, the debtor makes property exempt under subsection (b) by converting property to a form of property that is exempt in an unlimited amount, such property shall not be exempt under this section to the extent that the value of the debtor's interest in the property that is converted exceeds $100,000. Such conversion shall not otherwise be a basis for denying an exemption and shall not be the basis for denying the debtor other relief under this title.''.

TITLE II—BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Provisions

SEC. 201. LIMITATION RELATING TO THE USE OF FEE EXAMINERS.

Section 330 of title 11, United States Code, is amended by adding at the end the following:

''(e) The court may not appoint any person to examine any request for compensation or reimbursement payable under this section.''.

SEC. 202. SHARING OF COMPENSATION.

Section 504 of title 11, United States Code, is amended by adding at the end the following:

''(c) This section shall not apply with respect to sharing, or agreeing to share, compensation with a bona fide public service attorney referral program that operates in accordance with non-Federal law regulating attorney referral services and with rules of professional responsibility applicable to attorney acceptance of referrals.''.

SEC. 203. CHAPTER 12 MADE PERMANENT LAW.

Section 302(f) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (11 U.S.C. 1201 note) is repealed.

SEC. 204. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

Section 341 of title 11, United States Code, is amended by adding at the end the following:

''(e) Notwithstanding subsections (a) and (b), the court, on the request of a party in interest and after notice and a hearing, for cause may order that the United States trustee not convene a meeting of creditors or equity security holders if the debtor has filed a plan as to which the debtor solicited acceptances prior to the commencement of the case.''.

SEC. 205. CREDITORS' AND EQUITY SECURITY HOLDERS' COMMITTEES.

Section 1102(b) of title 11, United States Code, is amended by adding at the end the following:

''(3) The court on its own motion or on request of a party in interest, and after notice and a hearing, may order a change in membership of a committee appointed under subsection (a) if necessary to ensure adequate representation of creditors or of equity security holders.''.

SEC. 206. POSTPETITION DISCLOSURE AND SOLICITATION.

Section 1125 of title 11, United States Code, is amended by adding at the end the following:

''(g) Notwithstanding subsection (b), an acceptance or rejection of the plan may be solicited from a holder of a claim or interest if such solicitation complies with applicable nonbankruptcy law and if such holder was solicited before the commencement of the case in a manner complying with applicable nonbankruptcy law.''.

SEC. 207. PREFERENCES.

Section 547(c) of title 11, United States Code, is amended—

(1) by amending paragraph (2) to read as follows:

''(2) to the extent that such transfer was in payment of a debt incurred by the debtor in the ordinary course of business or financial affairs of the debtor and the transferee, and such transfer was—

''(A) made in the ordinary course of business or financial affairs of the debtor and the transferee; or

''(B) made according to ordinary business terms;'';

(2) in paragraph (7) by striking ''or'' at the end;

(3) in paragraph (8) by striking the period at the end and inserting ''; or''; and

(4) by adding at the end the following:

''(9) if, in a case filed by a debtor whose debts are not primarily consumer debts, the aggregate value of all property that constitutes or is affected by such transfer is less than $5000.''.

SEC. 208. VENUE OF CERTAIN PROCEEDINGS.

Section 1409(b) of title 28, United States Code, is amended by inserting '', or a nonconsumer debt against a noninsider of less than $10,000,'' after ''$5,000''.

SEC. 209. CASES ANCILLARY TO FOREIGN PROCEEDINGS INVOLVING FOREIGN INSURANCE COMPANIES THAT ARE ENGAGED IN THE BUSINESS OF INSURANCE OR REINSURANCE IN THE UNITED STATES.

Section 304 of title 11, United States Code, is amended—

(1) in subsection (b) by striking ''provisions of subsection (c)'' and inserting ''subsections (c) and (d)''; and

(2) by adding at the end the following:

''(d) The court may not grant to a foreign representative of the estate of an insurance company that is not organized under the law of a State and that is engaged in the business of insurance, or reinsurance, in the United States relief under subsection (b) with respect to property that is—

''(1) a deposit required by a State law relating to insurance or reinsurance;

''(2) a multibeneficiary trust required by a State law relating to insurance or reinsurance to protect holders of insurance policies issued in the United States or to protect holders or claimants against such policies; or

''(3) a multibeneficiary trust authorized by a State law relating to insurance or reinsurance to allow a person engaged in the business of insurance in the United States—

''(A) to cede reinsurance to such an insurance company; and

''(B) to treat so ceded reinsurance as an asset, or deduction from liability, in financial statements of such person.''.

SEC. 210. PERIOD FOR FILING PLAN UNDER CHAPTER 11.

Section 1121(d) of title 11, United States Code, is amended—

(1) by striking ''On'' and inserting ''(1) Subject to paragraph (1), on''; and

(2) by adding at the end the following:

''(2)(A) Such 120-day period may not be extended beyond a date that is 18 months after the date of the order for relief under this chapter unless the court determines that there is substantial likelihood that the failure to extend such date would result in the loss of jobs in the operation of the debtor's business.

''(B) Such 180-day period may not be extended beyond a date that is 20 months after the date of the order for relief under this chapter unless the court determines that there is substantial likelihood that the failure to extend such date would result in the loss of jobs in the operation of the the debtor's business.''.

SEC. 211. UNEXPIRED LEASES OF NONRESIDENTIAL REAL PROPERTY.

Section 365(d)(4) of title 11, United States Code, is amended to read as follows:

''(4) In a case under any chapter of this title, if the trustee does not assume or reject an unexpired lease of nonresidential real property under which the debtor is the lessee before the earlier of (A) 120 days after the date of the order for relief, or (B) the entry of an order confirming a plan, then such lease is deemed rejected, and the trustee shall immediately surrender such nonresidential real property to the lessor but in no event shall such time period exceed 120 days unless the court determines that there is substantial likelihood that the failure to extend such date would result in the loss of jobs in the operation of the debtor's business. Notwithstanding the immediately preceding sentence, and provided no plan has been confirmed, upon debtor's motion, and after notice and a hearing, the court may within such 120-day period extend the 120-day period by a period not to exceed 150 days, contingent upon written consent of the affected lessor or with the approval of the court, and provided trustee has timely performed all post-petition lease obligations, but in no circumstance shall such period extend beyond the earlier of (i) 270 days from the date of the order for relief or (ii) the entry of an order approving a disclosure statement, without the consent of the lessor unless the court determines that there is substantial likelihood that the failure to extend such date would result in the loss of jobs in the operation of the debtor's business.''.

SEC. 212. DEFINITION OF DISINTERESTED PERSON.

Section 101(14) of title 11, United States Code, is amended to read as follows:

''(14) 'disinterested person' means a person that—

''(A) is not a creditor, an equity security holder, or an insider;

''(B) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the debtor; and

''(C) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect

relationship to, connection with, or interest in, the debtor, or for any other reason;''.

Subtitle B—Specific Provisions

CHAPTER 1—SMALL BUSINESS BANKRUPTCY

SEC. 231. DEFINITIONS.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended by striking paragraph (51C) and inserting the following:

''(51C) 'small business case' means a case filed under chapter 11 of this title in which the debtor is a small business debtor;

''(51D) 'small business debtor' means—

''(A) a person (including affiliates of such person that are also debtors under this title) that has aggregate noncontingent, liquidated secured and unsecured debts as of the date of the petition or the order for relief in an amount not more than $5,000,000 (excluding debts owed to 1 or more affiliates or insiders); or

''(B) a debtor of the kind described in paragraph (51B) but without regard to the amount of such debtor's debts;

except that if a group of affiliated debtors has aggregate noncontingent liquidated secured and unsecured debts greater than $5,000,000 (excluding debt owed to 1 or more affiliates or insiders), then no member of such group is a small business debtor;''.

(b) CONFORMING AMENDMENT.—Section 1102(a)(3) of title 11, United States Code, is amended by inserting ''debtor'' after ''small business''.

SEC. 232. FLEXIBLE RULES FOR DISCLOSURE STATEMENT AND PLAN.

Section 1125(f) of title 11, United States Code, is amended to read as follows:

''(f) Notwithstanding subsection (b), in a small business case—

''(1) in determining whether a disclosure statement provides adequate information, the court shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information;

''(2) the court may determine that the plan itself provides adequate information and that a separate disclosure statement is not necessary;

''(3) the court may approve a disclosure statement submitted on standard forms approved by the court or adopted pursuant to section 2075 of title 28; and

''(4)(A) the court may conditionally approve a disclosure statement subject to final approval after notice and a hearing;

''(B) acceptances and rejections of a plan may be solicited based on a conditionally approved disclosure statement if the debtor provides adequate information to each holder of a claim or interest that is solicited, but a conditionally approved disclosure statement shall be mailed not less than 20 days before the date of the hearing on confirmation of the plan; and

''(C) the hearing on the disclosure statement may be combined with the hearing on confirmation of a plan.''.

SEC. 233. STANDARD FORM DISCLOSURE STATEMENTS AND PLANS.

The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall, within a reasonable period of time after the date of the enactment of this Act, propose for adoption standard form disclosure statements and plans of reorganization for small business debtors (as defined in section 101 of title 11, United States Code, as amended by this Act), designed to achieve a practical balance between—

(1) the reasonable needs of the courts, the United States trustee or bankruptcy administrator, creditors, and other parties in interest for reasonably complete information; and

(2) economy and simplicity for debtors.

SEC. 234. UNIFORM NATIONAL REPORTING REQUIREMENTS.

(a) REPORTING REQUIRED.—(1) Title 11 of the United States Code is amended by inserting after section 307 the following:

''§ 308. Debtor reporting requirements

''A small business debtor shall file periodic financial and other reports containing information including—

''(1) the debtor's profitability, that is, approximately how much money the debtor has been earning or losing during current and recent fiscal periods;

''(2) reasonable approximations of the debtor's projected cash receipts and cash disbursements over a reasonable period;

''(3) comparisons of actual cash receipts and disbursements with projections in prior reports;

''(4) whether the debtor is—

''(A) in compliance in all material respects with postpetition requirements imposed by this title and the Federal Rules of Bankruptcy Procedure; and

''(B) timely filing tax returns and paying taxes and other administrative claims when due, and, if not, what the failures are and how, at what cost, and when the debtor intends to remedy such failures; and

''(5) such other matters as are in the best interests of the debtor and creditors, and in the public interest in fair and efficient procedures under chapter 11 of this title.''.

(2) The table of sections of chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 307 the following:

''308. Debtor reporting requirements.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 60 days after the date on which rules are prescribed pursuant to section 2075, title 28, United States Code to establish forms to be used to comply with section 308 of title 11, United States Code, as added by subsection (a).

SEC. 235. UNIFORM REPORTING RULES AND FORMS.

After consultation with the Director of the Executive for United States Trustees and with the Judicial Conference of the United States, the Attorney General of the United States shall propose for adoption amended Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms to be used by small business debtors to comply with section 308 of title 11, United States Code, as added by section 234 of this Act to achieve a practical balance between—

(1) the reasonable needs of the courts, the United States trustee or bankruptcy administrator, creditors, and other parties in interest for reasonably complete information; and

(2) economy and simplicity for debtors in cases under such title.

SEC. 236. DUTIES IN SMALL BUSINESS CASES.

(a) DUTIES IN CHAPTER 11 CASES.—Title 11 of the United States Code is amended by inserting after section 1114 the following:

''§ 1115. Duties of trustee or debtor in possession in small business cases

''In a small business case, a trustee or the debtor in possession, in addition to the duties provided in this title and as otherwise required by law, shall—

''(1) append to the voluntary petition or, in an involuntary case, file within 3 days after the date of the order for relief—

''(A) its most recent balance sheet, statement of operations, cash-flow statement, Federal income tax return; or

''(B) a statement made under penalty of perjury that no balance sheet, statement of operations, or cash-flow statement has been prepared and no Federal tax return has been filed;

''(2) attend, through its senior management personnel and counsel, meetings scheduled by the court or the United States trustee, including initial debtor interviews, scheduling conferences, and meetings of creditors convened under section 341 of this title;

''(3) timely file all schedules and statements of financial affairs, unless the court, after notice and a hearing, grants an extension, which shall not extend such time period to a date later than 30 days after the date of the order for relief, absent extraordinary and compelling circumstances;

''(4) file all postpetition financial and other reports required by the Federal Rules of Bankruptcy Procedure or by local rule of the district court;

''(5) subject to section 363(c)(2), maintain insurance customary and appropriate to the industry;

''(6)(A) timely file tax returns;

''(B) subject to section 363(c)(2), timely pay all administrative expense tax claims, except those being contested by appropriate proceedings being diligently prosecuted; and

''(C) subject to section 363(c)(2), establish 1 or more separate deposit accounts not later than 10 business days after the date of order for relief (or as soon thereafter as possible if all banks contacted decline the business) and deposit therein, not later than 1 business day after receipt thereof, all taxes payable for periods beginning after the date the case is commenced that are collected or withheld by the debtor for governmental units; and

''(7) allow the United States trustee or bankruptcy administrator, or its designated representative, to inspect the debtor's business premises, books, and records at reasonable times, after reasonable prior written notice, unless notice is waived by the debtor.''.

(b) TECHNICAL AMENDMENT.—The table of sections of chapter 11, United States Code, is amended by inserting after the item relating to section 1114 the following:

''1115. Duties of trustee or debtor in possession in small business cases.''.

SEC. 237. PLAN FILING AND CONFIRMATION DEADLINES.

Section 1121(e) of title 11, United States Code, is amended to read as follows:

''(e) In a small business case—

''(1) only the debtor may file a plan until after 90 days after the date of the order for relief, unless shortened on request of a party in interest made during the 90-day period, or unless extended as provided by this subsection, after notice and hearing the court, for cause, orders otherwise;

''(2) the plan, and any necessary disclosure statement, shall be filed not later than 90 days after the date of the order for relief; and

''(3) the time periods specified in paragraphs (1) and (2), and the time fixed in section 1129(e) of this title, within which the plan shall be confirmed may be extended only if—

''(A) the debtor, after providing notice to parties in interest (including the United States trustee), demonstrates by a preponderance of the evidence that it is more likely than not that the court will confirm a plan within a reasonable time;

''(B) a new deadline is imposed at the time the extension is granted; and

''(C) the order extending time is signed before the existing deadline has expired.''.

SEC. 238. PLAN CONFIRMATION DEADLINE.

Section 1129 of title 11, United States Code, is amended by adding at the end the following:

''(e) In a small business case, the plan shall be confirmed not later than 150 days after

the date of the order for relief unless such 150-day period is extended as provided in section 1121(e)(3) of this title.''.

SEC. 239. PROHIBITION AGAINST EXTENSION OF TIME.

Section 105(d) of title 11, United States Code, is amended—

(1) in paragraph (2)(B)(vi) by striking the period at the end and inserting ''; and''; and

(2) by adding at the end the following:

''(3) in a small business case, not extend the time periods specified in sections 1121(e) and 1129(e) of this title except as provided in section 1121(e)(3) of this title.''.

SEC. 240. DUTIES OF THE UNITED STATES TRUSTEE AND BANKRUPTCY ADMINISTRATOR.

(a) DUTIES OF THE UNITED STATES TRUSTEE.—Section 586(a) of title 28, United States Code, as amended by section 111, is amended—

(1) in paragraph (3)—

(A) in subparagraph (G) by striking ''and'' at the end;

(B) by redesignating subparagraph (H) as subparagraph (I); and

(C) by inserting after subparagraph (G) the following:

''(H) in small business cases (as defined in section 101 of title 11), performing the additional duties specified in title 11 pertaining to such cases;'',

(2) in paragraph (6) by striking ''and'' at the end,

(3) in paragraph (7) by striking the period at the end and inserting ''; and'', and

(4) by inserting after paragraph (7) the following:

''(8) in each of such small business cases—

''(A) conduct an initial debtor interview as soon as practicable after the entry of order for relief but before the first meeting scheduled under section 341(a) of title 11 at which time the United States trustee shall begin to investigate the debtor's viability, inquire about the debtor's business plan, explain the debtor's obligations to file monthly operating reports and other required reports, attempt to develop an agreed scheduling order, and inform the debtor of other obligations;

''(B) when determined to be appropriate and advisable, visit the appropriate business premises of the debtor and ascertain the state of the debtor's books and records and verify that the debtor has filed its tax returns;

''(C) review and monitor diligently the debtor's activities, to identify as promptly as possible whether the debtor will be unable to confirm a plan; and

''(D) in cases where the United States trustee finds material grounds for any relief under section 1112 of title 11 move the court promptly for relief.''.

(b) DUTIES OF THE BANKRUPTCY ADMINISTRATOR.—In a small business case (as defined in section 101 of title 11 of the United States Code), the bankruptcy administrator shall perform the duties specified in section 586(a)(6) of title 28 of the United States Code.

SEC. 241. SCHEDULING CONFERENCES.

Section 105(d) of title 11, United States Code, is amended—

(1) in the matter preceding paragraph (1) by striking '', may'';

(2) by amending paragraph (1) to read as follows:

''(1) shall hold such status conferences as are necessary to further the expeditious and economical resolution of the case; and''; and

(3) in paragraph (2) by striking ''unless inconsistent with another provision of this title or with applicable Federal Rules of Bankruptcy Procedure,'' and inserting ''may''.

SEC. 242. SERIAL FILER PROVISIONS.

Section 362 of title 11, United States Code, is amended—

(1) in subsection (i) as so redesignated by section 124—

(A) by striking ''An'' and inserting ''(1) Except as provided in paragraph (2), an''; and

(B) by adding at the end the following:

''(2) If such violation is based on an action taken by an entity in the good-faith belief that subsection (h) applies to the debtor, then recovery under paragraph (1) against such entity shall be limited to actual damages.''; and

(2) by inserting after subsection (i), as redesignated by section 124, the following:

''( ) The filing of a petition under chapter 11 of this title operates as a stay of the acts described in subsection (a) only in an involuntary case involving no collusion by the debtor with creditors and in which the debtor—

''(1) is a debtor in a small business case pending at the time the petition is filed;

''(2) was a debtor in a small business case which was dismissed for any reason by an order that became final in the 2-year period ending on the date of the order for relief entered with respect to the petition;

''(3) was a debtor in a small business case in which a plan was confirmed in the 2-year period ending on the date of the order for relief entered with respect to the petition; or

''(4) is an entity that has succeeded to substantially all of the assets or business of a small business debtor described in subparagraph (A), (B), or (C) unless the debtor proves, by a preponderance of the evidence, that the filing of such petition resulted from circumstances beyond the control of the debtor not foreseeable at the time the case then pending was filed; and that it is more likely than not that the court will confirm a feasible plan, but not a liquidating plan, within a reasonable time.''.

SEC. 243. EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION AND APPOINTMENT OF TRUSTEE.

(a) EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION.—Section 1112(b) of title 11, United States Code, is amended to read as follows:

''(b)(1) Except as provided in paragraph (2), in subsection (c), and in section 1104(a)(3) of this title, on request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 of this title or dismiss a case under this chapter, whichever is in the best interest of creditors and the estate, if the movant establishes cause.

''(2) The relief provided in paragraph (1) shall not be granted if the debtor or another party in interest objects and establishes, by a preponderance of the evidence that—

''(A) it is more likely than not that a plan will be confirmed within a time as fixed by this title or by order of the court entered pursuant to section 1121(e)(3), or within a reasonable time if no time has been fixed; and

''(B) if the reason is an act or omission of the debtor that—

''(i) there exists a reasonable justification for the act or omission; and

''(ii) the act or omission will be cured within a reasonable time fixed by the court not to exceed 30 days after the court decides the motion, unless the movant expressly consents to a continuance for a specific period of time, or compelling circumstances beyond the control of the debtor justify an extension.

''(3) For purposes of this subsection, cause includes—

''(A) substantial or continuing loss to or diminution of the estate;

''(B) gross mismanagement of the estate;

''(C) failure to maintain appropriate insurance;

''(D) unauthorized use of cash collateral harmful to 1 or more creditors;

''(E) failure to comply with an order of the court;

''(F) failure timely to satisfy any filing or reporting requirement established by this title or by any rule applicable to a case under this chapter;

''(G) failure to attend the meeting of creditors convened under section 341(a) of this title or an examination ordered under rule 2004 of the Federal Rules of Bankruptcy Procedure;

''(H) failure timely to provide information or attend meetings reasonably requested by the United States trustee;

''(I) failure timely to pay taxes due after the date of the order for relief or to file tax returns due after the order for relief;

''(J) failure to file a disclosure statement, or to file or confirm a plan, within the time fixed by this title or by order of the court;

''(K) failure to pay any fees or charges required under chapter 123 of title 28;

''(L) revocation of an order of confirmation under section 1144 of this title, and denial of confirmation of another plan or of a modified plan under section 1129 of this title;

''(M) inability to effectuate substantial consummation of a confirmed plan;

''(N) material default by the debtor with respect to a confirmed plan; and

''(O) termination of a plan by reason of the occurrence of a condition specified in the plan.

''(4) The court shall commence the hearing on any motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion within 15 days after commencement of the hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.''.

(b) ADDITIONAL GROUNDS FOR APPOINTMENT OF TRUSTEE.—Section 1104(a) of title 11, United States Code, is amended—

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

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

(3) by adding at the end the following:

''(3) if grounds exist to convert or dismiss the case under section 1112 of this title, but the court determines that the appointment of a trustee is in the best interests of creditors and the estate.''.

CHAPTER 2—SINGLE ASSET REAL ESTATE

SEC. 251. SINGLE ASSET REAL ESTATE DEFINED.

Section 101(51B) of title 11, United States Code, is amended to read as follows:

''(51B) 'single asset real estate' means undeveloped real property or other real property constituting a single property or project, other than residential real property with fewer than 4 residential units, on which is located a single development or project which property or project generates substantially all of the gross income of a debtor and on which no substantial business is being conducted by a debtor, or by a commonly controlled group of entities all of which are concurrently debtors in a case under chapter 11 of this title, other than the business of operating the real property and activities incidental thereto;''.

SEC. 252. PAYMENT OF INTEREST.

Section 362(d)(3) of title 11, United States Code, is amended—

(1) by inserting ''or 30 days after the court determines that the debtor is subject to this paragraph, whichever is later'' after ''90-day period)''; and

(2) by amending subparagraph (B) to read as follows:

''(B) the debtor has commenced monthly payments (which payments may, in the debtor's sole discretion, notwithstanding section

363(c)(2) of this title, be made from rents or other income generated before or after the commencement of the case by or from the property) to each creditor whose claim is secured by such real estate (other than a claim secured by a judgment lien or by an unmatured statutory lien), which payments are in an amount equal to interest at the then-applicable nondefault contract rate of interest on the value of the creditor's interest in the real estate; or''.

CHAPTER 3—CONDITIONAL APPLICATION OF AMENDMENTS

SEC. 291. LOSS OF JOBS.

The amendments made by this subtitle shall not apply in a case under title 11 of the United States Code if the court determines that there is a substantial likelihood that the application of such amendments in such case would result in a loss of jobs in the operation of the debtor's business in such case.

TITLE III—MUNICIPAL BANKRUPTCY PROVISIONS

SEC. 301. PETITION AND PROCEEDINGS RELATED TO PETITION.

(a) TECHNICAL AMENDMENT RELATING TO MUNICIPALITIES.—Section 921(d) of title 11, United States Code, is amended by inserting ''notwithstanding section 301(b)'' before the period at the end.

(b) CONFORMING AMENDMENT.—Section 301 of title 11, United States Code, is amended—

(1) by inserting ''(a)'' before ''A voluntary''; and

(2) by amending the last sentence to read as follows:

''(b) The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.''.

SEC. 302. APPLICABILITY OF OTHER SECTIONS TO CHAPTER 9.

Section 901 of title 11, United States Code, is amended—

(1) by inserting ''555, 556,'' after ''553,''; and

(2) by inserting ''559, 560,'' after ''557,''.

TITLE IV—BANKRUPTCY ADMINISTRATION

Subtitle A—General Provisions

SEC. 401. ADEQUATE PREPARATION TIME FOR CREDITORS BEFORE THE MEETING OF CREDITORS IN INDIVIDUAL CASES.

Section 341(a) of title 11, United States Code, is amended by inserting after the first sentence the following: ''If the debtor is an individual in a voluntary case under chapter 7, 11, or 13, the meeting of creditors shall not be convened earlier than 60 days (or later than 90 days) after the date of the order for relief, unless the court, after notice and hearing, determines unusual circumstances justify an earlier meeting.''.

SEC. 402. CREDITOR REPRESENTATION AT FIRST MEETING OF CREDITORS.

Section 341(c) of title 11, United States Code, is amended by inserting after the first sentence the following: ''Notwithstanding any local court rule, provision of a State constitution, any other State or Federal nonbankruptcy law, or other requirement that representation at the meeting of creditors under subsection (a) be by an attorney, a creditor holding a consumer debt or its representatives (which representatives may include an entity or an employee of an entity and may be a representative for more than 1 creditor) shall be permitted to appear at and participate in the meeting of creditors in a case under chapter 7 or 13 either alone or in conjunction with an attorney for the creditor. Nothing in this subsection shall be construed to require any creditor to be represented by an attorney at any meeting of creditors.''.

SEC. 403. FILING PROOFS OF CLAIM.

Section 501 of title 11, United States Code, is amended by adding at the end the following:

''(e) In a case under chapter 7 or 13, a proof of claim or interest is deemed filed under this section for any claim or interest that appears in the schedules filed under section 521(a)(1) of this title, except a claim or interest that is scheduled as disputed, contingent, or unliquidated.''.

SEC. 404. AUDIT PROCEDURES.

(a) AMENDMENT.—Section 586 of title 28, United States Code, as amended by sections 111 and 240, is amended—

(1) by amending subsection (a)(6) to read as follows:

''(6) make such reports as the Attorney General directs, including the results of audits performed under subsection (f),'';

(2) by inserting at the end the following:

''(f)(1) The Attorney General shall establish procedures for the auditing of the accuracy and completeness of petitions, schedules, and other information which the debtor is required to provide under sections 521 and 1322, and, if applicable, section 111, of title 11 in individual cases filed under chapter 7 or 13 of such title. Such procedures shall—

''(A) establish a method of selecting appropriate qualified persons to contract with the United States trustee to perform such audits;

''(B) establish a method of randomly selecting cases to be audited according to generally accepted audit standards, provided that no less than 1 out of every 1000 cases in each Federal judicial district shall be selected for audit and provided that such procedures shall ensure that the United States trustee may select such cases in which there is a high likelihood of fraud;

''(C) require audits for schedules of income and expenses which reflect higher than average variances from the statistical norm of the district in which the schedules were filed;

''(D) establish procedures for reporting the results of such audits and any material misstatement of income, expenditures or assets of a debtor to the Attorney General, the United States Attorney and the court, as appropriate, and for providing public information no less than annually on the aggregate results of such audits including the percentage of cases, by district, in which a material misstatement of income or expenditures is reported; and

''(E) establish procedures for fully funding such audits.

''(2) The United States trustee for each district is authorized to contract with auditors to perform audits in cases designated by the United States trustee according to the procedures established under paragraph (1) of this subsection.

''(3) According to procedures established under paragraph (1), upon request of a duly appointed auditor, the debtor shall cause the accounts, papers, documents, financial records, files and all other papers, things or property belonging to the debtor as the auditor requests and which are reasonably necessary to facilitate an audit to be made available for inspection and copying.

''(4) The report of each such audit shall be filed with the court, the Attorney General, and the United States Attorney, as required under procedures established by the Attorney General under paragraph (1). If a material misstatement of income or expenditures or of assets is reported, a statement specifying such misstatement shall be filed with the court and the United States trustee shall give notice thereof to the creditors in the case and, in an appropriate case, in the opinion of the United States trustee, requires investigation with respect to possible criminal violations, the United States Attorney for the district.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of the enactment of this Act.

SEC. 405. GIVING CREDITORS FAIR NOTICE IN CHAPTER 7 AND 13 CASES.

Section 342 of title 11, United States Code, is amended—

(1) in subsection (c)—

(A) by striking '', but the failure of such notice to contain such information shall not invalidate the legal effect of such notice''; and

(B) by adding the following at the end:

''If the credit agreement between the debtor and the creditor or the last communication before the filing of the petition in a voluntary case from the creditor to a debtor who is an individual states an account number of the debtor which is the current account number of the debtor with respect to any debt held by the creditor against the debtor, the debtor shall make a good faith effort to include such account number in any notice to the creditor required to be given under this title. If the creditor has specified to the debtor an address at which the creditor wishes to receive correspondence regarding the debtor's account, the debtor shall make a good faith effort to provide any notice required to be given under this title by the debtor to the creditor at such address. For the purposes of this section, 'notice' shall include, but shall not be limited to, any correspondence from the debtor to the creditor after the commencement of the case, any statement of the debtor's intention under section 521(a)(2) of this title, notice of the commencement of any proceeding in the case to which the creditor is a party, and any notice of the hearing under section 1324.'';

(2) by adding at the end the following:

''(d) At any time, a creditor in a case of an individual debtor under chapter 7 or 13 may file with the court and serve on the debtor a notice of the address to be used to notify the creditor in that case. Five days after receipt of such notice, if the court or the debtor is required to give the creditor notice, such notice shall be given at that address.

''(e) An entity may file with the court a notice stating its address for notice in cases under chapters 7 and 13. After 30 days following the filing of such notice, any notice in any case filed under chapter 7 or 13 given by the court shall be to that address unless specific notice is given under subsection (d) with respect to a particular case.

''(f) Notice given to a creditor other than as provided in this section shall not be effective notice until it has been brought to the attention of the creditor unless the creditor knew or should have known of such notice. If the creditor has designated a person or department to be responsible for receiving notices concerning bankruptcy cases and has established reasonable procedures so that bankruptcy notices received by the creditor will be delivered to such department or person, notice will not be brought to the attention of the creditor until received by such person or department. No sanction under section 362(h) of this title or any other sanction which a court may impose on account of violations of the stay under section 362(a) of this title or failure to comply with section 542 or 543 of this title may be imposed on any action of the creditor unless the action takes place after the creditor has received notice of the commencement of the case effective under this section unless the creditor knew or should have known of such notice.''.

SEC. 406. DEBTOR TO PROVIDE TAX RETURNS AND OTHER INFORMATION.

Section 521 of title 11, United States Code, is amended—

(1) by inserting ''(a)'' before ''The'';

(2) by amending paragraph (1) to read as follows:

''(1) file—

''(A) a list of creditors, and

''(B) unless the court orders otherwise—

''(i) a schedule of assets and liabilities;

''(ii) a schedule of current income and current expenditures;

''(iii) a statement of the debtor's financial affairs;

''(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 prior to the filing of the petition;

''(v) a statement of the amount of disposable income, itemized to show how calculated;

''(vi) if applicable, any statement under paragraphs (3) and (4) of section 109(h);

''(vii) a statement disclosing any reasonably anticipated increase in income or expenditures over the next 12 months; and

''(viii) a certificate, if applicable—

''(I) of an attorney whose name is on the petition as the attorney for the debtor, or of any bankruptcy petition preparer who signed the petition pursuant to section 110(b)(1) of this title, indicating that such attorney or bankruptcy petition preparer delivered to the debtor any notice required by section 342(b)(1) of this title; or

''(II) if no attorney for the debtor is indicated and no bankruptcy petition preparer signed the petition of the debtor, that such notice was obtained and read by the debtor;''; and

(3) by adding at the end the following:

''(b) At any time, a creditor in a case of an individual debtor under chapter 7 or 13 may file with the court and serve on the debtor notice that the creditor requests the petition, schedules, and statement of financial affairs filed by the debtor in the case. At any time, a creditor in a case under chapter 13 of this title may file with the court and serve on the debtor notice that the creditor requests the plan filed by the debtor in the case. Within 10 days of the first such request in a case under this subsection for the petition, schedules, and statement of financial affairs and the first such request for the plan under this subsection, the debtor shall serve on that creditor a conformed copy of the requested documents or plan and any amendments thereto as of that date, and shall thereafter promptly serve on that creditor at the time filed with the court—

''(1) any requested document or plan which is not filed with the court at the time requested; and

''(2) any amendment to any requested document or plan.

''(c) An individual debtor in a case under chapter 7 or 13 shall provide to the United States trustee, on the request of the United States trustee—

''(1) copies of all Federal tax returns (including any schedules and attachments) filed by the debtor for the 3 most recent tax years preceding the order for relief;

''(2) at the time the debtor files them with the Commissioner of Internal Revenue, all Federal tax returns (including any schedules and attachments) for the debtor's tax years ending while such case is pending; and

''(3) at the time the debtor files them with the Commissioner of Internal Revenue, all amendments to the tax returns (including schedules and attachments) described in subparagraphs (A) and (B).

''(d) A debtor in a case under chapter 13 of this title shall file, from a time which is the later of 90 days after the close of the debtor's tax year or 1 year after the order for relief unless a plan has then been confirmed, and thereafter on or before 45 days before each anniversary of the confirmation of the plan until the case is closed, a statement subject to the penalties of perjury by the debtor of the debtor's income and expenditures in the preceding tax year and monthly net income, showing how calculated. Such statement shall disclose the amount and sources of income of the debtor, the identity of any persons responsible with the debtor for the support of any dependents of the debtor, and any persons who contributed and the amount contributed to the household in which the debtor resides. Such tax returns, amendments and statement of income and expenditures shall be available to the United States trustee, any bankruptcy administrator, any trustee and any party in interest for inspection and copying.''.

SEC. 407. DISMISSAL FOR FAILURE TO FILE SCHEDULES TIMELY OR PROVIDE REQUIRED INFORMATION.

Section 521 of title 11, United States Code, as amended by section 406, is amended by adding at the end the following:

''(e) Notwithstanding section 707(a) of this title, if an individual debtor in a voluntary case under chapter 7 or 13 fails to provide all of the information required under subsections (a)(1) and (c)(1)(A) within 45 days after the filing of the petition, the case shall be automatically dismissed effective on the 46th day after the filing of the petition without the need for any order of court unless the court for good cause beyond the debtor's control orders otherwise, but any party in interest may request the court to enter an order dismissing the case and the court shall, if so requested, enter an order of dismissal within 5 days of such request if the court finds compelling justification for doing so.

''(f) If an individual debtor in a case under chapter 7 or 13 fails to perform any of the duties imposed by subsections (b), (c)(1)(B), (c)(1)(C), and (d), any party in interest may request that the court order the debtor to comply. Within 10 days of such request the court shall order that the debtor do so within a period of time set by the court no longer than 30 days unless the court for good cause beyond the debtor's control orders otherwise. If the debtor does not comply with that order within the period of time set by the court, the court shall, on request of any party in interest certifying that the debtor has not so complied, enter an order dismissing the case within 5 days of such request.''.

SEC. 408. ADEQUATE TIME TO PREPARE FOR HEARING ON CONFIRMATION OF THE PLAN.

Section 1324 of title 11, United States Code, is amended—

(1) by striking ''After'' and inserting the following:

''(a) Except as provided in subsection (b) and after''; and

(2) by adding at the end the following:

''(b) The hearing on confirmation of the plan may be held not earlier than 20 days, and not later than 45 days, after the meeting of creditors under section 341(a) of this title.''.

SEC. 409. SENSE OF THE CONGRESS REGARDING EXPANSION OF RULE 9011 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE.

It is the sense of the Congress that rule 9011 of the Federal Rules of Bankruptcy Procedure (11 U.S.C. App) should be modified to include a requirement that all documents (including schedules), signed and unsigned, submitted to the court or to a trustee by debtors who represent themselves and debtors who are represented by an attorney be submitted only after the debtor or the debtor's attorney has made reasonable inquiry to verify that the information contained in such documents is well grounded in fact, and is warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law.

SEC. 410. JURISDICTION OF COURTS OF APPEALS.

(a) JURISDICTION.—Title 28 of the United States Code is amended—

(1) by striking section 158;

(2) by inserting after section 1292 the following:

''§ 1293. Bankruptcy appeals

''The courts of appeals (other the United States Court of Appeals for the Federal Circuit) shall have jurisdiction of appeals from the following:

''(1) Final orders and judgments of bankruptcy courts entered under—

''(A) section 157(b) of this title in core proceedings arising under title 11, or arising in or related to a case under title 11; or

''(B) section 157(c)(2) of this title in proceedings referred to such courts.

''(2) Final orders and judgments of district courts entered under section 157 of this title in—

''(A) core proceedings arising under title 11, or arising in or related to a case under title 11; or

''(B) proceedings that are not core proceedings, but that are otherwise related to a case under title 11.

''(3) Orders and judgments of bankruptcy courts or district courts entered under section 105 of title 11, or the refusal to enter an order or judgment under such section.

''(4) Orders of bankruptcy courts or district courts entered under section 1104(a) or 1121(d) of title 11, or the refusal to enter an order under such section.

''(5) An interlocutory order of a bankruptcy court or district court entered in a case under title 11, in a proceeding arising under title 11, or in a proceeding arising in or related to a case under title 11, if—

''(A) such court is of the opinion that—

''(i) such order involves a controlling question of law as to which there is substantial ground for difference of opinion; and

''(ii) an immediate appeal from such order may materially advance the ultimate termination of such case or such proceeding; or

''(B) the court of appeals that would have jurisdiction of an appeal of a final order entered in such case or such proceeding permits, in its discretion, appeal to be taken from such interlocutory order.''; and

(3) in—

(A) the table of sections for chapter 6 by striking the item relating to section 158; and

(B) the table of sections for chapter 83 by inserting after the item relating to section 1292 the following:

''1293. Bankruptcy appeals.''.

(b) CONFORMING AMENDMENTS.—(1) Section 305(c) of title 11, the United States Code, is amended by striking ''158(d), 1291, or 1292'' and inserting ''1291, 1292, or 1293''.

(2) Title 28, United States Code, is amended—

(A) in subsections (b)(1) and (c)(2) of section 157 by striking ''section 158'' and inserting ''section 1293'';

(B) in section 1334(d) by striking ''158(d), 1291, or 1292'' and inserting ''1291, 1292, or 1293''; and

(C) in section 1452(b) by striking ''158(d), 1291, or 1292'' and inserting ''1291, 1292, or 1293''.

SEC. 411. ESTABLISHMENT OF OFFICIAL FORMS.

The Judicial Conference of the United States shall establish official forms to facilitate compliance with the amendments made by sections 101 and 102.

SEC. 412. ELIMINATION OF CERTAIN FEES PAYABLE IN CHAPTER 11 BANKRUPTCY CASES.

(a) AMENDMENTS.—Section 1930(a)(6) of title 28, United States Code, is amended—

(1) in the 1st sentence by striking ''until the case is converted or dismissed, whichever occurs first'', and

(2) in the 2d sentence—

(A) by striking ''The'' and inserting ''Until the plan is confirmed or the case is converted (whichever occurs first) the'', and

(B) by striking ''less than $300,000;'' and inserting ''less than $300,000. Until the case is converted, dismissed, or closed (whichever occurs first and without regard to confirmation of the plan) the fee shall be''.

(b) DELAYED EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1999.

Subtitle B—Data Provisions

SEC. 441. IMPROVED BANKRUPTCY STATISTICS.

(a) AMENDMENT.—Title 28, United States Code, is amended by adding after section 158 the following new section:

''§ 159. Bankruptcy statistics

''The Director of the Executive Office for United States Trustees shall compile statistics regarding individual debtors with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Such statistics shall be in a form prescribed by the Executive Office for United States Trustees in consultation with the Administrative Office of the United States Courts. The Office shall compile such statistics, and make them public, and report annually to the Congress on the information collected, and on its analysis thereof, no later than October 31 of each year. Such compilation shall be itemized by chapter of title 11, shall be presented in the aggregate and for each district, and shall include the following:

''(1) Total assets and total liabilities of such debtors, and in each category of assets and liabilities, as reported in the schedules prescribed pursuant to section 2075 of this title and filed by such debtors.

''(2) The current total monthly income, projected monthly net income, and average income and average expenses of such debtors as reported on the schedules and statements the debtor has filed under sections 111, 521, and 1322 of title 11.

''(3) The aggregate amount of debt discharged in the reporting period, determined as the difference between the total amount of debt and obligations of a debtor reported on the schedules and the amount of such debt reported in categories which are predominantly nondischargeable.

''(4) The average time between the filing of the petition and the closing of the case.

''(5) The number of cases in the reporting period in which a reaffirmation was filed and the total number of reaffirmations filed in that period, and of those cases in which a reaffirmation was filed, the number in which the debtor was not represented by an attorney, and of those the number of cases in which the reaffirmation was approved by the court.

''(6) With respect to cases filed under chapter 13 of title 11—

''(A) the number of cases in which a final order was entered determining the value of property securing a claim less than the claim, and the total number of such orders in the reporting period; and

''(B) the number of cases dismissed for failure to make payments under the plan.

''(7) The number of cases in which the debtor filed another case within the 6 years previous to the filing.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 18 months after the date of the enactment of this Act.

SEC. 442. BANKRUPTCY DATA.

(a) AMENDMENT.—Title 28 of the United States Code is amended by inserting after section 589a the following:

''§ 589b. Bankruptcy data

''(a) RULES.—The Attorney General shall, within a reasonable time after the effective date of this section, issue rules requiring uniform forms for (and from time to time thereafter to appropriately modify and approve)—

''(1) final reports by trustees in cases under chapters 7, 12, and 13 of title 11; and

''(2) periodic reports by debtors in possession or trustees, as the case may be, in cases under chapter 11 of title 11.

''(b) REPORTS.—All reports referred to in subsection (a) shall be designed (and the requirements as to place and manner of filing shall be established) so as to facilitate compilation of data and maximum possible access of the public, both by physical inspection at 1 or more central filing locations, and by electronic access through the Internet or other appropriate media.

''(c) REQUIRED INFORMATION.—The information required to be filed in the reports referred to in subsection (b) shall be that which is in the best interests of debtors and creditors, and in the public interest in reasonable and adequate information to evaluate the efficiency and practicality of the Federal bankruptcy system. In issuing rules proposing the forms referred to in subsection (a), the Attorney General shall strike the best achievable practical balance between—

''(1) the reasonable needs of the public for information about the operational results of the Federal bankruptcy system; and

''(2) economy, simplicity, and lack of undue burden on persons with a duty to file reports.

''(d) FINAL REPORTS.—Final reports proposed for adoption by trustees under chapters 7, 12, and 13 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General, shall propose, include with respect to a case under such title—

''(1) information about the length of time the case was pending;

''(2) assets abandoned;

''(3) assets exempted;

''(4) receipts and disbursements of the estate;

''(5) expenses of administration;

''(6) claims asserted;

''(7) claims allowed; and

''(8) distributions to claimants and claims discharged without payment;

in each case by appropriate category and, in cases under chapters 12 and 13 of title 11, date of confirmation of the plan, each modification thereto, and defaults by the debtor in performance under the plan.

''(e) PERIODIC REPORTS.—Periodic reports proposed for adoption by trustees or debtors in possession under chapter 11 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General, in the discretion of the Attorney General, shall propose, include—

''(1) information about the standard industry classification, published by the Department of Commerce, for the businesses conducted by the debtor;

''(2) length of time the case has been pending;

''(3) number of full-time employees as at the date of the order for relief and at end of each reporting period since the case was filed;

''(4) cash receipts, cash disbursements and profitability of the debtor for the most recent period and cumulatively since the date of the order for relief;

''(5) compliance with title 11, whether or not tax returns and tax payments since the date of the order for relief have been timely filed and made;

''(6) all professional fees approved by the court in the case for the most recent period and cumulatively since the date of the order for relief (separately reported, in for the professional fees incurred by or on behalf of the debtor, between those that would have been incurred absent a bankruptcy case and those not); and

''(7) plans of reorganization filed and confirmed and, with respect thereto, by class, the recoveries of the holders, expressed in aggregate dollar values and, in the case of claims, as a percentage of total claims of the class allowed.''.

(b) TECHNICAL AMENDMENT.—The table of sections of chapter 39 of title 28, United States Code, is amended by adding at the end the following:

''589b. Bankruptcy data.''.

SEC. 443. SENSE OF THE CONGRESS REGARDING AVAILABILITY OF BANKRUPTCY DATA.

It is the sense of the Congress that—

(1) the national policy of the United States should be that all data held by bankruptcy clerks in electronic form, to the extent such data reflects only public records (as defined in section 107 of title 11 of the United States Code), should be released in a usable electronic form in bulk to the public subject to such appropriate privacy concerns and safeguards as the Judicial Conference of the United States may determine; and

(2) there should be established a bankruptcy data system in which—

(A) a single set of data definitions and forms are used to collect data nationwide; and

(B) data for any particular bankruptcy case are aggregated in the same electronic record.

TITLE V—TAX PROVISIONS

SEC. 501. 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), after ''507(a)(1)'', insert ''(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)''; 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) of this title, 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 set forth in this section and subject to the requirements of subsection (e)—

''(1) claims for wages, salaries, and commissions that are entitled to priority under section 507(a)(3) of this title; or

''(2) claims for contributions to an employee benefit plan entitled to priority under section 507(a)(4) of this title,

may be paid from property of the estate which secures a tax lien, or the proceeds of such property.''.

(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. 502. ENFORCEMENT OF CHILD AND SPOUSAL SUPPORT.

Section 522(c)(1) of title 11, United States Code, is amended by inserting '', except that, notwithstanding any other Federal law or State law relating to exempted property, exempt property shall be liable for debts of a kind specified in section 507(a)(7) of this title'' before the semicolon at the end.

SEC. 503. EFFECTIVE NOTICE TO GOVERNMENT.

(a) EFFECTIVE NOTICE TO GOVERNMENTAL UNITS.—Section 342 of title 11, United States Code, as amended by section 405, is amended by adding at the end the following:

''(g) If a debtor lists a governmental unit as a creditor in a list or schedule, any notice required to be given by the debtor under this title, any rule, any applicable law, or any order of the court, shall identify the department, agency, or instrumentality through which the debtor is indebted. The debtor shall identify (with information such as a taxpayer identification number, loan, account or contract number, or real estate parcel number, where applicable), and describe the underlying basis for the governmental unit's claim. If the debtor's liability to a governmental unit arises from a debt or obligation owed or incurred by another individual, entity, or organization, or under a different name, the debtor shall identify such individual, entity, organization, or name.

''(h) The clerk shall keep and update quarterly, in the form and manner as the Director of the Administrative Office of the United States Courts prescribes, and make available to debtors, a register in which a governmental unit may designate a safe harbor mailing address for service of notice in cases pending in the district. A governmental unit may file a statement with the clerk designating a safe harbor address to which notices are to be sent, unless such governmental unit files a notice of change of address.''.

(b) ADOPTION OF RULES PROVIDING NOTICE.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference shall, within a reasonable period of time after the date of the enactment of this Act, propose for adoption enhanced rules for providing notice to State, Federal, and local government units that have regulatory authority over the debtor or which may be creditors in the debtor's case. Such rules shall be reasonably calculated to ensure that notice will reach the representatives of the governmental unit, or subdivision thereof, who will be the proper persons authorized to act upon the notice. At a minimum, the rules should require that the debtor—

(1) identify in the schedules and the notice, the subdivision, agency, or entity in respect of which such notice should be received;

(2) provide sufficient information (such as case captions, permit numbers, taxpayer identification numbers, or similar identifying information) to permit the governmental unit or subdivision thereof, entitled to receive such notice, to identify the debtor or the person or entity on behalf of which the debtor is providing notice where the debtor may be a successor in interest or may not be the same as the person or entity which incurred the debt or obligation; and

(3) identify, in appropriate schedules, served together with the notice, the property in respect of which the claim or regulatory obligation may have arisen, if any, the nature of such claim or regulatory obligation and the purpose for which notice is being given.

(c) EFFECT OF FAILURE OF NOTICE.—Section 342 of title 11, United States Code, as amended by subsection (a) and section 405, is amended by adding at the end the following:

''(i)(1) A notice that does not comply with subsections (d) and (e) shall have no effect unless the debtor demonstrates, by clear and convincing evidence, that timely notice was given in a manner reasonably calculated to satisfy the requirements of this section was given, and that—

''(A) either the notice was timely sent to the safe harbor address provided in the register maintained by the clerk of the district in which the matter or proceeding with respect to which the notice was provided was pending for such purposes; or

''(B) no safe harbor address was provided in such list for the governmental unit and that an officer of the governmental unit who is responsible for the matter or claim had actual knowledge of the case in sufficient time to act or the taxpayer made a good faith effort to provide the required notice under subsections (d) and (e).

''(2) No sanction under section 362(h) of this title or any other sanction which a court may impose on account of violations of the stay under section 362(a) of this title or failure to comply with section 542 or 543 of this title may be imposed unless the action takes place after notice of the commencement of the case as required by this section has been received.''.

SEC. 504. NOTICE OF REQUEST FOR A DETERMINATION OF TAXES.

Section 505(b) of title 11, United States Code, is amended by striking ''Unless'' at the beginning of the second sentence thereof and inserting ''If the request is made in the manner designated by the governmental unit and the taxing authority has place in file with the clerk of the court a description of the manner in which the governmental unit requires such request and unless''.

SEC. 505. RATE OF INTEREST ON TAX CLAIMS.

Chapter 5 of title 11, United States Code, is amended by adding at the end the following:

''§ 511. Rate of interest on tax claims

''Notwithstanding any provision of this title that requires the payment of interest on a claim, if interest is required to be paid on a tax claim, the rate of interest shall be as follows:

''(1) In the case of ad valorem tax claims, whether secured or unsecured, other unsecured tax claims where interest is required to be paid under section 726(a)(5) of this title and secured tax claims the rate shall be determined under applicable nonbankruptcy law.

''(2) In the case of unsecured claims for taxes arising before the date of the order for relief and paid under a plan of reorganization, the minimum rate of interest to be applied during the period after the filing of the petition shall be the Federal short-term rate rounded to the nearest full percent, determined under section 1274(d) of the Internal Revenue Code of 1986, for the calendar month in which the plan is confirmed, plus 3 percentage points.''.

SEC. 506. TOLLING OF PRIORITY OF TAX CLAIM TIME PERIODS.

Section 507(a)(9)(A) of title 11, United States Code, as so redesignated, is amended—

(1) in clause (i) by inserting after ''petition'' and before the semicolon '', plus any time, plus 6 months, during which the stay of proceedings was in effect in a prior case under this title''; and

(2) amend clause (ii) to read as follows:

''(ii) assessed within 240 days before the date of the filing of the petition, exclusive of—

''(I) any time plus 30 days during which an offer in compromise with respect of such tax, was pending or in effect during such 240-day period;

''(II) any time plus 30 days during which an installment agreement with respect of such tax was pending or in effect during such 240-day period, up to 1 year; and

''(III) any time plus 6 months during which a stay of proceedings against collections was in effect in a prior case under this title during such 240-day period.''.

SEC. 507. ASSESSMENT DEFINED.

(a) ASSESSMENT DEFINED FOR PRIORITY PURPOSES.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (2) the following:

''(3) 'assessment'—

''(A) for purposes of State and local taxes, means that point in time when all actions required have been taken so that thereafter a taxing authority may commence an action to collect the tax, and

''(B) for Federal tax purposes has the meaning given such term in the Internal Revenue Code of 1986;

and 'assessed' and 'assessable' shall be interpreted in light of the definition of assessment in this paragraph;''.

(b) ASSESSMENT DEFINED FOR THE STAY OF PROCEEDINGS.—Section 362(b)(9)(D) of title 11, United States Code, is amended by inserting after ''the making of an assessment'' the following: ''as defined by applicable nonbankruptcy law notwithstanding the definition of an 'assessment' elsewhere in this title''.

SEC. 508. CHAPTER 13 DISCHARGE OF FRAUDULENT AND OTHER TAXES.

Section 1328(a)(2) of title 11, United States Code, is amended by inserting ''(1) to the extent that the debtor made a fraudulent return or fraudulently attempted in any manner to evade such taxes,'' after ''paragraph''.

SEC. 509. CHAPTER 11 DISCHARGE OF FRAUDULENT TAXES.

Section 1141(d) of title 11, United States Code, as amended by section 119A, is amended by adding at the end the following:

''(6) Notwithstanding the provisions of paragraph (1), the confirmation of a plan does not discharge a debtor which is a corporation from any debt for a tax or customs duty with respect to which the debtor made a fraudulent return or willfully attempted in any manner to evade or defeat such tax.''.

SEC. 510. THE STAY OF TAX PROCEEDINGS.

(a) THE SECTION 362 STAY LIMITED TO PREPETITION TAXES.—Section 362(a)(8) of title 11, United States Code, is amended by striking the period at the end and inserting '', in respect of a tax liability for a taxable period ending before the order for relief.''.

(b) THE APPEAL OF TAX COURT DECISIONS PERMITTED.—Section 362(b)(9) of title 11, United States Code, is amended—

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

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

(3) by adding at the end the following:

''(E) the appeal of a decision by a court or administrative tribunal which determines a tax liability of the debtor without regard to whether such determination was made prepetition or postpetition.''.

SEC. 511. 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; and

(2) in subparagraph (C)—

(A) by striking ''deferred cash payments, over a period not exceeding six years after the date of assessment of such claim,'' and inserting ''regular installment payments in cash, but in no case with a balloon provision, and no more than three months apart, beginning no later than the effective date of the plan and ending on the earlier of five years

after the petition date or the last date payments are to be made under the plan to unsecured creditors,'';

(B) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(D) with respect to a secured claim which would be described in section 507(a)(8) of this title but for its secured status, the holder of such claim will receive on account of such claim cash payments of not less than is required in subparagraph (C) and over a period no greater than is required in such subparagraph.''.

SEC. 512. THE 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 where such purchaser is a purchaser described in section 6323 of the Internal Revenue Code of 1986 or similar provision of State or local law;''.

SEC. 513. 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) Such taxes shall be paid when due in the conduct of such business unless—

''(1) the tax is a property tax secured by a lien against property that is abandoned within a reasonable time after the lien attaches, by the trustee of a bankruptcy estate, pursuant to 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, the court has made 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 such tax.''.

(b) PAYMENT OF AD VALOREM TAXES REQUIRED.—Section 503(b)(1)(B) of title 11, United States Code, is amended in clause (i) by inserting after ''estate,'' and before ''except'' the following: ''whether secured or unsecured, including property taxes for which liability is in rem only, in personam or both,''.

(c) REQUEST FOR PAYMENT OF ADMINISTRATIVE EXPENSE TAXES ELIMINATED.—Section 503(b)(1) of title 11, United States Code, is amended by adding at the end the following:

''(D) notwithstanding the requirements of subsection (a) of this section, a governmental unit shall not be required to file a request for the payment of a claim described in subparagraph (B) or (C);''.

(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 in respect of the property'' before the period at the end.

SEC. 514. 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 ''on or before the earlier of 10 days after the mailing to creditors of the summary of the trustee's final report or the date on which the trustee commences final distribution under this section''.

SEC. 515. INCOME TAX RETURNS PREPARED BY TAX AUTHORITIES.

Section 523(a)(1)(B) of title 11, United States Code, is amended—

(1) by inserting ''or equivalent report or notice,'' after ''a return,'';

(2) in clause (i)—

(A) by inserting ''or given'' after ''filed''; and

(B) by striking ''or'' at the end;

(3) in clause (ii)—

(A) by inserting ''or given'' after ''filed'';

(B) by inserting '', report, or notice'' after ''return''; and

(4) by adding at the end the following:

''(iii) for purposes of this subsection, a return—

''(I) must satisfy the requirements of applicable nonbankruptcy law, and 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 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 similar State or local law, and

''(II) must have been filed in a manner permitted by applicable nonbankruptcy law; or''.

SEC. 516. THE DISCHARGE OF THE ESTATE'S LIABILITY FOR UNPAID TAXES.

Section 505(b) of title 11, United States Code, is amended in the second sentence by inserting ''the estate,'' after ''misrepresentation,''.

SEC. 517. 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 146, 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 adding at the end the following:

''(8) if the debtor has filed all Federal, State, and local tax returns as required by section 1308 of this title.''.

(b) ADDITIONAL TIME PERMITTED FOR FILING TAX RETURNS.—(1) Chapter 13 of title 11, United States Code, is amended by adding at the end the following:

''§ 1308. Filing of prepetition tax returns

''(a) On or before the day prior to the day on which the first meeting of the creditors is convened under section 341(a) of this title, the debtor shall have filed with appropriate tax authorities all tax returns for all taxable periods ending in the 6-year period ending on the date of filing of the petition which the debtor had been required to file under applicable nonbankruptcy law.

''(b) If the tax returns required by subsection (a) have not been filed by the date on which the first meeting of creditors is convened under section 341(a) of this title, the trustee may continue such meeting for a reasonable period of time, to allow the debtor additional time to file any unfiled returns, but such additional time shall be no more than—

''(1) for returns that are past due as of the date of the filing of the petition, 120 days from such date,

''(2) for returns which are not past due as of the date of the filing of the petition, the later of 120 days from such date or the due date for such returns under the last automatic extension of time for filing such returns to which the debtor is entitled, and for which request has been timely made, according to applicable nonbankruptcy law, and

''(3) upon notice and hearing, and order entered before the lapse of any deadline fixed according to this subsection, where the debtor demonstrates, by clear and convincing evidence, that the failure to file the returns as required is because of circumstances beyond the control of the debtor, the court may extend the deadlines set by the trustee as provided in this subsection for—

''(A) a period of no more than 30 days for returns described in paragraph (1) of this subsection, and

''(B) for no more than the period of time ending on the applicable extended due date for the returns described in paragraph (2).

''(c) For purposes of this section only, a return includes a return prepared pursuant to section 6020 (a) or (b) of the Internal Revenue Code of 1986 or similar State or local law, or a written stipulation to a judgment entered by a nonbankruptcy tribunal.''.

(2) The table of sections of chapter 13 of title 11, United States Code, is amended by inserting after the item relating to section 1307 the following:

''1308. Filing of prepetition tax returns.''.

(c) DISMISSAL OR CONVERSION ON FAILURE TO COMPLY.—Section 1307 of title 11, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and

(2) by inserting after subsection (d) the following:

''(e) Upon the failure of the debtor to file tax returns under section 1308 of this title, 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 interests of creditors and the estate.''.

(d) TIMELY FILED CLAIMS.—Section 502(b)(9) of title 11, United States Code, is amended by striking the period at the end and inserting '', and except that in a case under chapter 13 of this title, a claim of a governmental unit for a tax in respect of a return filed under section 1308 of this title shall be timely if it is filed on or before 60 days after such return or returns were 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, within a reasonable period of time after the date of the 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, a governmental unit may object to the confirmation of a plan on or before 60 days after 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 in respect of a return required to be filed under such section 1308 shall be filed until such return has been filed as required.

SEC. 518. STANDARDS FOR TAX DISCLOSURE.

Section 1125(a) of title 11, United States Code, is amended in paragraph (1)—

(1) by inserting after ''records,'' the following: ''including a full discussion of the potential material Federal, State, and local tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor domiciled in the State in which the debtor resides or has its principal place of business typical of the holders of claims or interests in the case,'',

(2) by inserting ''such'' after ''enable'', and

(3) by striking ''reasonable'' where it appears after ''hypothetical'' and by striking ''typical of holders of claims or interests'' after ''investor''.

SEC. 519. SETOFF OF TAX REFUNDS.

Section 362(b) of title 11, United States Code, as amended by sections 130, 146, and 150 is amended—

(1) in paragraph (17) by striking ''or'',

(2) in paragraph (18) by striking the period at the end and inserting ''; or'', and

(3) by inserting after paragraph (18) the following:

''(19) under subsection (a) of the setoff of an income tax refund, by a governmental unit, in respect of a taxable period which ended before the order for relief against an income tax liability for a taxable period which also ended before the order for relief, unless prior to such setoff the debt is listed by the debtor as disputed, contingent, or unliquidated.''.

TITLE VI—ANCILLARY AND OTHER CROSS-BORDER CASES

SEC. 601. AMENDMENT TO ADD A CHAPTER 6 TO TITLE 11, UNITED STATES CODE.

(a) IN GENERAL.—Title 11, United States Code, is amended by inserting after chapter 5 the following:

''CHAPTER 6—ANCILLARY AND OTHER CROSS-BORDER CASES

''Sec.
''601. Purpose and scope of application.
''SUBCHAPTER I—GENERAL PROVISIONS
''602. Definitions.
''603. International obligations of the United States.
''604. Commencement of ancillary case.
''605. Authorization to act in a foreign country.
''606. Public policy exception.
''607. Additional assistance.
''608. Interpretation.
''SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT
''609. Right of direct access.
''610. Limited jurisdiction.
''611. Commencement of bankruptcy case under section 301 or 303.
''612. Participation of a foreign representative in a case under this title.
''613. Access of foreign creditors to a case under this title.
''614. Notification to foreign creditors concerning a case under this title.
''SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF
''615. Application for recognition of a foreign proceeding.
''616. Presumptions concerning recognition.
''617. Order recognizing a foreign proceeding.
''618. Subsequent information.
''619. Relief that may be granted upon petition for recognition of a foreign proceeding.
''620. Effects of recognition of a foreign main proceeding.
''621. Relief that may be granted upon recognition of a foreign proceeding.
''622. Protection of creditors and other interested persons.
''623. Actions to avoid acts detrimental to creditors.
''624. Intervention by a foreign representative.
''SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES
''625. Cooperation and direct communication between the court and foreign courts or foreign representatives.
''626. Cooperation and direct communication between the trustee and foreign courts or foreign representatives.
''627. Forms of cooperation.
''SUBCHAPTER V—CONCURRENT PROCEEDINGS
''628. Commencement of a case under this title after recognition of a foreign main proceeding.
''629. Coordination of a case under this title and a foreign proceeding.
''630. Coordination of more than 1 foreign proceeding.
''631. Presumption of insolvency based on recognition of a foreign main proceeding.
''632. Rule of payment in concurrent proceedings.

''§ 601. Purpose and scope of application

''(a) The purpose of this chapter is to incorporate the Model Law on Cross-Border Insolvency so as to provide effective mechanisms for dealing with cases of cross-border insolvency with the objectives of—

''(1) cooperation between—

''(A) United States courts, United States Trustees, trustees, examiners, debtors, and debtors in possession; and

''(B) the courts and other competent authorities of foreign countries involved in cross-border insolvency cases;

''(2) greater legal certainty for trade and investment;

''(3) fair and efficient administration of cross-border insolvencies that protects the interests of all creditors, and other interested entities, including the debtor;

''(4) protection and maximization of the value of the debtor's assets; and

''(5) facilitation of the rescue of financially troubled businesses, thereby protecting investment and preserving employment.

''(b) This chapter applies where—

''(1) assistance is sought in the United States by a foreign court or a foreign representative in connection with a foreign proceeding;

''(2) assistance is sought in a foreign country in connection with a case under this title;

''(3) a foreign proceeding and a case under this title with respect to the same debtor are taking place concurrently; or

''(4) creditors or other interested persons in a foreign country have an interest in requesting the commencement of, or participating in, a case or proceeding under this title.

''(c) This chapter does not apply to—

''(1) a proceeding concerning an entity identified by exclusion in subsection 109(b); or

''(2) an individual, or to an individual and such individual's spouse, who have debts within the limits specified in under section 109(e) and who are citizens of the United States or aliens lawfully admitted for permanent residence in the United States.

''SUBCHAPTER I—GENERAL PROVISIONS

''§ 602. Definitions

''For the purposes of this chapter, the term—

''(1) 'debtor' means an entity that is the subject of a foreign proceeding;

''(2) 'establishment' means any place of operations where the debtor carries out a nontransitory economic activity;

''(3) 'foreign court' means a judicial or other authority competent to control or supervise a foreign proceeding;

''(4) 'foreign main proceeding' means a foreign proceeding taking place in the country where the debtor has the center of its main interests;

''(5) 'foreign nonmain proceeding' means a foreign proceeding, other than a foreign main proceeding, taking place in a country where the debtor has an establishment;

''(6) 'trustee' includes a trustee, a debtor in possession in a case under any chapter of this title, or a debtor under chapters 9 or 13 of this title; and

''(7) 'within the territorial jurisdiction of the United States' when used with reference to property of a debtor refers to tangible property located within the territory of the United States and intangible property deemed under applicable nonbankruptcy law to be located within that territory, including any property subject to attachment or garnishment that may properly be seized or garnished by an action in a Federal or State court in the United States.

''§ 603. International obligations of the United States

''To the extent that this chapter conflicts with an obligation of the United States arising out of any treaty or other form of agreement to which it is a party with 1 or more other countries, the requirements of the treaty or agreement prevail.

''§ 604. Commencement of ancillary case

''A case under this chapter is commenced by the filing of a petition for recognition of a foreign proceeding under section 615.

''§ 605. Authorization to act in a foreign country

''A trustee or another entity (including an examiner) authorized by the court may be authorized by the court to act in a foreign country on behalf of an estate created under section 541. An entity authorized to act under this section may act in any way permitted by the applicable foreign law.

''§ 606. Public policy exception

''Nothing in this chapter prevents the court from refusing to take an action governed by this chapter if the action would be manifestly contrary to the public policy of the United States.

''§ 607. Additional assistance

''(a) Nothing in this chapter limits the power of the court, upon recognition of a foreign proceeding, to provide additional assistance to a foreign representative under this title or under other laws of the United States.

''(b) In determining whether to provide additional assistance under this title or under other laws of the United States, the court shall consider whether such additional assistance, consistent with the principles of comity, will reasonably assure—

''(1) just treatment of all holders of claims against or interests in the debtor's property;

''(2) protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in such foreign proceeding;

''(3) prevention of preferential or fraudulent dispositions of property of the debtor;

''(4) distribution of proceeds of the debtor's property substantially in accordance with the order prescribed by this title; and

''(5) if appropriate, the provision of an opportunity for a fresh start for the individual that such foreign proceeding concerns.

''§ 608. Interpretation

''In interpreting this chapter, the court shall consider its international origin, and the need to promote an application of this chapter that is consistent with the application of similar statutes adopted by foreign jurisdictions.

''SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

''§ 609. Right of direct access

''(a) A foreign representative is entitled to commence a case under section 604 by filing a petition for recognition under section 615, and upon recognition, to apply directly to other Federal and State courts for appropriate relief in those courts.

''(b) Upon recognition, and subject to section 610, a foreign representative has the capacity to sue and be sued, and shall be subject to the laws of the United States of general applicability.

''(c) Recognition under this chapter is prerequisite to the granting of comity or cooperation to a foreign proceeding in any State or Federal court in the United States. Any request for comity or cooperation in any court shall be accompanied by a sworn statement setting forth whether recognition under section 615 has been sought and the status of any such petition.

''(d) Upon denial of recognition under this chapter, the court may issue appropriate orders necessary to prevent an attempt to obtain comity or cooperation from courts in the United States without such recognition.

''§ 610. Limited jurisdiction

''The sole fact that a foreign representative files a petition under sections 615 does not subject the foreign representative to the jurisdiction of any court in the United States for any other purpose.

''§ 611. Commencement of case under section 301 or 303

''(a) Upon filing a petition for recognition, a foreign representative may commence—

''(1) an involuntary case under section 303; or

''(2) a voluntary case under section 301 or 302, if the foreign proceeding is a foreign main proceeding.

''(b) The petition commencing a case under subsection (a) of this section must be accompanied by a statement describing the petition for recognition and its current status. The court where the petition for recognition has been filed must be advised of the foreign representative's intent to commence a case under subsection (a) of this section prior to such commencement.

''(c) A case under subsection (a) shall be dismissed unless recognition is granted.

''§ 612. Participation of a foreign representative in a case under this title

''Upon recognition of a foreign proceeding, the foreign representative in that proceeding is entitled to participate as a party in interest in a case regarding the debtor under this title.

''§ 613. Access of foreign creditors to a case under this title

''(a) Foreign creditors have the same rights regarding the commencement of, and participation in, a case under this title as domestic creditors.

''(b)(1) Subsection (a) of this section does not change or codify present law as to the priority of claims under section 507 or 726 of this title, except that the claim of a foreign creditor under those sections shall not be given a lower priority than that of general unsecured claims without priority solely because the holder of such claim is a foreign creditor.

''(2)(A) Subsection (a) of this section and paragraph (1) of this subsection do not change or codify present law as to the allowability of foreign revenue claims or other foreign public law claims in a proceeding under this title.

''(B) Allowance and priority as to a foreign tax claim or other foreign public law claim shall be governed by any applicable tax treaty of the United States, under the conditions and circumstances specified therein.

''§ 614. Notification to foreign creditors concerning a case under this title

''(a) Whenever in a case under this title notice is to be given to creditors generally or to any class or category of creditors, such notice shall also be given to the known creditors generally, or to creditors in the notified class or category, that do not have addresses in the United States. The court may order that appropriate steps be taken with a view to notifying any creditor whose address is not yet known.

''(b) Such notification to creditors with foreign addresses described in subsection (a) shall be given individually, unless the court considers that, under the circumstances, some other form of notification would be more appropriate. No letters rogatory or other similar formality is required.

''(c) When a notification of commencement of a case is to be given to foreign creditors, the notification shall—

''(1) indicate the time period for filing proofs of claim and specify the place for their filing;

''(2) indicate whether secured creditors need to file their proofs of claim; and

''(3) contain any other information required to be included in such a notification to creditors pursuant to this title and the orders of the court.

''(d) Any rule of procedure or order of the court as to notice or the filing of a claim shall provide such additional time to creditors with foreign addresses as is reasonable under the circumstances.

''SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

''§ 615. Application for recognition of a foreign proceeding

''(a) A foreign representative applies to the court for recognition of the foreign proceeding in which the foreign representative has been appointed by filing a petition for recognition.

''(b) A petition for recognition shall be accompanied by—

''(1) a certified copy of the decision commencing the foreign proceeding and appointing the foreign representative;

''(2) a certificate from the foreign court affirming the existence of the foreign proceeding and of the appointment of the foreign representative; or

''(3) in the absence of evidence referred to in paragraphs (1) and (2), any other evidence acceptable to the court of the existence of the foreign proceeding and of the appointment of the foreign representative.

''(c) A petition for recognition shall also be accompanied by a statement identifying all foreign proceedings with respect to the debtor that are known to the foreign representative.

''(d) The documents referred to in paragraphs (1) and (2) of subsection (b) must be translated into English. The court may require a translation into English of additional documents.

''§ 616. Presumptions concerning recognition

''(a) If the decision or certificate referred to in section 615(b) indicates that the foreign proceeding is a foreign proceeding within the meaning of section 101(23) and that the person or body is a foreign representative within the meaning of section 101(24), the court is entitled to so presume.

''(b) The court is entitled to presume that documents submitted in support of the petition for recognition are authentic, whether or not they have been legalized.

''(c) In the absence of evidence to the contrary, the debtor's registered office, or habitual residence in the case of an individual, is presumed to be the center of the debtor's main interests.

''§ 617. Order recognizing a foreign proceeding

''(a) Subject to section 606, an order recognizing a foreign proceeding shall be entered if—

''(1) the foreign proceeding is a foreign main proceeding or foreign nonmain proceeding within the meaning of section 602;

''(2) the foreign representative applying for recognition is a person or body within the meaning of section 101(24); and

''(3) the petition meets the requirements of section 615.

''(b) The foreign proceeding shall be recognized—

''(1) as a foreign main proceeding if it is taking place in the country where the debtor has the center of its main interests; or

''(2) as a foreign nonmain proceeding if the debtor has an establishment within the meaning of section 602 in the foreign country where the proceeding is pending.

''(c) A petition for recognition of a foreign proceeding shall be decided upon at the earliest possible time. Entry of an order recognizing a foreign proceeding shall constitute recognition under this chapter.

''(d) The provisions of this subchapter do not prevent modification or termination of recognition if it is shown that the grounds for granting it were fully or partially lacking or have ceased to exist, but in considering such action the court shall give due weight to possible prejudice to parties that have relied upon the granting of recognition. The case under this chapter may be closed in the manner prescribed for a case under section 350.

''§ 618. Subsequent information

''From the time of filing the petition for recognition of the foreign proceeding, the foreign representative shall file with the court promptly a notice of change of status concerning—

''(1) any substantial change in the status of the foreign proceeding or the status of the foreign representative's appointment; and

''(2) any other foreign proceeding regarding the debtor that becomes known to the foreign representative.

''§ 619. Relief that may be granted upon petition for recognition of a foreign proceeding

''(a) From the time of filing a petition for recognition until the petition is decided upon, the court may, at the request of the foreign representative, where relief is urgently needed to protect the assets of the debtor or the interests of the creditors, grant relief of a provisional nature, including—

''(1) staying execution against the debtor's assets;

''(2) entrusting the administration or realization of all or part of the debtor's assets located in the United States to the foreign representative or another person authorized by the court, including an examiner, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to devaluation or otherwise in jeopardy; and

''(3) any relief referred to in paragraph (3), (4), or (7) of section 621(a).

''(b) Unless extended under section 621(a)(6), the relief granted under this section terminates when the petition for recognition is decided upon.

''(c) It is a ground for denial of relief under this section that such relief would interfere with the administration of a foreign main proceeding.

''(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

''(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under this section.

''§ 620. Effects of recognition of a foreign main proceeding

''(a) Upon recognition of a foreign proceeding that is a foreign main proceeding—

''(1) section 362 applies with respect to the debtor and that property of the debtor that is within the territorial jurisdiction of the United States; and

''(2) transfer, encumbrance, or any other disposition of an interest of the debtor in property within the territorial jurisdiction of the United States is restrained as and to the extent that is provided for property of an estate under sections 363, 549, and 552.

Unless the court orders otherwise, the foreign representative may operate the debtor's business and may exercise the powers of a trustee under section 549, subject to sections 363 and 552.

''(b) The scope, and the modification or termination, of the stay and restraints referred to in subsection (a) of this section are subject to the exceptions and limitations provided in subsections (b), (c), and (d) of section 362, subsections (b) and (c) of section 363, and sections 552, 555 through 557, 559, and 560.

''(c) Subsection (a) of this section does not affect the right to commence individual actions or proceedings in a foreign country to the extent necessary to preserve a claim against the debtor.

''(d) Subsection (a) of this section does not affect the right of a foreign representative or an entity to file a petition commencing a case under this title or the right of any party to file claims or take other proper actions in such a case.

''§ 621. Relief that may be granted upon recognition of a foreign proceeding

''(a) Upon recognition of a foreign proceeding, whether main or nonmain, where necessary to effectuate the purpose of this chapter and to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including—

''(1) staying the commencement or continuation of individual actions or individual proceedings concerning the debtor's assets, rights, obligations or liabilities to the extent they have not been stayed under section 620(a);

''(2) staying execution against the debtor's assets to the extent it has not been stayed under section 620(a);

''(3) suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor to the extent this right has not been suspended under section 620(a);

''(4) providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor's assets, affairs, rights, obligations or liabilities;

''(5) entrusting the administration or realization of all or part of the debtor's assets within the territorial jurisdiction of the United States to the foreign representative or another person, including an examiner, authorized by the court;

''(6) extending relief granted under section 619(a); and

''(7) granting any additional relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 548, 550, and 724(a).

''(b) Upon recognition of a foreign proceeding, whether main or nonmain, the court may, at the request of the foreign representative, entrust the distribution of all or part of the debtor's assets located in the United States to the foreign representative or another person, including an examiner, authorized by the court, provided that the court is satisfied that the interests of creditors in the United States are sufficiently protected.

''(c) In granting relief under this section to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

''(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

''(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under paragraphs (1), (2), (3), and (6) of subsection (a).

''§ 622. Protection of creditors and other interested persons

''(a) In granting or denying relief under section 619 or 621, or in modifying or terminating relief under subsection (c) of this section, the court must find that the interests of the creditors and other interested persons or entities, including the debtor, are sufficiently protected.

''(b) The court may subject relief granted under section 619 or 621 to conditions it considers appropriate.

''(c) The court may, at the request of the foreign representative or an entity affected by relief granted under section 619 or 621, or at its own motion, modify or terminate such relief.

''§ 623. Actions to avoid acts detrimental to creditors

''(a) Upon recognition of a foreign proceeding, the foreign representative has standing in a pending case under another chapter of this title to initiate actions under sections 522, 544, 545, 547, 548, 550, and 724(a).

''(b) When the foreign proceeding is a foreign nonmain proceeding, the court must be satisfied that an action under subsection (a) of this section relates to assets that, under United States law, should be administered in the foreign nonmain proceeding.

''§ 624. Intervention by a foreign representative

''Upon recognition of a foreign proceeding, the foreign representative may intervene in any proceedings in a State or Federal court in the United States in which the debtor is a party.

''SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

''§ 625. Cooperation and direct communication between the court and foreign courts or foreign representatives

''(a) In all matters included within section 601, the court shall cooperate to the maximum extent possible with foreign courts or foreign representatives, either directly or through the trustee.

''(b) The court is entitled to communicate directly with, or to request information or assistance directly from, foreign courts or foreign representatives, subject to the rights of parties in interest to notice and participation.

''§ 626. Cooperation and direct communication between the trustee and foreign courts or foreign representatives

''(a) In all matters included in section 601, the trustee or other person, including an examiner, authorized by the court, shall, subject to the supervision of the court, cooperate to the maximum extent possible with foreign courts or foreign representatives.

''(b) The trustee or other person, including an examiner, designated by the court is entitled, subject to the supervision of the court, to communicate directly with foreign courts or foreign representatives.

''(c) Section 1104(d) shall apply to the appointment of an examiner under this chapter. Any examiner shall comply with the qualification requirements imposed on a trustee by section 322.

''§ 627. Forms of cooperation

''Cooperation referred to in sections 625 and 626 may be implemented by any appropriate means, including—

''(1) appointment of a person or body, including an examiner, to act at the direction of the court;

''(2) communication of information by any means considered appropriate by the court;

''(3) coordination of the administration and supervision of the debtor's assets and affairs;

''(4) approval or implementation of agreements concerning the coordination of proceedings; and

''(5) coordination of concurrent proceedings regarding the same debtor.

''SUBCHAPTER V—CONCURRENT PROCEEDINGS

''§ 628. Commencement of a case under this title after recognition of a foreign main proceeding

''After recognition of a foreign main proceeding, a case under another chapter of this title may be commenced only if the debtor has assets in the United States. The effects of that case shall be restricted to the assets of the debtor that are within the territorial jurisdiction of the United States and, to the extent necessary to implement cooperation and coordination under sections 625, 626, and 627, to other assets of the debtor that are within the jurisdiction of the court under sections 541(a) of this title, and 1334(e) of title 28, to the extent that such other assets are not subject to the jurisdiction and control of a foreign proceeding that has been recognized under this chapter.

''§ 629. Coordination of a case under this title and a foreign proceeding

''Where a foreign proceeding and a case under another chapter of this title are taking place concurrently regarding the same debtor, the court shall seek cooperation and coordination under sections 625, 626, and 627, and the following shall apply:

''(1) When the case in the United States is taking place at the time the petition for recognition of the foreign proceeding is filed—

''(A) any relief granted under sections 619 or 621 must be consistent with the case in the United States; and

''(B) even if the foreign proceeding is recognized as a foreign main proceeding, section 620 does not apply.

''(2) When a case in the United States under this title commences after recognition, or after the filing of the petition for recognition, of the foreign proceeding—

''(A) any relief in effect under sections 619 or 621 shall be reviewed by the court and shall be modified or terminated if inconsistent with the case in the United States; and

''(B) if the foreign proceeding is a foreign main proceeding, the stay and suspension referred to in section 620(a) shall be modified or terminated if inconsistent with the case in the United States.

''(3) In granting, extending, or modifying relief granted to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

''(4) In achieving cooperation and coordination under sections 628 and 629, the court may grant any of the relief authorized under section 305.

''§ 630. Coordination of more than 1 foreign proceeding

''In matters referred to in section 601, with respect to more than 1 foreign proceeding regarding the debtor, the court shall seek cooperation and coordination under sections 625, 626, and 627, and the following shall apply:

''(1) Any relief granted under section 619 or 621 to a representative of a foreign nonmain proceeding after recognition of a foreign main proceeding must be consistent with the foreign main proceeding.

''(2) If a foreign main proceeding is recognized after recognition, or after the filing of

a petition for recognition, of a foreign nonmain proceeding, any relief in effect under section 619 or 621 shall be reviewed by the court and shall be modified or terminated if inconsistent with the foreign main proceeding.

''(3) If, after recognition of a foreign nonmain proceeding, another foreign nonmain proceeding is recognized, the court shall grant, modify, or terminate relief for the purpose of facilitating coordination of the proceedings.

''§ 631. Presumption of insolvency based on recognition of a foreign main proceeding

''In the absence of evidence to the contrary, recognition of a foreign main proceeding is for the purpose of commencing a proceeding under section 303, proof that the debtor is generally not paying its debts.

''§ 632. Rule of payment in concurrent proceedings

''Without prejudice to secured claims or rights in rem, a creditor who has received payment with respect to its claim in a foreign proceeding pursuant to a law relating to insolvency may not receive a payment for the same claim in a case under any other chapter of this title regarding the debtor, so long as the payment to other creditors of the same class is proportionately less than the payment the creditor has already received.''.

(b) CLERICAL AMENDMENT.—The table of chapters for title 11, United States Code, is amended by inserting after the item relating to chapter 5 the following:

''6. Ancillary and Other Cross-Border Cases ..... 601''.

SEC. 602. AMENDMENTS TO OTHER CHAPTERS IN TITLE 11, UNITED STATES CODE.

(a) APPLICABILITY OF CHAPTERS.—Section 103 of title 11, United States Code, is amended—

(1) in subsection (a), by inserting before the period the following: ''and this chapter, sections 307, 555 through 557, 559, and 560 apply in a case under chapter 6''; and

(2) by adding at the end the following:

''(j) Chapter 6 applies only in a case under that chapter, except that section 605 applies to trustees and to any other entity authorized by the court, including an examiner, under chapters 7, 11, and 12, to debtors in possession under chapters 11 and 12, and to debtors or trustees under chapters 9 and 13 who are authorized to act under section 605.''.

(b) DEFINITIONS.—Section 101 of title 11, United States Code, is amended by striking paragraphs (23) and (24) and inserting the following:

''(23) 'foreign proceeding' means a collective judicial or administrative proceeding in a foreign state, including an interim proceeding, pursuant to a law relating to insolvency in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation;

''(24) 'foreign representative' means a person or body, including a person or body appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor's assets or affairs or to act as a representative of the foreign proceeding;''.

(c) AMENDMENTS TO TITLE 28, UNITED STATES CODE.—

(1) PROCEDURES.—Section 157(b)(2) of title 28, United States Code, is amended—

(A) in subparagraph (N), by striking ''and'' at the end;

(B) in subparagraph (O), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(P) recognition of foreign proceedings and other matters under chapter 6 of title 11.''.

(2) BANKRUPTCY CASES AND PROCEEDINGS.—Section 1334(c)(1) of title 28, United States Code, is amended by striking ''Nothing in'' and inserting ''Except with respect to a case under chapter 6 of title 11, nothing in''.

(3) DUTIES OF TRUSTEES.—Section 586(a)(3) of title 28, United States Code, is amended by inserting ''6,'' after ''chapter''.

TITLE VII—MISCELLANEOUS

SEC. 701. TECHNICAL AMENDMENTS.

Title 11 of the United States Code is amended—

(1) in section 109(b)(2) by striking ''subsection (c) or (d) of'';

(2) in section 541(b)(4) by adding ''or'' at the end; and

(3) in section 552(b)(1) by striking ''product'' each place it appears and inserting ''products''.

SEC. 702. APPLICATION OF AMENDMENTS.

The amendments made by this Act shall apply only with respect to cases commenced under title 11 of the United States Code after the date of the enactment of this Act.

The CHAIRMAN pro tempore. Pursuant to House Resolution 462, the gentleman from New York (Mr. NADLER) and a Member opposed each will control 30 minutes.

The Chair recognizes the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Chairman, I yield myself such time as I may consume.

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

Mr. NADLER. Mr. Chairman, I rise in support of the Democratic substitute. Unlike the bill before us, H.R. 3150, this bill represents a balanced and reasoned response to the problems of bankruptcy abuse by debtors as well as by creditors.

What does this substitute do? First, the substitute strikes the bureaucratic inflexible means testing provisions of the bill and provides, instead, for a strengthened dismissal procedure based on the debtor's actual income and expenses.

Under the substitute, trustees as well as the courts and the United States trustees could seek dismissal of a bankruptcy case involving families with incomes over $60,000. This deals with the problems of bankruptcy abuse in a reasonable manner while taking in account such important items as child care payments, health care costs, the cost of taking care of ill parents and educational expenses.

□ 1700

I might add, Mr. Chairman, it changes in two fundamental ways the means testing provisions of the bill before us.

First, it has a human being in it. I believe in human beings. We believe in human beings on this side of the aisle. It has a judge. If someone thinks that this person can pay, has the ability to pay his debts and ought not to be allowed to have a discharge under Chapter 7, fine, convince the judge. This provides pretty strong procedures of what you have to prove to get into Chapter 7 to get your discharge, but there is a judge to judge it. It is not an automatic filing that goes into a computer, as it is in the bill.

Second, it makes the commonsense observation that if the question is, can this debtor afford to repay his debts, as opposed to getting a discharge, it has practical, specific questions: What is his income? What is his assets? What are his expenses? How much rent does he pay? How much child support obligation does he owe per month?

Not, as in the bill before us, what is the average rent that the Internal Revenue Service thinks someone ought to pay in the northeast or southwest United States; not what does the average person, according to the IRS, what they think the average person might be paying for child support. Who cares? The question is this person in front of us, how much can he afford to pay, what are his real expenses, how much is left over for debt service. This applies that kind of a traditional test, instead of a fictitious test dealing with a fictitious average person who does not exist.

Third, the substitute eliminates provisions making significant amounts of credit card debt nondischargeable in bankruptcy, pitting these aggressive and sophisticated creditors in direct competition with child support, alimony, spouse support, and victim support.

After first denying that a problem ever existed, the majority has come up with a series of toothless and meaningless fixes. The substitute responds to the real problem by protecting against giving increased money to credit card companies at the expense of alimony and child support.

The substitute also modifies the business provisions of the bill, which impose massive new legal and paperwork burdens on small business and real estate concerns and will cost our economy thousands of jobs.

In a letter opposing H.R. 3150 written today and which I referred to earlier today, the AFL-CIO has stated that H.R. 3150 ''threatens jobs by placing substantial procedural barriers in the way of small business access to the protections of Chapter 11.''

As I also read earlier, the Small Business Administration says the same thing, and the National Bankruptcy Conference says the same thing. This removes that. In addition, the substitute adds a new provision protecting charitable contributions in Chapter 11 and Chapter 12 cases.

The bill in front of us protects tithing only in Chapter 7 and Chapter 13 cases. There is no provision allowing individuals and corporations to utilize Chapter 11 or family farmers to utilize Chapter 12 to continue to make religious and other charitable deductions before and in and after bankruptcy. The substitute is the only proposal which fully protects these charitable contributions. I might add, the halfway drafting of the tithing provisions of the bill in front of us is a symptom of the hasty manner in which this bill was drafted, the sloppy manner in which it was drafted, without proper review.

We were told time and time again by all the organizations that deal with bankruptcy about how hasty this was, how hasty the process, how sloppily drafted. We kept telling the committee leadership, slow down the process, but they did not. The fact that they forgot to put in Chapter 11, the fact that they forgot to put in Chapter 12 in the tithing provisions is just one obvious example of the sloppy drafting of this bill and hasty drafting of this bill.

The substitute also adds a provision specifying that the new post-bankruptcy priorities for alimony and child support apply to benefit creditors who are drunk driving victims and victims of crime or willful or malicious injury, also. The bill in front of us only grants these new post-bankruptcy priorities to alimony and child support creditors, and completely ignores innocent victims of crime and drunk driving who, under the bill, are forced to compete with aggressive credit card companies in the post-discharge situation.

In addition, the substitute goes much further than H.R. 3150 in protecting family farmers, because it strikes language making it far easier for banks to foreclose on family farms. Again, the Democratic substitute is the only amendment which offers the Members a chance to stand squarely behind our farmers at a time when they face massive new challenges.

The substitute retains the vast majority of the other provisions in the majority bill. It offers significant new benefits to banks and other lenders while protecting women and children and protecting jobs.

In a conscientious, intelligent, realistic fashion, it applies a test that makes sense in separating out those people who cannot pay their debts and ought to have a Chapter 7 discharge from those who probably can, the small minority of those who probably can and should be in a Chapter 13 workout situation. But the test is realistic, it is based on facts and on the individual case, not on a theoretical construct of the Internal Revenue Service.

It boggles my mind that the authors of this bill and the supporters of this bill, who stood on this floor day after day after day telling us how insensitive the Internal Revenue Service is to real people, now think the Internal Revenue Service ought to be running the lives of Americans caught up in the bankruptcy courts.

So I urge my colleagues to vote yes for the substitute resolution as a much better substitute to accomplish the professed goal, the claimed goal, of the legislation, without accomplishing the real effect of the bill in front of us, which is simply to give a lot of undeserved money to the credit card companies, instead of to people who need child support, the victims of crimes, and to debtors in serious situations, and to other creditors.

Mr. Chairman, I urge a yes vote on this substitute.

Mr. Chairman, I ask unanimous consent that the gentleman from Massachusetts (Mr. MEEHAN) may control the balance of the time which I have been granted.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. NADLER. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore. Does any Member rise in opposition to the amendment?

Mr. GEKAS. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Pennsylvania (Mr. GEKAS) is recognized for 30 minutes.

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

As I mentioned before, Mr. Chairman, throughout the time that he has served on our subcommittee, the gentleman from Tennessee (Mr. BRYANT) has been a semi and maybe a complete expert on some of the matters that have come before us with respect to bankruptcy, and in particular, with bankruptcy trustees and their work.

That is why it pleases me to see him continue to be energetic in the development of this legislation.

Mr. Chairman, I yield such time as he may consume to the gentleman from Tennessee (Mr. BRYANT).

Mr. BRYANT. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise at this time to engage the gentleman from Pennsylvania (Mr. GEKAS) in a colloquy in regard to an issue that is very important to my State.

Mr. GEKAS. Mr. Chairman, will the gentleman yield?

Mr. BRYANT. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. I will be glad to do so, Mr. Chairman.

Mr. BRYANT. Mr. Chairman, as the gentleman from Pennsylvania knows, I have been contacted by several Tennessee financial institutions which are concerned about the amount of time allowed to record a lien on a vehicle refinance.

Current law allows creditors only 10 days from the loan origination to record a lien. This is difficult, since it requires paying off the lienholder, receiving the title back from the lienholder, and submitting the paperwork to the State for processing.

In Tennessee a lien filed in the proper time normally will result in a lien date corresponding to the loan date. If the State receives the lien application outside the time parameter, then the lien date corresponds to the application received date.

Trustees have become more aggressive in bankruptcy in pursuing assets that are in bankruptcy. If a lien is recorded out of that allowed period, the court will strip the refinancing institution of its lien, take possession of the vehicle, and use the proceeds to satisfy creditors in that bankruptcy. The refinancing institution then becomes an unsecured creditor, and is treated as such.

This is a serious problem, and impacts greatly on the willingness of financial institutions to create a competitive market in the vehicle refinance area. Several of Tennessee's financial institutions have recommended extending the 10-day period to 60 days. I know that the gentleman from Pennsylvania (Mr. GEKAS) has expressed some concern over the length of this proposed time, but has indicated to me that he would be willing to work with me on this issue, as the bill moves to conference with the Senate.

Mr. GEKAS. If the gentleman will continue to yield, Mr. Chairman, the gentleman is exactly correct. After the gentleman brought this matter to the attention of the committee, we decided that we were going to try to work strenuously between now and the time of conference to blend the gentleman's concerns into the consideration of this bill as it reaches that stage. We will do so.

Mr. BRYANT. I thank the distinguished chairman.

Mr. GEKAS. Mr. Chairman, I yield 4 minutes to the gentleman from Indiana (Mr. ROEMER).

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

Mr. ROEMER. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in opposition to the substitute and in support of the bipartisan bill, the underlying bill, put together by the gentleman from Pennsylvania (Mr. GEKAS) and the gentleman from Virginia (Mr. BOUCHER).

Chairman Alan Greenspan testified before Congress today. He said many great things about the state of our economy. He said we have a record stock market, record unemployment, the lowest in 28 years. Things are going extraordinarily well in this country. That is the best of times and the best of news.

However, today we debate a very serious issue that is possibly the worst of times. We have had 1.4 million people in 1997 declare bankruptcy, 1.4 million people. That is more than the combined total populations of the States of North and South Dakota; more than the total combined populations of North and South Dakota, two States out of our 50, equal the number of bankruptcies filed in 1997. That is a serious problem.

So we have the best of times, according to Chairman Greenspan, and the worst of times with the number of bankruptcies. Why? There is no stigma attached to the filing of bankruptcy anymore.

Second, Chapter 7, it is convenient to file in Chapter 7. Chapter 7 should not be as convenient as going into a 7–11. It should be based on need. It should not be based on convenience.

And, Mr. Chairman, we need to strengthen the emphasis that we have

in this bill on child support and alimony. The Boucher amendment that we discussed an hour and a half ago, which was voice voted, that amendment made child support and alimony the very top priority. It leapfrogged over 6 or 7 other issues, over farmer's claims and fishermen's claims.

Now, under that provision and under this bill, then, if passed, child support and alimony becomes the top priority. It also expands the definition of household goods to assure that a parent who declares bankruptcy is not required to give up possessions needed for childrearing and raising their children, two very important provisions that show common sense and compassion in this bill.

We also strengthen consumer protections in current law by cracking down on bankruptcy mills which steer consumers into filing without information on the consequences of bankruptcy. We expand notice requirements on alternatives to bankruptcy, and we mandate participation in credit counseling services.

Mr. Chairman, this is a bill that shows its commitment to personal responsibility, that is fair to the taxpayer, that says that the bankruptcy system that exists today should not cost our small businesses like it does today, should not cost the consumer as it does today, that should not cost the law-abiding taxpaying citizen as it does today.

We are reforming that with common sense, we are reforming that with personal responsibility, and we are reforming that, putting our top priorities on child support and alimony. That is the basis for reform, and that is the basis I hope for a bipartisan support for this bill.

Mr. MEEHAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of the Nadler-Meehan-Berman Democratic substitute, and I do so as a strong supporter of bankruptcy reform and a strong supporter of means testing.

The choice before us today is clear: We can means test in a manner that takes debtors who can truly afford to repay their debts and places them into stable Chapter 13 repayment plans. Or we can means test in a way that affords aggressive creditors the opportunity to inflict protracted, contentious, and expensive litigation upon debtors of all income levels. Unfortunately, H.R. 3150 embodies the latter approach.

□ 1715

According to the nonpartisan Congressional Research Service, ''H.R. 3150 would inject numerous opportunities for adversarial hearings in the course of a consumer bankruptcy . . . it is reasonable to anticipate that in some instances, debtors who cannot afford creditor-initiated adversarial litigation will acquiesce in reaffirmation agreements, unreasonable repayment schedules, or just opt out of the bankruptcy system.''

To make matters worse, H.R. 3150 flat out exempts a large amount of credit card debt from discharge through bankruptcy, even though this credit card debt was not actually incurred by fraud. The net result of these policies is that a substantial amount of credit card debt currently discharged through bankruptcy would now survive bankruptcy.

This means that there would be a significant increase in the number of credit card lenders competing for portions of a debtor's limited postbankruptcy income and assets against women and children owed alimony and support, victims of intentional torts committed by the debtor, and a debtor's student loan creditors.

Mr. Chairman, I have not yet heard even a remotely compelling public policy rationale for making it more difficult than it is already for women and children to collect alimony and support. Instead, a Dear Colleague letter was circulated this week that tells us that the concerns about alimony and support collection are ''rubbish.'' How interesting.

First we hear there is no child support and alimony problem. That is what we were told in committee. Then we hear the Committee on the Judiciary fixed this once nonexistent problem and that the remaining complaints are ''rubbish.'' Now we are told that certain floor amendments fixed the initially nonexistent and supposedly solved problem.

It kind of makes one wonder who is really spewing the ''rubbish.''

The Nadler-Meehan-Berman substitute would address debtor abuses without dramatically reducing the scope of debts covered by bankruptcy. It would means-test without permitting aggressive creditors to file motions against debtors who simply cannot afford to stick up for their bankruptcy rights. And it strikes the new exceptions to discharge for credit card debt that have no legitimate public policy justification and threaten alimony and support collections.

The substitute is the type of reform that the Senate could accept and the President would sign. I urge my colleagues to support the substitute.

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

Mr. GEKAS. Mr. Chairman, I would ask how much time is remaining.

The CHAIRMAN pro tempore (Mr. CALVERT). The gentleman from Pennsylvania (Mr. GEKAS) has 23½ minutes remaining, and the gentleman from Massachusetts (Mr. MEEHAN) has 18½ minutes remaining.

Mr. GEKAS. Mr. Chairman, I yield 3 minutes to the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. GEKAS) for yielding me this time.

Mr. Chairman, I rise in opposition to the Nadler amendment. H.R. 3150, as written, boils down to two words: personal responsibility. If we assume a debt, we should do everything in our power to pay it off. A safety net should remain for those who legitimately cannot pay their debts. Creditors should be made whole if possible.

Some of my colleagues here today are trying to paint the word creditors to mean faceless financial institutions who are tricking consumers into assuming debt. They specifically speak of credit card debt, but they unfortunately fail to note that credit card debt in the United States amounts to only 3.7 percent of all consumer debt.

The people who are truly being hurt by our current bankruptcy system are the Americans who play by the rules and pay their debts. It costs the average American family an average of $400 a year. Why should they have to pay? Needs-based bankruptcy reform is well overdue, and that is what is in H.R. 3150.

Mr. Chairman, the abuses in our bankruptcy system that scream for reform must be stopped. For example, people currently have the ability to move to Florida, buy a house for $10 million dollars, declare bankruptcy, and have all of that house plus additional assets protected. We have the gentleman from Massachusetts to thank for this piece of the reform package for his well thought out amendment to this legislation that passed during committee consideration of this legislation.

It is these people who game the system that we are trying to stop. It is unfortunate that in the last two decades the stigma that used to surround bankruptcy and some people's integrity to honor their debts has eroded in the United States of America. But it largely for that reason that in a good economy, bankruptcy filings have jumped 20 percent in 1997 to an all-time high.

I ask all of my colleagues from both sides of the aisle to join me in opposition to the Nadler amendment and for H.R. 3150, reasonable reform to means-test bankruptcy eligibility.

Mr. MEEHAN. Mr. Chairman, I yield 5 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE) who has been a leader on the committee on this issue in fighting for women and children for child support and alimony.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman from Massachusetts (Mr. MEEHAN) for yielding me this time as well as for his leadership. We, both of us started out on this committee hoping that we could promote and pass on the floor of the House a bipartisan bankruptcy bill.

Mr. Chairman, I am delighted to be a cosponsor of the Democratic substitute which really answers the question: Do we have personal responsibility in this country? And is it just that people are filing bankruptcy recklessly with no regard for the responsibility that is needed?

Why do we not answer the question? Some few years ago those who had a

debt of maybe some 70 percent or less, 87 percent, in fact, of income were filing for bankruptcy. Today in 1997, the people who are filing bankruptcy have over 164 percent of debt. They are holding out every single day in order to make ends meet in order to be personally responsible. And the only time they go down to the bankruptcy court is when they are so desperate to keep their house in order, to keep their children fed, and to keep themselves above water.

Americans are not recklessly and foolishly filing for bankruptcy. Yes, there are a few high-profile filers, and we can solve that problem. The Democratic substitute takes away the means test, but it has strong provisions for bankruptcy judges to weed out the fraudulent persons, to determine whether there has been substantial abuse and tell them, ''Get away from the courthouse door because you do not need to file bankruptcy.''

Mr. Chairman, these are the people that are filing bankruptcy. Who else? Families who have more than four children, making $40,000 a year. Those children will be precluded, or the families will be precluded from filing for bankruptcy because the means test will kick them outside of the courthouse door. If Americans have a family of four making $40,000 a year and for some reason, catastrophic illnesses, something that has happened in the family, the loss of a job, they will be forbidden under H.R. 3150 from ever going to the courthouse.

Who else files bankruptcy? Mr. Chairman, 300,000 of those cases are comprised of men claiming bankruptcy who owe child support and/or alimony, and 50 percent are cases comprised of women forced into bankruptcy after being unable to collect alimony.

Are these deadbeats? These are people trying to make ends meet, and H.R. 3150 does not answer this question. It elevates child support up to a number one priority, but it still makes nondischargeable all of those debts, furniture debts and credit card debts, which call time after time, fighting debtors for their child support because the debtors do not have the wherewithal and the resources to compete with the big banks calling them on their job 12 times a day. Mr. Chairman, they are going to pay the car note and the credit card company, but the child that needs it and the alimony they needs to be paid, that will not be paid.

Mr. Chairman, I can say that the real reason behind H.R. 3150 is all the money that has been put into this whole piece of legislation. If we could simply focus on what America needs, it needs credit card counseling. It needs to stop the 2.4 or 2.5 billion contacts made every year with consumers.

What about this check? ''Charging up credit, Jane Q. Consumer, $2,500.'' We have seen them in the mail. ''Sign here. It does not matter. We will cash your check for you.''

I tell my colleagues that the real people in America who are filing for bankruptcy are people in need. I would like to share some of the letters and concerns that have been expressed to me.

One, someone who has a catastrophic illness and they are trying to pay the bills. They have a family, and they are trying to pay the bills, and that is why they need to go into bankruptcy. Mr. Chairman, 40 percent of senior citizens who file bankruptcy have catastrophic illness. Sixty percent of filers go into bankruptcy because they have been unemployed.

Means-testing is truly mean. What we need in real bankruptcy reform is consumer credit counseling. I have legislation that I will be offering that will instruct the banks and credit card companies to provide credit card counseling, personal counseling, and require them to include that.

What about an 800-number in the credit card bill or solicitation that says if consumers feel they are abusing credit, they should call this number? That is what we need for bankruptcy reform, not closing the door to hard-working Americans making $40,000 a year with four children; not closing the door on those individuals who are dependent upon alimony and child support; Not closing the door to those senior citizens suffering from catastrophic illness who as a last resort have to file for bankruptcy; not that single mother or single parent who is trying to make ends meet.

Mr. Chairman, I would have hoped that this bill could have been one that we all could have supported. Even the First Lady has looked at it and said she believes in personal responsibility, but not closing the door on parents and those who are trying to support their children.

I would simply suggest that we could do better here. I urge my colleagues to send this bill back and put out a good bill that will help working Americans.

Ms. JACKSON-LEE of Texas. Mr. Chairman. I rise today in support of the Democratic substitute to H.R. 3150, the Bankruptcy Reform Act of 1998. I seriously question whether this bill, as it is now written, will accomplish its goal of reforming our present bankruptcy system without causing significant harm to many innocent parties; so essentially, I find H.R. 3150 to be a bad bill. Particularly after the issuance of an extremely harsh recommended rule by the Rules Committee last night, and the exclusion of several key Democratic amendments from the list of those that were made in order, this Democratic substitute is our last hope.

From the beginning, this process has been more than merely a ''rush to judgment'', actually, it has been a prime example of ''drive-by'' legislation. And even as we entered into a bipartisan agreement to end the Full Committee mark-up of this bill last Thursday, there were still 40 Democratic amendments to the bill waiting at the Clerk's desk. So far, this process has just been moving too fast. Furthermore, our objections about the rapidity of this process have been echoed by the National Bankruptcy Conference, the American College of Bankruptcy, the National Conference of Bankruptcy Judges, the National Association of Chapter 13 trustees, and 57 of the Nation's leading professors of bankruptcy law, amongst others. But despite it all, the speeding train called H.R. 3150, continues to rush along. For decades, our bankruptcy laws have been shaped in the spirit of bi-partisan accord, at least, until now. So how can we have the opportunity to try to correct all of these points of difference about H.R. 3150, at this very late time in the process? To me, the answer is simple, support the Democratic Substitute.

The needs based bankruptcy approach utilized in this bill, which essentially comprises the use of an arbitrary financial standard to determine the filing status of bankruptcy participants, was not recommended to the Congress by the National Bankruptcy Review Commission. But for some unknown reason, the sponsors of this legislation thought better of the Commission's impeccable credentials, years of combined experience in the field, thousands of man-hours invested to compile and present their 1300 page report to this Congress, and decided to ignore their recommendation. As the Executive Office of the President said in a May 21st letter to Chairman GEKAS, ''However, the administration strongly opposes H.R. 3150 in its present form. One provision of the bill would establish a rigid and arbitrary means test to determine whether a debtor could file for bankruptcy under Chapter 7 or would be required to file under Chapter 13 rules—Bankruptcy courts should have greater discretion to consider the specific circumstances of a debtor in bankruptcy.''

Even the minority of Commissioners who thought the concept of needs-based bankruptcy should be further explored, also thought that the correction of certain parts of the Code, like 707(b), could also negate the apparent rise in bankruptcy fraud. To this regard, our Democratic Substitute gives discretion to our Bankruptcy Judges, by amending 707(b) of the Federal Bankruptcy Code, which contains the standards for reviewing any potential filing abuse by a bankrupt debtor. We all believe that by strengthening this section of the Code, alone, any so-called bankruptcy fraud could be effectively neutralized.

But the real source of the 400% rise in bankruptcy filings since 1980, with a grand total of nearly 1.4 million filings last year, is debt. The Republican argument, from the beginning, has been that with a record 1.4 million bankruptcy filings last year, and with over 2/3 of those filers entering into Chapter 7 rather than Chapter 13, that the interests of the credit industry are being unnecessarily harmed by the flexibility of our current bankruptcy laws. Furthermore, the credit industry has consistently argued throughout this process that each American household has had to endure a silent $400 tax, equal to their $10 billion dollars in losses to debt discharge every year, as a result of these laws. Thus, H.R. 3150 is a so-called return to personal responsibility in our bankruptcy laws, because the ''overwhelming'' number of filings must represent an unprecedented debtor abuse.

However, this argument is ultimately a farce. The facts clearly indicate that the cause of the recent surge of bankruptcy filings is not because these filings are fraudulent, but instead because Americans simply have too much debt. Commercial and Administrative Law Subcommittee Ranking Member NADLER has

been extremely eloquent in his presentation of the debt to income ratio among American consumers over the last 25 years, and how the only indisputable evidence in this debate is that Americans have significantly more debt today, than they have ever had before.

The average bankruptcy filer last year had a debt to income ratio of 1.64 to 1 (164 percent of their income) as opposed to just .87 to 1 (87 percent of their income) a few short years ago (that is nearly double!). The fact of the matter is that Americans have more debt than ever, and are waiting later than ever to enter bankruptcy, rather than rushing into it to reorganize their personal finances as the authors and supporters of H.R. 3150 have claimed. To reaffirm this contention, a recent GAO study shows that the number of bankruptcy filings per 100,000 people as compared to the average amount of consumer debt per household since 1964 has remained relatively unchanged. This means that the number of bankruptcy filings over the last three decades has consistently corresponded with the amount of public consumer debt.

Further, according to Bankruptcy Law Professor Elizabeth Warren of the Harvard Law School, the debtors that enter bankruptcy are usually experiencing very turbulent times. 60 percent of bankruptcy filers have been unemployed within a two year span prior to their filing. 20 percent of filers have had to cope within an uninsurable medical expense. Over 1 out of 3 filers, both male and female are recently divorced. All of these factors usually working in concert to affect the financial circumstances of a particular debtor, make bankruptcy an inevitably, because it becomes their last remaining opportunity for a fresh start. These are hard working Americans who have fallen upon difficult times that H.R. 3150 presumes to be pretextually fraudulent, generally disingenuous about their incomes and assets and capable of making a significantly greater financial contribution to their creditors. Ultimately, it seems that the true purpose of this bill is not to improve the federal bankruptcy code, but instead, to transfer more money from bankrupt debtors to banks and other credit lending institutions.

But the reality is that no statistic can tell the story of a lost job, a serious or terminal illness, a death in the family, a divorce or any of the other common reasons for filing for bankruptcy; there simply is much more to any bankrupt's story than a debtor's anticipated income and projections about their ability to repay a portion of their debt. Ultimately, this bill may end up causing a chilling effect on all bankruptcy filings: justified, fraudulent or otherwise (i.e., people may resolve that it is impossible for them to receive any satisfactory remedy in the post-H.R. 3150 system).

The final reason to support the Substitute is that this bill is completely inept in its regard for the care, safety and welfare of our children. As the First Lady wrote in a May 7th article in the Washington Times, ''I have no quarrel with responsible bankruptcy reform, but I do quarrel with the aspects of the bill (H.R. 3150) that would force single parents to compete for their child support payments with big banks trying to collect credit card debt.'' She continued, ''As members of Congress grapple with bankruptcy reform, they must deal with the problems that face both creditors and debtors. But one issue is clear. Any effort to reform the bankruptcy system must protect the obligations of parents to support their children.''

But H.R. 3150, does not ensure these protections, not at all. Even if the Boucher/Gekas ''superpriority'' amendment is passed by this House, the ''child and spousal support'' problems with this bill will still not be corrected. First of all, I am appalled that the sponsors of this legislation who have continually made the claim in the press, in public statements and in pro-H.R. 3150 propaganda, that the ''child and spousal support'' issue had been solved in Committee, would dare to offer another amendment on this issue themselves rather than seek to work with those parties who have concerned about this issue from the very beginning. Whatever the motives of these parties may have been, it at the very least, is disquieting to see conduct which borders upon the deceptive.

The bottom line is as simple as this, our children and families still have to compete with banks, credit lending institutions and retailers in order to receive their needed support payments. No amendment made in order under the current rule addresses the mandatory payment to unsecured creditors for Chapter 13 participants in Section 102 of the bill, no amendment made in order eliminates the many instances of nondischargeability status for (credit card or) unsecured debt mandated by the bill (Sections 141, 142, 145): the problem still remains. Furthermore, since the Jackson Lee/Slaughter Child and Spousal Support amendment was not made in order, the Democratic Substitute is the only last chance to solve this problem before the final consideration of this bill.

This substitute is friendly to women, children, religious and charitable organizations, family farmers, homeowner and condominium associations, victims of drunk driving related accidents, and many, many others, at this late date, this Substitute is the closest that we will ever get to bi-partisan bankruptcy reform. I urge all of my colleagues to support it.

Mr. GEKAS. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Mr. Chairman, I rise in opposition to the Nadler substitute. The skyrocketing number of bankruptcies filed in this country make it necessary for us to make real and substantial reform and improvements to our bankruptcy law. This substitute would strip from H.R. 3150 those provisions that promote responsibility and ensure for bankruptcy filers repay some of what they owe.

The means test in this bill is a fair and reasonable process that separates those who truly need to have their debts wiped away from those who can afford to repay some of their obligations. It places no undue burdens on sincere bankruptcy filers and requires repayment of debts only if filers can adequately meet their household needs.

Mr. Chairman, we cannot be apologists for irresponsible behavior any longer. The stigma that once was attached to bankruptcy must be replaced by laws that hold people accountable for their action. I urge my colleagues to oppose the Nadler substitute and support H.R. 3150.

Mr. GEKAS. Mr. Chairman, I yield 3½ minutes to the gentleman from California (Mr. ROYCE).

Mr. ROYCE. Mr. Chairman, I rise today in opposition to the Nadler substitute and in strong support of the Bankruptcy Reform Act, of which I am a cosponsor.

Over the past decade, despite economic growth, despite low unemployment, despite increasing personal income, our Nation has seen an alarming increase in the numbers of bankruptcy filings. And I would just share with my colleagues that filings jumped 20 percent this year. That is 1.3 million, one in every 70 households.

The numbers are even greater in my home State of California, where we have the greatest number of bankruptcy petitions filed last year, three times as many as the next highest State, which is New York.

I wonder if perhaps the Yellow Pages which reflect these bankruptcy mills, which I am holding in my hand, a stack of yellow pages that basically say, ''Do not pay your debts, just call this number,'' if perhaps this influences these growing numbers of bankruptcies.

Mr. Chairman, how is it that bankruptcies are increasing dramatically while the economy is improving? For sure, some people have genuinely bad breaks, and they need and should have protection from creditors.

□ 1730

No one here today is questioning that, but we need to realize that there are other people who are taking advantage of the current law to walk away from their responsibility, the personal responsibility that is so important to our Nation.

The costs to us from all this are great. Bankruptcy cost our Nation $40 billion last year, and that cost is not solely borne by the creditors and the merchants and the property owners. No, it is borne by the individual families in this country, Mr. Chairman. And that is a cost of $400 per household, higher costs for goods, higher costs for services and for credit. That is a $400 bill that you and I pay when irresponsible spenders who can afford to pay all or some of their debt declare bankruptcy. This is what the bill addresses.

I would also like to add, Mr. Chairman, that this bill helps ex-spouses. It helps women and children who rely on child support and alimony payments. Indeed, this legislation makes major improvements in the treatment of ex-spouses and children over present law.

First, it makes all domestic and child support and property settlement obligations nondischargeable debts.

Second, under this legislation, for the first time child support obligations must be paid before any other nondischargeable debt that survives bankruptcy. I will add that my colleague the gentleman from Virginia (Mr. BOUCHER) added an amendment, which I supported, which was adopted, that will provide additional assurance that child support and alimony payments are paid by giving them top priority. That is in the bill.

Our bankruptcy laws play an important and necessary role in protecting those who really need them. And that is the key, Mr. Chairman, need. This bill makes the existing bankruptcy system a needs-based one, addressing the flaw in the current system that encourages people to file for bankruptcy and walk away from debts, regardless of whether they are able to repay any portion of what they owe, while protecting those who truly need protection.

Mr. MEEHAN. Mr. Chairman, I yield 3 minutes and 30 seconds to my friend and colleague, the gentleman from Massachusetts (Mr. KENNEDY).

Mr. KENNEDY of Massachusetts. Mr. Chairman, first of all, I want to thank my good friend the gentleman from Massachusetts (Mr. MEEHAN) for the hard work that he and the gentleman from Massachusetts (Mr. DELAHUNT), and the gentleman from New York (Mr. NADLER) and others have done on this bill.

This is the kind of legislation where I had hoped to be able to come to the floor and support the overall bill that was being generated in order to deal with a real problem in this country, where all too often very, very wealthy and powerful individuals and corporations use the bankruptcy laws to essentially hide from their responsibilities of paying their debts.

I see it time and time again in my work on the Subcommittee on Housing and Community Development and seeing landlords that are completely unscrupulous declare bankruptcy, suck out section 8 subsidies time and time again, year in and year out, abuse the system and do so with a bunch of sophisticated lawyers and beat the taxpayer and beat their obligations to society.

I want to support a bankruptcy bill, but this bankruptcy bill is flawed. This bankruptcy bill is flawed because it does not look out after not the rich and powerful, but it does not look out after the working families and the poor.

I rise in support of the Democratic substitute. As we debate this bill, I am reminded of the casino scene in Casablanca with Inspector Renault. After a decade of credit card companies literally throwing trillions of unsolicited credit cards at consumers, luring them in with teaser rates and easy credit and then slamming consumers with 20 percent and higher interest rates and creative new fees, the credit card industry pretends to be shocked, shocked to find a rise in personal bankruptcies.

Before Congress enacts the credit card industry's wish list to go after the bankrupt poor and middle-income debtors, it is critical that we hold the credit card industry accountable for practices that they have spawned: a doubling of credit card debt over the course of the last 6 years, and a 50 percent increase in credit card delinquency rates.

The Democratic substitute addresses some of these concerns about credit card practices in dealing with dischargeable credit card debts. Before we enact bankruptcy reform, I also believe that we should reform the reckless credit card practices of easy credit, high interest rates and creative new fees, new fees such as teaser rates. We should require better disclosure of the permanent rate of teaser rate come-ons. Checks, we should mandate stricter control over unsolicited mailing of high interest rate credit card accounts masquerading as checking accounts. And rate increases, we should codify the right, existing in 20 States, to cancel a credit card and pay it off under existing terms and conditions when rates are arbitrarily raised.

But the most egregious credit card practices, which should be outlawed, are those which actually provide a financial incentive for credit card holders not to pay off their debt. The first is the so-called GE fee, a fee charged on card holders simply because they pay their charges on time in full each month.

The other is the action, first seen only last year, of canceling credit cards of only those card holders that paid their debt in full on time.

I offered an amendment to outlaw these two practices, but the Republicans refused to even allow it to be debated.

It is outrageous that an industry that wants relief from bankruptcy should discriminate against people who pay off their debt simply because credit card companies cannot make obscene profits off of them. The credit card and banking industries are currently making record profits. Do not bail out the credit card companies until they clean up their act.

Mr. GEKAS. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. BOUCHER).

Mr. BOUCHER. Mr. Chairman, I thank the gentleman from Pennsylvania for yielding me the time.

I rise in opposition to the Nadler substitute and would offer some remarks in further elaboration of the priority that we have now accorded to the child support and alimony recipient.

These remarks are offered in response to the suggestion, made by some who are arguing in support of this substitute, that child support and alimony does not receive proper priority and that what priority it has perhaps could be defeated in a practical way by nonsecured creditors who have claims that survive in the post-discharge environment. I disagree with those suggestions and would explain this disagreement in these terms.

As a legal matter, I think, as a consequence of amendments adopted in the committee and the Boucher-Gekas amendment adopted earlier on the floor today, we have now done everything that possibly can be done to make sure that the child support recipient, the alimony recipient does in fact have complete priority over nonsecured debt and in fact has first priority in the range of priorities in bankruptcy and in the post-bankruptcy environment.

The only argument that I am now hearing is that as a practical matter, the recipient of alimony, the recipient of child support may not have the practical ability to enforce that priority that is possessed perhaps by the credit card company or some other lender who has a claim that survives in bankruptcy.

I would respond to that by saying that Congress has created and required agencies that enabled the recipient of child support, the recipient of alimony to enforce their claims very effectively. All that has to be done is for a letter to be sent from one of these agencies at the State level to the employer of a person who owes child support or alimony and then that child support or alimony is automatically withheld from the salary of the person who has that obligation.

That money is then automatically turned over to the recipient of the child support or alimony. That is a very effective way for the person who has a claim for child support or alimony to have that claim pursued successfully. The State operates in support of that claimant.

The question then arises with regard to what about the person who owes child support or alimony and is self-employed. Obviously there is no instrumentality to withhold salary in that case, and the answer is that by encouraging the greater use of Chapter 13, which is the foundation of the bill and the core principle of the bill itself, we will encourage a greater respect for the priority of the child support or alimony recipient. Because in Chapter 13 proceedings, it is very easy, indeed, to enforce that first priority that the child support or alimony recipient will have.

So in every instance, we have done everything that can be done to protect that priority, and I would respectfully urge that this amendment not be agreed to.

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

Two interesting contentions that have been made throughout this debate from the very first moment we began the process in late 1997. One is the continuous lament from the other side of the aisle that it is not bipartisan in its offering, in its substance or in its support. Yet we took great pains to entertain as many Democrats as possible in a Republican atmosphere to provide a bipartisan vehicle for our consideration and that has reached us here today: bipartisan in sponsorship, bipartisan in sponsorship of underlying bills which were incorporated into our bill, and bipartisan in those who came forward to say to us, let me speak in favor of 3150 and let me speak in opposition to the Nadler substitute. So there is a bipartisanship that has played its role throughout this process.

When, during subcommittee, I remember very well, turning to the gentleman from New York (Mr. NADLER), he will recall this, and asking him if any Republicans joined him and the gentleman from Michigan (Mr. CONYERS) in their plan for bankruptcy reform, thus an attempt to make it a bipartisan vehicle, the gentleman from New York (Mr. NADLER), quite honestly, admitted there were no Republicans, nor did I discern any attempt on their part to draw Republican support for their vehicle.

Now, this is not a great big argument on my part, the fact that I believe it is bipartisan, while others on that side do not believe it is bipartisan. But when we opened the amendment process in the subcommittee and full committee and on the floor and we joined hands as cosponsors, both Democrats and Republicans, I venture to say that our efforts were more bipartisan than those which attack 3150. And that, I would ask each Member to take into consideration, if that is a criterion upon which they will base their final vote, bipartisanship.

I have always believed in bipartisanship, and I have strenuously accorded every conceivable courtesy I could to Members of the minority, both in subcommittee and full committee and on the floor, and my final proof of bipartisanship is the roll call of the vote that will occur very shortly.

In addition to that, the other thing that is spectacular in its repetition on the part of the minority is that the gateway approach that we provide as the core element of 3150, whereby the debtor who comes to bankruptcy will be tested and screened at the outset to determine whether or not a fresh start should be accorded them, we give full play to that, or whether or not that individual should be compelled to repay some of the debt, if we determine, by the screening process, that there will be an ability to repay some of the debt. That is a screening process, we say, which will shorten the process in bankruptcy in the future, once this is adopted, and be less costly.

What does the gentleman from New York, with the collusion of the gentleman from Massachusetts (Mr. MEEHAN), say, that they ought to adopt this substitute which calls for every single case to go before a judge. We are telling Members that there were 1,400,000 new filings in 1997. If we were to have this substitute in effect in 1997, each one of those cases would have to go before a bankruptcy judge so that that judge can exercise the discretion, the human quality that the gentleman from New York, substantiated by the gentleman from Massachusetts, would find necessary to adjudicate each case one by one on whether or not the means test should be applied fairly.

□ 1745

We say to you, that is a costly process, that is a never-ending process.

Our screening process at the outset would relegate dozens of people into title 7 and give them their fresh start with a cursory examination of their income tax return, their wage statements, to determine their inability to repay any of the debt, thus earning the right of a fresh start. Our gateway approach is one that expedites the process, becomes more efficient, less costly.

How can you continue to say that to take the 1,400,000, rip away our gateway approach and allow each one of those to be adjudicated separately by a judge? It is overwhelming. We would need to add 40 new bankruptcy judges a month for 10 years to handle the increase that we would see in filings. But if we adopt, as I hope we will, H.R. 3150, the screening process, which is only a starting point, will at the outset say, ''Fresh start, you got it.'' On the other hand, if there is any ability to repay, you go through a process that is determined by Chapter 13, and we will help you with a plan to be able to repay some of the debt that you have incurred over the years. I think it is a reasonable way, it is an efficient way and a less costly way.

That is why I am astounded by all these figures about how much more costly our bill would be than the substitute. The substitute takes each case and makes a Supreme Court case out of it, to use the vernacular, by saying that each one has to be adjudicated on its own merits. We begin by screening, in a proper, reasonable, human way, whether a person should be discharged immediately or should go through the process of repayment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, there is no doubt that the gentleman is sincere in his remarks. Might I just note for the record that the gentleman from New York (Mr. NADLER), whom he was addressing, is not on the floor at this time. The substitute is the Nadler, Meehan, Berman, Jackson-Lee substitute.

Let me just say, with respect to his proposition, that the National Bankruptcy Review Commission did not accept the means test, and in fact one of the problems with it is that the experts, the bankruptcy judges themselves, have said not only is it too costly, but it is too complicated. CBO has assessed the means-testing procedure at costing $214 million when in fact the Democratic substitute wants to stop fraudulent activity and will ask the experts to use the test of substantial abuse so that we can avoid that.

Mr. GEKAS. Mr. Chairman, reclaiming my time, I do not see how the gentlewoman can argue that to have 1,400,000 separate cases cannot increase or would not increase the cost of processing bankruptcy. That is a rhetorical question.

Mr. MEEHAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just respond that the screening method that he described, according to CBO, would cost taxpayers $200 million.

Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. LAMPSON).

Mr. LAMPSON. Mr. Chairman, I rise today in strong support of the Nadler, Meehan, Berman, Jackson-Lee amendment to this bill.

I think this substitute strikes a fair balance and alleviates many of the concerns that I have with H.R. 3150. I applaud all the hard work of those Members who took part in striking this fair compromise.

Everyone is troubled with the record number of personal bankruptcy filings that we are seeing in the United States. Last year, 1.4 million Americans filed bankruptcy. Certainly I am committed to the principle of bankruptcy reform. Certainly I believe that we should rid the system of those who deliberately abuse the system. But I do not believe we should do this at the expense of hard-working families, women and children.

The substitute gives child support and alimony payments the highest priority under Federal bankruptcy law. We should not force women and children to compete with creditors' attorneys over limited funds in court.

I support this amendment because it offers a more flexible approach when evaluating a debtor's ability to repay. It will make it easier for a debtor's actual expenses that are reasonably necessary to be considered, such as child care payments, health care costs, and the costs of taking care of ill parents.

This amendment also alleviates the harsh small business provisions found in H.R. 3150 by providing a safety valve for small businesses hit with financial difficulty. Voting for this amendment will protect hard-working Americans from premature small business liquidations.

Mr. Chairman, I urge my colleagues to vote in favor of the Nadler, Meehan, Berman, Jackson-Lee amendment. It strikes a fair balance in attempting to rid the system of those who choose to abuse the bankruptcy system. At the same time, the amendment protects honest, hard-working Americans who are experiencing real financial difficulty.

Mr. MEEHAN. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina (Mr. WATT), a leader in the Committee on the Judiciary, a person who is always first to speak up for those who cannot speak for themselves.

Mr. WATT of North Carolina. Mr. Chairman, this is actually a very sad day for this House. There should not have to be a Democratic substitute on a bankruptcy bill, because bankruptcy is not a partisan issue.

Let us look at how we got here. There are some people abusing the bankruptcy system that exist now. We sat down and we started working together to try to come up with a bill that would address that issue. Instead, the Republicans came up with a bill

that means-tests bankruptcies so that one size is designed to fit all.

It astonishes me that the gentleman from Pennsylvania, the chairman of the subcommittee, comes to the floor and acknowledges that he does not want each one of these bankruptcy matters to be adjudicated on its own merits. That is exactly what he said. I thought that is what we were trying to do, have each one of these bankruptcy matters adjudicated on its own merits, because whether somebody is bankrupt and deserves the protection of bankruptcy court is an individual proposition. It is not a matter of means-testing.

Can you imagine that somebody who makes above the median income in this country and cannot be extended beyond their means, they should not be entitled to the benefits of the bankruptcy courts? If you look at every single individual and every single case on its own merits, that is what our system is designed to do, and that is the way it should be done, and that is why the Democratic substitute is a better substitute than the original bill. It is not perfect, either, but it is better than the original bill.

Mr. MEEHAN. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Chairman, I thank the gentleman for yielding me this time and for his leadership on this issue along with the gentleman from New York (Mr. NADLER).

Mr. Chairman, I rise to express my opposition to the rigid approach of means-testing and my strong support for the substitute amendment. If means-testing is made into law, a debtor's actual living expenses will be disregarded, while an inflexible IRS formula is imposed. Even if those predetermined numbers cause true hardship through a strict repayment plan, it is the consumer that would have to initiate litigation to appeal, an expensive and intimidating process.

If the main target of bankruptcy reform are wealthier abusers, let us give creditors the tools they need to get the job done. The Democratic substitute amendment does just that. It empowers credit companies to contest the Chapter 7 filing of debtors who are deliberately shielding their wealth. But it also ensures that the fate of debtors will be decided by a thinking person, a trained judge, who can evaluate what are often subjective factors on a case-by-case basis, not an unbending formula. Equally important, the substitute puts the burden of litigation where it belongs, on the creditor, which, after all, made the decision to take the risk of lending.

We need to help creditors get back more of what is owed to them, but we need to do it in a balanced way. The Democratic substitute does that.

Mr. Chairman, there has been much discussion back and forth on the child support enforcement provision. I would like to put into the RECORD practically every women's group that I have ever heard of who is opposed to this bill because of the impact it will have on child support.

Mr. Chairman, I include for the RECORD the names of at least 20 women's organizations opposed to this bill.

The material referred to is as follows:

The Justice Department
Small Business Administration (SBA)
Alliance for Justice
National Organization for Women (NOW)
Mothers Against Drunk Driving (MADD)
National Organization for Victim Assistance (NOVA)
National Victim Center
Association for Children of Enforcement Support (ACES)
Governing Counsel, Family Law Section, American Bar Association
AFL-CIO
UAW
UNITE
AFSCME
Consumer Federation of America
Consumers' Union
Public Citizen
California Women's Law Center (CWLC)
Group of 110 United States Bankruptcy Judges
Leadership Conference on Civil Rights
National Conference of Bankruptcy Judges
American College of Bankruptcy
National Bankruptcy Conference
National Association of Consumer Bankruptcy Attorneys
National Association of Bankruptcy Trustees
National Association of Chapter 13 Trustees
National Association of Consumer Bankruptcy Attorneys
National Association of Debtor Attorneys
Houston Association of Debtor Attorneys
American Association of University Women
Association for Children for Enforcement of Support, Inc.
Black Women's Agenda, Inc.
Business and Professional Women/USA
Center for Advancement of Public Policy
Children's Defense Fund
Church Women United
Coalition of Labor Union Women
Federally Employed Women, Inc.
Feminist Majority
MANA, A National Latina Organization
National Association of Commissions For Women
National Association for Female Executives
National Organization for Women
National Women's Conference
NAWE Advancing Women in Higher Education
NOW Legal Defense and Education Fund
Older Women's League
The Woman Activist Fund, Inc.
Women Work!
YWCA of the U.S.A.
National Council of Senior Citizens

NATIONAL COUNCIL OF SENIOR CITIZENS,
Silver Spring, MD, June 9, 1998.

Representative JERROLD NADLER,
United States Congress,
Washington, DC.

DEAR REPRESENTATIVE NADLER: I am writing to express NCSC's deep concern about pending floor action on H.R. 3150, the Bankruptcy Reform Act of 1998. We join with many bankruptcy judges, legal scholars, women's groups, unions, consumer groups and others in urging that this bill not be passed without further study and substantial changes.

I am especially concerned about the effect this bill might have on seniors. I might note that a series of amendments were offered in the Judiciary Committee that would have offered some protections to older people but all were defeated. As it stands, then, this bill would have a harsh impact on a group of people who are often subject to job loss or catastrophic health costs; instead of ameliorating these problems, this bill would only exacerbate them.

Since 1993, more than a million people over the age of 50 have filed for bankruptcy; in 1997, an estimated 280,000 older Americans filed. For them it is particularly hard. If they are forced into prolonged repayment schedules, they may not be able to maintain or accumulate savings for retirement. As you know, approximately two thirds of voluntary, Chapter 13 workout plans fail, and we believe that retirement savings must be protected for that purpose.

Instead of addressing the root causes of personal bankruptcy and addressing behavior of both abusive debtors and creditors, this bill will add unnecessary administrative and financial burdens to hardworking families who seek relief in bankruptcy court.

H.R. 3150 is simply moving too fast, and there has been too little scrutiny given to credit industry practices. The consequences for older people must be examined more closely and addressed in a fair way before any changes in bankruptcy law are made. We urge you to delay action on this bill and to work with bankruptcy experts and others toward targeted and effective changes in the Bankruptcy Code.

Sincerely,

DAN SCHULDER,
Director, Public Affairs and Legislation.

Mr. GEKAS. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Chairman, I thank the gentleman from Pennsylvania for his hard work. Obviously I stand in opposition to the Nadler substitute. I hear a lot of discussion on the floor today. I just heard women's groups are against this. I have heard an impression made on the floor that somehow our bill does not allow for the enforcement of child support or set a priority on child support. In fact, it does. The bill prioritizes child support as one of the real priorities in the bill.

For anyone questioning the need for this bill we are discussing today, the statistics spell it out. Personal bankruptcies have hit a high record number for each of the past 3 years, and again in the first quarter of this year. Many will offer a variety of reasons for that alarming statistic, but the simple fact is that current law makes it too easy for individuals to walk away from their financial obligations, even if they have the means to meet those obligations. It happens too often in Florida.

I have heard in the last several days around this Capitol that somehow it is the credit card companies that are inducing commonsense, average Americans to run up phenomenal bills and so we must blame the credit card companies for their debt and discharge the debtor from their responsibilities.

I just heard an analogy of the risk of lending, and somehow, someway we are supposed to now stand in front of the borrower and protect them with a

shield. I think that is wrong, I think it is irresponsible, and that it should no longer be sanctioned by the Federal Government.

Some will argue that H.R. 3150 hurts low-income individuals facing financial disaster through no fault of their own. This is simply not true. H.R. 3150 merely codifies into law what is common sense to every American. Those who can afford their bills should not stick others with their tab.

This much needed reform bill imposes a means test to allow those who are facing financial disaster to wipe away most of their debts. However, those who have the ability to repay their debts will have to abide by a repayment schedule. If this sounds like a sensible proposition, it is because it is a sensible proposition.

Mr. Chairman, today we are debating something vitally important. We do want to care for families, we do want to care for average Americans, hard-working individuals. But there is a notion that when you incur debt, you should make every attempt to repay that debt.

Society today is transferring debt to others. Those who pay their bills, who keep an outstanding credit record, are in fact having to pay higher interest rates because a lot of people are shirking their responsibility. In Florida, we have had a number of cases that just are outrageous in the way the courts have been used in order for creditors to have no payment rendered to them.

Again, I urge my colleagues to reject the Nadler substitute. I urge them to support the work of the gentleman from Pennsylvania (Mr. GEKAS) in passing H.R. 3150 today so the House will ensure that the irresponsible and the well off in our society will no longer be able to pass the buck to those who struggle daily to meet their financial obligations.

Mr. MEEHAN. Mr. Chairman, I yield 2½ minutes to the gentleman from Massachusetts (Mr. DELAHUNT), a leader in the committee and in the subcommittee.

Mr. DELAHUNT. Mr. Chairman, what concerns me today about this debate and where we are headed is that we are truly crafting public policy without the benefit of any data. Very, very little hard information is available to us. I believe the American people should understand that while we may be well-intentioned, we really are legislating on hunches, on guesswork and hope.

□ 1800

As my colleagues know, I have heard the figure now from the previous speaker about 1.4 million. That is unacceptable. The only information that we were able to secure during the course of the hearing about what H.R. 3150 would do in terms of reducing that number was from the bankruptcy judges. They testified, those that I inquired of, that it would reduce the amount of filings 13,000 possibly, 1 percent.

That is the only information that we have, 1 percent, 13,000. We are passing a piece of legislation here today, if this underlying bill is enacted, that is based on nothing but anecdote.

Stigma. There is no data to indicate that people are any different today than they were 10, 20 or 30 years ago. People are not just walking away, they are being crushed by debt. In addition to that, their wages, for most Americans, have not gone up in any significant degree for 20 years. Twenty percent of us are doing very well, but the rest of America is not.

That is the only information that we have. It is unfair. We talk about 44 billion. What will Mr. GEKAS' bill do to reduce? How much money is going to be saved if the Gekas-Boucher-McCollum bill passes? I daresay not a single cent. It is not going to save a dime. It certainly will not benefit the consumer. We all know that. The moneys, if there are moneys that are saved, are going to go to the Wall Street investor, in the banks and the credit card industry. That is where it is going to go. It is going to introduce or enhance profitability.

Mr. Chairman, I know these gentleman are sincere, I know that we all share the same goal, but this is not the right approach. We should have slowed the process down and secured some information and answers to questions that we do not know the answers to now.

Mr. MEEHAN. Mr. Chairman, I yield the balance of my time to myself.

The CHAIRMAN pro tempore (Mr. CALVERT). The gentleman from Massachusetts is recognized for 1½ minutes.

Mr. MEEHAN. Mr. Chairman, on a final note, let me just say in response to the argument from the other side of the aisle, the child support and alimony problem does not begin and end with sections 141 and 142 of H.R. 3150. The means test and other parts of the bill contribute to the problem as well.

A letter from the National Partnership for Women and Families put it best. Several provisions increase the credit card's ability to pressure debtors into reaffirming credit card debt by threatening the debtor with repossession or litigation. Through reaffirmation, even more credit card debt becomes nondischargeable in bankruptcy.

In other words, aggressive creditors can use the leverage that they receive under this bill's means test to force debtors to agree to let their debts survive bankruptcy.

So we once again have debtors entering the post-bankruptcy world with large amounts of credit card debt hanging over their heads in addition to their support and alimony obligations.

There is simply no way to fix the child support and alimony problems with this bill other than to delete the new exceptions to the discharge of credit card debt and rewrite its means test along the lines of the Nadler-Meehan-Berman substitute. We should support this substitute and defeat this bill.

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

Mr. GEKAS. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN pro tempore. The gentleman from Pennsylvania is recognized for 2 minutes.

Mr. GEKAS. Mr. Chairman, I repeat my request to Members to reject the Nadler substitute and to later support the bill.

When the gentleman from Massachusetts (Mr. DELAHUNT) was speaking, he was decrying the fact that there was no data available on which we could base any concept now contained in 3150.

The question in reverse has to be asked: On what data is the Nadler substitute based? It has to be in the same data that we used for 3150, namely 1,400,000 bankruptcies. Nobody can fully explain that. And the Nadler substitute, the gentleman from Massachusetts (Mr. MEEHAN) and others acknowledge that there is abuse in the system. Well, where did they get that idea? Where did they get the idea that there is abuse in the system if it were not for the fact that 1,400,000 bankruptcies were filed in 1997? Everybody in America knows that means that the system was abused.

And if we want to continue to have a system which is so riddled with loopholes, making it easier for people to escape obligations, vote for the Nadler substitute. If we want to tighten up the system and make people more responsible and allow people to repay when they can repay the debts that they assumed, then reject the Nadler amendment and then when the time comes, vote for true reform, the underlying bill, H.R. 3150.

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

The CHAIRMAN pro tempore. All time has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from New York (Mr. NADLER).

The amendment in the nature of a substitute was rejected.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to House Resolution 462, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order: amendment No. 2 offered by the gentleman from New York (Mr. NADLER), amendment No. 3 offered by the gentleman from Massachusetts (Mr. DELAHUNT), amendment No. 8 offered by the gentleman from Pennsylvania (Mr. GEKAS), and amendment No. 9 offered by the gentleman from Virginia (Mr. SCOTT).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 2 OFFERED BY MR. NADLER

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 2 offered by the gentleman from New York

(Mr. NADLER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 136, noes 290, not voting 7, as follows:

[Roll No. 219]

AYES—136

Abercrombie
Ackerman
Allen
Baldacci
Barcia
Becerra
Bonior
Borski
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Clay
Clyburn
Conyers
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Dixon
Doggett
Doyle
Edwards
Engel
Eshoo
Evans
Fattah
Fazio
Filner
Furse
Gejdenson
Gephardt
Green
Gutierrez
Hall (OH)
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Hooley
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennelly
Kildee
Kilpatrick
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lofgren
Lowey
Maloney (NY)
Manton
Martinez
Mascara
Matsui
McCarthy (NY)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Millender-McDonald
Miller (CA)
Mink
Moakley
Mollohan
Nadler
Neal
Oberstar
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Poshard
Price (NC)
Rahall
Reyes
Rivers
Rodriguez
Roybal-Allard
Rush
Sanchez
Sanders
Sanford
Sawyer
Scott
Serrano
Shays
Skaggs
Slaughter
Souder
Stark
Stokes
Strickland
Stupak
Thompson
Thurman
Tierney
Torres
Towns
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Wise
Woolsey
Wynn
Yates

NOES—290

Aderholt
Andrews
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Everett
Ewing
Fawell
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (RI)
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Luther
Maloney (CT)
Manzullo
Markey
McCarthy (MO)
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
Menendez
Metcalf
Mica
Miller (FL)
Minge
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Obey
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Rangel
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryun
Sabo
Salmon
Sandlin
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Spence
Spratt
Stabenow
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—7

Berman
Clayton
Farr
Gonzalez
Harman
Lewis (GA)
Schumer

□ 1828

Messrs. GRAHAM, MICA, WELLER and BURR of North Carolina changed their vote from ''aye'' to ''no.''

Messrs. MATSUI, SHAYS, ACKERMAN and BECERRA and Ms. RIVERS changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1830

Mr. NADLER. Mr. Chairman, I ask unanimous consent that the present unfinished business be considered to include a request for a recorded vote on the Nadler substitute.

The CHAIRMAN pro tempore (Mr. CALVERT). Is there objection to the request of the gentleman from New York?

There was no objection.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. Pursuant to House Resolution 462, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

AMENDMENT NO. 3 OFFERED BY MR. DELAHUNT

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 3 offered by the gentleman from Massachusetts (Mr. DELAHUNT) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 149, noes 278, not voting 6, as follows:

[Roll No. 220]

AYES—149

Abercrombie
Ackerman
Barcia
Barrett (WI)
Becerra
Blumenauer
Bonior
Borski
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Carson
Clay
Clayton
Clyburn
Coburn
Conyers
Costello
Coyne
Cummings
Danner
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dixon
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Fattah
Fazio
Filner
Ford
Furse
Gejdenson
Gephardt
Green
Gutierrez
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lipinski
Lofgren
Lowey
Luther
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Scott
Serrano
Skaggs
Skelton
Slaughter
Stark
Stokes
Strickland
Stupak
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOES—278

Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Davis (FL)
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dingell
Doggett
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Maloney (CT)
Manzullo
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
Menendez
Metcalf
Mica
Miller (FL)
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryun
Salmon
Sanchez
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—6

Berman
Farr
Frank (MA)
Gonzalez
Lewis (GA)
Schumer

□ 1837

Mr. SMITH of Michigan changed his vote from ''aye'' to ''no.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 8 OFFERED BY MR. GEKAS

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 8 offered by the gentleman from Pennsylvania (Mr. GEKAS) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 222, noes 204, not voting 7, as follows:

[Roll No. 221]

AYES—222

Andrews
Archer
Armey
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehner
Bonilla
Boswell
Boucher
Boyd
Brady (TX)
Brown (FL)
Bryant
Bunning
Burr
Burton
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Davis (FL)
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Doggett
Dreier
Duncan
Edwards
Ehrlich
English
Ensign
Ewing
Foley
Forbes
Fossella
Fowler
Frost
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hinojosa
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Jackson-Lee (TX)
Jenkins
John
Johnson, E. B.
Johnson, Sam
Jones
Kelly
Kim
King (NY)
Klug
Knollenberg
LaHood
Lampson
Latham
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntyre
McKeon
Meek (FL)
Mica
Miller (FL)
Mollohan
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Quinn
Radanovich
Rahall
Ramstad
Redmond
Reyes
Rodriguez
Rogan
Rogers
Ros-Lehtinen
Ryun
Salmon
Sandlin
Sanford
Scarborough
Schaefer, Dan
Schaffer, Bob
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tauscher
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Traficant
Turner
Walsh
Wamp
Watkins
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—204

Abercrombie
Ackerman
Aderholt
Allen
Bachus
Baesler
Baldacci
Barrett (WI)
Becerra
Bereuter
Berry
Blagojevich
Blumenauer
Boehlert
Bonior
Bono
Borski
Brady (PA)
Brown (CA)
Brown (OH)
Buyer
Capps
Cardin
Carson
Castle
Chabot
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cummings
Danner
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Dixon
Dooley
Doolittle
Doyle
Dunn
Ehlers
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Fattah
Fazio
Filner
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Furse
Gejdenson
Gephardt
Gilchrest
Gordon
Gutierrez
Hall (OH)
Hamilton
Harman
Hefner
Hilliard
Hinchey
Hobson
Hoekstra
Holden
Hooley
Houghton
Hoyer
Istook
Jackson (IL)
Jefferson
Johnson (CT)
Johnson (WI)
Kanjorski
Kaptur
Kasich
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kingston
Kleczka
Klink
Kolbe
Kucinich
LaFalce
Lantos
Largent
LaTourette
Lee
Levin
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntosh
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Metcalf
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Petri
Pomeroy
Poshard
Price (NC)
Pryce (OH)
Rangel
Regula
Riggs
Riley
Rivers
Roemer
Rohrabacher
Rothman
Roukema
Roybal-Allard
Royce
Rush
Sabo
Sanchez
Sanders
Sawyer
Saxton
Scott
Sensenbrenner
Serrano
Shays
Sherman
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Souder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tanner
Taylor (MS)
Thompson
Tierney
Torres
Towns
Upton
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—7

Berman
Farr
Fawell
Ford
Gonzalez
Lewis (GA)
Schumer

□ 1846

Messrs. ROEMER, KASICH, KENNEDY of Rhode Island, ADERHOLT, LOBIONDO, and Ms. KILPATRICK changed their vote from ''aye'' to ''no.''

Mr. BARCIA changed his vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 9 OFFERED BY MR. SCOTT

The CHAIRMAN pro tempore (Mr. CALVERT). The pending business is the demand for a recorded vote on amendment No. 9 offered by the gentleman from Virginia (Mr. SCOTT) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This is a five-minute vote.

The vote was taken by electronic device, and there were—ayes 111, noes 316, not voting 6, as follows:

[Roll No. 222]

AYES—111

Abercrombie
Ackerman
Allen
Baldacci
Barrett (WI)
Becerra
Bentsen
Bishop
Bonior
Brady (PA)
Brown (CA)
Capps
Carson
Clay
Clayton
Conyers
Coyne
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dixon
Doggett
Dreier
Engel
Fattah
Filner
Ford
Furse
Gejdenson
Gephardt
Green
Gutierrez
Hamilton
Hefner
Hinchey
Hinojosa
Holden
Hooley
Jackson (IL)
Jackson-Lee (TX)
Kanjorski
Kaptur
Kilpatrick
Kind (WI)
Kleczka
Klink
LaFalce
Lampson
Lee
Luther
Maloney (CT)
Manton
Markey
Mascara
McCarthy (MO)
McCarthy (NY)
McGovern
McKinney
McNulty
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Mink
Moakley
Mollohan
Murtha
Neal
Olver
Ortiz
Owens
Pallone
Pascrell
Payne
Pelosi
Pickett
Pomeroy
Reyes
Rivers
Rogan
Rothman
Roybal-Allard
Rush
Sabo
Sanders
Sandlin
Scott
Sensenbrenner
Sisisky
Skaggs
Smith, Adam
Spratt
Stark
Stokes
Strickland
Stupak
Sununu
Tierney
Torres
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Wexler
Woolsey
Yates

NOES—316

Aderholt
Andrews
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Bilbray
Bilirakis
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boswell
Boucher
Boyd
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dicks
Dingell
Dooley
Doolittle
Doyle
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Fawell
Fazio
Foley
Forbes
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
Kucinich
LaHood
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Maloney (NY)
Manzullo
Martinez
Matsui
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
Meehan
Meek (FL)
Metcalf
Mica
Miller (FL)
Minge
Moran (KS)
Moran (VA)
Morella
Myrick
Nadler
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Oxley
Packard
Pappas
Parker
Pastor
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Riggs
Riley
Rodriguez
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanchez
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Stabenow
Stearns
Stenholm
Stump
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Towns
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wise
Wolf
Wynn
Young (AK)
Young (FL)

NOT VOTING—6

Berman
Blumenauer
Farr
Gonzalez
Lewis (GA)
Schumer

□ 1853

Mrs. KENNELLY of Connecticut changed her vote from ''aye'' to ''no.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 12 OFFERED BY MR. NADLER

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment in the nature of a substitute No. 12 offered by the gentleman from New York (Mr. NADLER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment in the nature of a substitute.

The Clerk redesignated the amendment in the nature of a substitute.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This is a five-minute vote.

The vote was taken by electronic device, and there were—ayes 140, noes 288, not voting 5, as follows:

[Roll No. 223]

AYES—140

Abercrombie
Ackerman
Allen
Baldacci
Becerra
Bishop
Blumenauer
Bonior
Borski
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Carson
Clay
Clayton
Clyburn
Conyers
Coyne
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Dixon
Doyle
Engel
Eshoo
Etheridge
Evans
Fattah
Fazio
Filner
Ford
Furse
Gejdenson
Gephardt
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Jackson (IL)
Jefferson
Johnson (WI)
Kanjorski
Kaptur
Kennedy (MA)
Kennelly
Kildee
Kilpatrick
Klink
Kucinich
LaFalce
Lantos
Lee
Levin
Lofgren
Lowey
Luther
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Scott
Serrano
Skaggs
Slaughter
Stabenow
Stark
Stokes
Strickland
Stupak
Thompson
Tierney
Torres
Towns
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Wise
Woolsey
Wynn
Yates

NOES—288

Aderholt
Andrews
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Cardin
Castle
Chabot
Chambliss
Chenoweth

Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Doggett
Dooley
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (RI)
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Maloney (CT)
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Menendez
Metcalf
Mica
Miller (FL)
Mollohan
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryun
Salmon
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—5

Berman
Farr
Gonzalez
Lewis (GA)
Schumer

□ 1901

Messrs. RODRIGUEZ, BARCIA, EDWARDS, Mrs. EDDIE BERNICE JOHNSON of Texas and Ms. JACKSON-LEE of Texas changed their vote from ''aye'' to ''no.''

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. CALVERT). The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HANSEN) having assumed the chair, Mr. CALVERT, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 3150) to amend title 11 of the United States Code, and for other purposes, pursuant to House Resolution 462, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. CONYERS. Mr. Speaker, yes, I am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CONYERS of Michigan moves to recommit the bill (H.R. 3150) to the Committee on the Judiciary with instructions to report the bill back to the House forthwith, with the following amendments:

Page 6, line 11, insert the following before the 1st semicolon:

'', but excludes (1) maintenance for or support of a child of the debtor, received by the debtor, and (2) current alimony, maintenance, or support paid by the debtor for the benefit of a spouse, former spouse, or child of the debtor,''.

Page 48, after line 13, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 119B. PROTECTION AGAINST REAFFIRMATION AGREEMENTS ADVERSELY AFFECTING CHILD SUPPORT.

Section 524 of title 11, United States Code, is amended by adding at the end the following:

''(i) Notwithstanding any other provision of this title, an agreement of the kind described in subsection (c) shall be void unless the court determines that such agreement will not have an adverse impact on the ability of the debtor to support a dependent of the debtor.''.

Page 76, line 12, insert ''and any debt of a kind described in paragraph (6), (9), or (13) of section 523(a) of this title,'' before ''shall''.

Page 76, line 17, strike the close quotation marks and the period at the end.

Page 76, after line 17, insert the following:

''(b)(1) For purposes preserving the priority established in subsection (a), the holder of claim for a debt of a kind described in paragraph (2), (4), or (19) of section 523(a) of this title that is not discharged may not take any action to obtain payment or collection (including engaging in any communication with the debtor or with any person who holds property of the debtor) of such debt if such holder—

''(A) knew or should have known that taking such action, or obtaining payment of such debt, would impair the ability of the debtor to pay a debt that has priority under such subsection; or

''(B) failed to verify immediately before taking such action, by good faith means designed to identify all debts that have priority under such subsection, that the debtor does not then owe any debt that has priority under subsection (a).

''(2) If such holder violates paragraph (1), such holder shall be liable to any person injured by such violation for the sum of $3000, actual damages, and a reasonable attorney's fee.''.

Mr. CONYERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. CONYERS) will be recognized for 5 minutes, and the gentleman from Pennsylvania (Mr. GEKAS) will be recognized for 5 minutes.

The Chair recognizes the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Speaker, this is a very simple and straightforward motion to recommit. It acknowledges the bankruptcy rights of creditors who are drunk driving victims and victims of crimes.

Mr. Speaker, the present bill does not make a single change to protect the rights of crime victims forced to compete against credit card companies in bankruptcy. This is why the Mothers Against Drunk Driving are opposed to the bill, and the National Organization for Victim Assistance are strongly opposed to the bill.

My amendment would ensure that crime victims receive the same rights to preempt credit card debts that alimony creditors receive in the bill.

Mr. NADLER. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from New York.

Mr. NADLER. Mr. Speaker, this motion makes four changes to the underlying bill to protect child support and alimony payments and victims of crime and drunk driving.

First, the motion clarifies that child support and alimony payments are to be excluded from the means test. The majority may try to claim that these payments are accounted for by IRS guidelines, but the bankruptcy experts disagree. In any event, there can be no harm in Congress clearly specifying

that child support should be deducted when calculating the means test. We should not leave our families at risk based on decisions made by IRS bureaucrats.

Second, the motion protects against reaffirmation agreements that adversely impact family support obligations. It is no secret that unscrupulous creditors can end-run the bankruptcy process by forcing debtors to reaffirm their debt. If this happens, none of the supposed child support protections provided under the bill would apply. We fix this problem by making sure that reaffirmation agreements do not make it more difficult for families to pay family support.

The motion also acknowledges the bankruptcy rights of creditors who are drunk driving victims and other victims of crimes, as the gentleman from Michigan (Mr. CONYERS) mentioned.

Finally, the motion provides for a real mechanism to enforce protections for child support and alimony payments. The changes made by the bill to protect child care payments create a right with no remedy. This amendment makes clear that credit card companies who illegally collect money that should be going to child care are subject to damage and statutory fines. This is the only way to truly protect child care payments outside of bankruptcy after the discharge.

Mr. Speaker, I urge the Members to vote for this motion to recommit which protects our families and victims of crime from aggressive credit collectors.

Ms. JACKSON-LEE of Texas. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Speaker, about a year ago I rose on the floor of the House when we were facing a major dilemma and asked the question that has been asked by Solomon: Who loves the baby the most? Whether it was the mother who was willing to cut the baby in half and share, or whether or not it was the mother who said, ''Here you take it.''

Mr. Speaker, I ask this question today as we look at a bill that hurts children. Which one of us will be able to respond to Willie Sorrells who said: I am writing you regarding the proposed new bankruptcy laws. I am currently being forced to file bankruptcy as a last resort because I have recently gone through a terrible divorce from a marriage of 16 years, and my wife left me with the responsibility of our children and the majority of our community debt, complicated by the fact that she earns more income than I.

This Willie Sorrells, a single parent, will be denied the opportunity to protect his alimony or child support because credit card companies and others will be able to grapple after the only income that this gentleman will be able to have.

Mr. Speaker, the motion to recommit reestablishes the importance of child support and alimony. It reestablishes the importance of recognizing that none of us can determine the horns of dilemma when people fall upon hard times, whether or not it is catastrophic illnesses; whether or not it has to do with being unemployed, as 60 percent of those who file for bankruptcy are unemployed. The 300,000 who face divorce and who need child support, the motion to recommit reestablishes the right of the support child, one, to be of high priority; but two, not having to fight for the minimal income that has to be paid for the other debts.

I would say, Mr. Speaker, that we are now on the horns of a dilemma. Who loves the baby most? The one who is willing to cut the baby in half, or the one who is willing to give the baby? I would say the one who is willing to nurture and protect the baby.

Mr. Speaker, let us vote for the motion to recommit. Support child support, support alimony, support working Americans, keep the door of opportunity open and save $214 million that H.R. 3150 requires us to pay.

Mr. CONYERS. Mr. Speaker, reclaiming my time, I urge Members to support the substitute and vote against this bill.

Mr. GEKAS. Mr. Speaker, the concerns that are contained in the motion to recommit have already been more than adequately addressed in the bill that is before us, matters of child support priority, victims' rights. In fact, H.R. 3150, the bill which we are about to pass, contains rights for every American, specially those citizens who become overwhelmed with debt who will need a fresh start.

We accord that responsibility and that right to those people who are overburdened with debt. But at the same time we say loudly and clearly that the time has come that we will no longer permit a system to be abused and to be used as an instrument by people who want to avoid debt and who want to avoid repayment of proper obligations.

So if Members want to change the system, reform it so that we can bring personal responsibility back to that system, they must reject the motion to recommit and eventually vote for the bill. Jobs and opportunities that we so much crave in our society to keep our economy on a stable course, as it now is, requires, in the words of the gentleman from Youngstown, Ohio (Mr. TRAFICANT), requires us to have a system which will protect the economy and protect jobs.

Mr. Speaker, that is what this bill does. It nurtures our economy. I ask Members to vote ''no'' on the motion to recommit and ''yes'' on final passage.

□ 1915

The SPEAKER pro tempore (Mr. HANSEN). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of final passage.

The vote was taken by electronic device, and there were—ayes 153, noes 270, not voting 10, as follows:

[Roll No. 224]

AYES—153

Abercrombie
Ackerman
Allen
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Bishop
Blumenauer
Bonior
Borski
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dingell
Dixon
Doggett
Doyle
Edwards
Engel
Ensign
Eshoo
Etheridge
Evans
Fattah
Filner
Ford
Frost
Furse
Gejdenson
Gephardt
Green
Gutierrez
Hall (OH)
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E.B.
Kanjorski
Kaptur
Kennedy (MA)
Kennelly
Kildee
Kilpatrick
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lofgren
Lowey
Luther
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Moran (VA)
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roybal-Allard
Rush
Sabo
Sanders
Sandlin
Sawyer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Thompson
Thurman
Tierney
Torres
Towns
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Wise
Woolsey
Yates

NOES—270

Aderholt
Andrews
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Bilbray
Bilirakis
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit

Cook
Cooksey
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fazio
Foley
Forbes
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hamilton
Hansen
Harman
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (RI)
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Maloney (CT)
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Menendez
Metcalf
Mica
Miller (FL)
Mollohan
Moran (KS)
Morella
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryun
Salmon
Sanchez
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wolf
Wynn
Young (AK)
Young (FL)

NOT VOTING—10

Berman
Cox
Dicks
Farr
Fawell
Gonzalez
Hastert
Largent
Lewis (GA)
Schumer

□ 1931

Mr. BERRY changed his vote from ''aye'' to ''no.''

Mr. MORAN of Virginia changed his vote from ''no'' to ''aye.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. HANSEN). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 306, noes 118, not voting 9, as follows:

[Roll No. 225]

AYES—306

Aderholt
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Doggett
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Everett
Ewing
Fawell
Fazio
Foley
Forbes
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (RI)
Kennelly
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Luther
Maloney (CT)
Manzullo
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
Menendez
Metcalf
Mica
Miller (FL)
Minge
Mollohan
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryun
Salmon
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Strickland
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Towns
Traficant
Turner
Upton
Velazquez
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wise
Wolf
Wynn
Young (AK)
Young (FL)

NOES—118

Abercrombie
Ackerman
Allen
Barrett (WI)
Becerra
Bonior
Borski
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Carson
Clay
Clayton
Conyers
Costello
Coyne
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dingell
Dixon
Doyle
Edwards
Engel
Eshoo
Evans
Fattah
Filner
Ford
Furse
Gejdenson
Gephardt
Green
Gutierrez
Hall (OH)
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kildee
Kilpatrick
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lofgren
Lowey
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Millender-McDonald
Miller (CA)
Mink
Moakley
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Payne
Pelosi
Poshard
Rahall
Rangel
Reyes
Rodriguez
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Scott
Serrano
Skaggs
Slaughter
Stark
Stokes
Stupak
Thompson
Thurman
Tierney
Torres
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Woolsey
Yates

NOT VOTING—9

Berman
Brady (TX)
Farr
Gonzalez
Hobson
Largent
Lewis (GA)
Redmond
Schumer

□ 1938

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. REDMOND. Mr. Speaker, on rollcall No. 225, my pager did not respond and I inadvertently missed the vote. Had I been present, I would have voted ''yes.''

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 3150, BANKRUPTCY REFORM ACT OF 1998

Mr. GEKAS. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 3150, the Clerk be authorized to make technical corrections and conforming changes to the bill.

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

There was no objection.

GENERAL LEAVE

Mr. GEKAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill just passed, including thanks to my staff for helping me get through this.

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

There was no objection.

PROPOSING AMENDMENT TO CONSTITUTION TO LIMIT CAMPAIGN SPENDING

The SPEAKER pro tempore (Mr. HOBSON). Pursuant to House Resolution 442 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the joint resolution, House Joint Resolution 119.

□ 1940

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J.Res. 119) proposing an amendment to the Constitution of the United States to limit campaign spending, with Mr. HANSEN in the chair.

The Clerk read the title of the joint resolution.

The CHAIRMAN. Pursuant to the rule, the joint resolution is considered as having been read the first time.

Under the rule, the gentleman from Texas (Mr. DELAY) and the gentleman from Massachusetts (Mr. MEEHAN) as the Member in favor of the joint resolution each will control 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today after having asked that this constitutional amendment be offered, although I disagree profoundly with what it tries to accomplish.

Mr. Chairman, I know this is very unusual that I would ask to introduce, or have the constitutional amendment of the gentleman from Missouri (Mr. GEPHARDT) introduced, even though he may not want it introduced. But I think frankly that this is the time to have this debate. Earlier on in the year, I thought, because of my opposition to campaign reform, particularly the Shays-Meehan approach, that I frankly would try to block its coming to the floor. But now that we are going to have this open and fair debate, I think it is high time that we have this debate, because this is a debate about free speech, this is a debate about the Bill of Rights and the first amendment to the Constitution. This is a debate that frankly the so-called reformers have had all their way for a very, very long time. It is time for this House to let the American people know what is going on, particularly in this case with this amendment, because this amendment, and I do not want to question anybody's motives, but I think this amendment frankly was offered to cover up some of the campaign abuses by the Democrat National Committee and this administration that we are looking into.

So I bring this amendment to the floor, to do so, to help clarify for my colleagues the real focus of this debate. Tonight we will frame the debate on campaign reform. Any debate on campaign reform and regulation has to begin and end with a discussion of the first amendment to the Constitution of the United States. That is why we are here tonight.

There are two sides when it comes to campaign reform. One side wants to change the Bill of Rights in order to give government more control of the political process. The other side, my side, wants to preserve the Bill of Rights and open up the political process to more Americans.

Now, make no mistake about it. The Gephardt amendment that we are about to debate is the most honest effort by the so-called reformers, honest effort, because it confronts, head-on, the troubling notion that most of these other substitutes, like the Shays-Meehan bill, do not pass the constitutional smell test.

□ 1945

The Gephardt amendment says that we should change the first amendment to fit the political passions of the moment. The Gephardt amendment would change the Constitution, change the Constitution to permit Congress and the States to enact laws regulating Federal campaign expenditures and contributions, which is currently held to be unconstitutional, and it would give to Congress and the States unprecedented, sweeping, and undefined authority to restrict speech protected by the first amendment since 1791.

Now the ACLU, not exactly one of my best supporters, but in this case very much on target, has noted that the Gephardt constitutional amendment is vague and overbroad. It would give Congress a virtual blank check to enact any legislation that may abridge a vast array of free speech and free association rights that we now enjoy.

As the Washington Post said, and they are not exactly a supporter of mine, but they editorialized against the Gephardt proposal, and I quote:

> Campaign finance reform is hard in part because it so quickly bumps up against the first amendment. The Supreme Court has ruled, we think correctly, that the giving and spending of campaign reforms is a form of political speech, and the Constitution is pretty explicit about that sort of thing. Constitution: The Congress shall make no law abridging the freedom of speech is the majestic sentence.

Now the minority leader himself, the gentleman from Missouri (Mr. GEPHARDT) stated his position honestly when he said, and I quote:

> What we have here is 2 important values in direct conflict: freedom of speech and our desire for healthy campaigns in a healthy democracy. You cannot have both. Why disagree with that? In my view, free speech and democracy are not in conflict. In fact, you can't have democracy without free speech and limiting free speech eventually limits democracy.

Now the Supreme Court has correctly noted when it said in a free society ordained by our Constitution, it is not the government but the people individually as citizens and candidates and collectively as associations and political committees who must retain control over the quantity and range of debate on public issues in a public campaign. If this constitutional amendment were adopted, Congress and local governments, not the people, would control speech.

The ACLU has noted that passage of this amendment would give Congress and every State legislature the power heretofore denied by the first amendment to regulate the most protected function of the press, and that is editorializing. Print outlets such as newspapers and magazines, broadcasters, Internet, publishers, cable operators would all be vulnerable to the severe regulation of the editorial content by the government.

Now a candidate-centered editorial, as well as op-ed articles or commentaries printed at the publisher's expense, are most certainly expenditures in support of or in opposition to particular political candidates, and the Gephardt constitutional amendment, as its words make apparent, would authorize the Congress to set reasonable limits on the expenditures by the media during campaigns when not strictly reporting the news.

And the New York Times is editorializing in favor of Shays-Meehan? Other newspapers are editorializing in favor of shutting off freedom of speech and freedom of, and I will yield to the gentleman from Massachusetts in just a moment, but such a result would be intolerable in a society that cherishes free press.

Now it is interesting to note that while the minority leader and many Members of his party support this constitutional amendment as the only way to limit spending in a constitutional manner, they also plan to vote in favor of Shays-Meehan that limits the same spending. Now if a constitutional amendment is needed, as the gentleman from Missouri (Mr. GEPHARDT) rightfully claims, then other bills that contain those same spending limits are constitutional.

Now the proposal of the gentleman from Missouri (Mr. GEPHARDT) does from the front door what other proposals like the Shays-Meehan bill do from the back door. Campaign finance reform should honor the first amendment by expanding participation in our democracy and enhancing political disclosure. The Gephardt constitutional

amendment does not honor the first amendment, it shreds it.

So I just urge my colleagues to vote to protect the freedom of speech and vote against the Gephardt constitutional amendment and then vote against all the other substitutes that limit campaign spending and violate the Constitution.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I ask the gentleman, he has made a fundamental confusion here. The constitutional amendment and the Shays-Meehan bill do different things, and no one has been arguing, prior to the gentleman from Texas, and I do not underestimate the novelty of the arguments he brings to us from time to time, but no one has argued that nothing is constitutional.

The constitutional amendment would allow us to go further; but, for example, one of the major parts of the Shays-Meehan bill is the ban on soft money. Would the gentleman tell me if he thinks that is unconstitutional, and would he tell me which decision of the Supreme Court makes banning soft money?

Mr. DELAY. Reclaiming my time, Mr. Chairman, I do not have to claim that soft money is unconstitutional. The Supreme Court of the United States has already stated that, and, reclaiming my time, and the gentleman can get his own time, let me just answer his question, and I have got to yield to other Members.

Let me just say that the constitutional amendment opens up all kinds of mischief, and let me finish, if the gentleman will let me finish, including the things claimed by the Shays-Meehan bill. If the Shays-Meehan bill was not unconstitutional, then you would not need the Gephardt constitutional amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I yield for one more question.

Mr. FRANK of Massachusetts. That statement is, of course, nonsense. The argument that if the Shays-Meehan bill was constitutional we would not need the amendment, is simply not true. It is, of course, often the case that you will be for a bill that takes you to the limits of what is now constitutionally possible and later for an amendment, and I would give a specific example: soft money.

I would like the gentleman to tell me, because the Supreme Court did say in the Buckley case that we can ban contributions, soft money contributions, not expenditures, would the gentleman tell me out of his great store of constitutional knowledge, recently acquired, what Supreme Court decision says that soft money ban would be unconstitutional?

Mr. DELAY. It is very clear. Reclaiming my time, it is very clear in Buckley versus Valeo. They are very clear that if we collect moneys that is used in support of an idea or in the support of a particular issue, then we cannot limit the expenditures of the contributions of those moneys.

The gentleman makes a statement and then does not even have the courtesy to allow someone to answer the statement.

The point is that they were very clear in the fact that we can do anything in support of an issue, but we cannot specifically say that we are advocating the election or the unelection of a particular candidate.

So I say that the reason that the minority leader has bought a constitutional amendment to the floor is to show the fact that we have to manipulate and shred the first amendment of the Constitution in order to have the kinds of bills like Shays-Meehan, and the gentleman has his own time.

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

Mr. MEEHAN. Mr. Chairman, I yield myself such time as I may consume.

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

Mr. MEEHAN. Mr. Chairman, I would remind the gentleman from Texas that last week he voted to amend the first 16 words of the Bill of Rights.

Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts (Mr. FRANK) a member of the Committee on the Judiciary and a recognized constitutional expert within this body.

Mr. FRANK of Massachusetts. Mr. Chairman, first of all, I want to express my appreciation for the appearance of the majority whip in a new guise, defender of the first amendment, and particularly as an advocate of free speech. He and I have served together for, I do not know, a dozen or 14 years. I guess I will ask for a nexus search. I cannot remember any previous occasion when the issue was freedom of expression that the gentleman from Texas was here.

We have had constitutional amendments, we had two amendments to restrict the first amendment or to cut back or to change what the Supreme Court says. He was for both of them; that is legitimate. We have had a whole series of assaults on free speech. Often it comes from speech that is obnoxious, but that is when free speech gets involved, and I am forced to conclude, not having previously heard the gentleman, he himself said he does not usually agree with the ACLU, he does not usually agree with the Washington Post. He quoted, by his own admission, authority after authority in defense of free speech to whom he is usually an opponent. He has a whole bunch of allies to whom he is usually a stranger. This is first time in my memory that the gentleman has been for free speech.

Why? Because we are talking about the free speech of people with large amounts of money trying to either win an office or buy some political influence. We are talking about free speech that is on behalf of millionaires, and it becomes very clear what the principle is. The gentleman is for free speech as long as it is expensive. I have never heard him support free free speech, but expensive free speech, the purpose of which is to buy one's way into the political process. He is all it.

He has also, it seems to me, neglected to mention one thing about the constitutional amendment, and I worked on the drafting of it. I agree that constitutional amendment, as it came before us, is not ready to be put in the Constitution. That is why it is so disappointing to see it used in this fashion.

I have never supported a constitutional amendment coming to this floor without a previous subcommittee markup and committee markup. This constitutional amendment has had no such markup in the subcommittee or committee.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I will yield to the gentleman from Texas.

Mr. DELAY. Is the gentleman from Massachusetts not a cosponsor of this amendment?

Mr. FRANK of Massachusetts. Yes, I am a cosponsor of this amendment which did not get a subcommittee markup and did not get a committee markup. I am sorry those terms appear to be foreign to the gentleman from Texas.

When we are dealing with the Constitution of the United States, it would be irresponsible to go directly from the drafting to the floor. That did not happen with the balanced budget amendment. That did not happen with the various religious amendments. We work in the Committee on the Judiciary on these amendments, and I cosponsored; I said I worked on it.

What I wanted, however, was to begin a serious discussion, and if the Republican leadership really wanted to advance that discussion, they would have had a subcommittee markup, they would have had a committee markup bringing a constitutional amendment directly to the floor.

Having refused for a year and a half to have any committee consideration, it is hardly serious legislating about the Constitution. In fact, if anybody had tried to get an amendment through seriously that way, he or she would legitimately be subjected to criticism.

Then the next thing the gentleman does is totally collapse this into the bill, and I am impressed by the reasoning here. Apparently he recognizes, and his allies, that the bill brought forward by the gentleman from Connecticut and the gentleman from Massachusetts is hard to attack on its merits, so he has abandoned that by claiming that it is clearly unconstitutional.

No one who was supporting the constitutional amendment introduced it as a substitute for this bill. Indeed, those

of us who think a constitutional amendment would be useful explicitly believe that legislation is possible and desirable but that an amendment could take us further, and his suggestion that Buckley outlaws a ban on soft money is clearly wrong. Buckley clearly says soft money has to do with the contributions. The gentleman is talking here in this bill about limiting contributions, and Buckley said we could limit contributions. It said we can limit them to a thousand dollars.

Now, there are separate issues with issue advocacy and independent expenditure. What the gentleman from Texas is doing is collapsing everything. The constitutional amendment and soft money and issue advocacy and independent expenditures, all complicated, substantive subjects, get collapsed into his rhetorical assault on the notion of reform because he is not for restricting expensive free speech.

The gentleman from Texas, as he said, did not want the bill to come to the floor. He told us that. So he decided instead to let it come to the floor in the most convoluted process. By the way, the Committee on Rules, which would not allow a single amendment onto the floor to reduce the defense budget by a penny, which has restricted important amendments on virtually every other bill we have today, has allowed to this bill, I believe, more amendments than were made in order for all the other bills this Congress has dealt with this year. That is, of course, not serious legislating.

I yield to the gentleman from Texas.

Mr. DELAY. I have not asked for the gentleman to yield.

Mr. FRANK of Massachusetts. Oh, I am sorry. I just did not realize the gentleman was taking the seventh inning stretch so early in the evening.

What we are talking about here is a recognition that this bill cannot be assailed on its merits, so we have, and here is what they have done: First of all, they bring forward a constitutional amendment that they have not allowed to have a subcommittee markup or a committee markup. It had a hearing over a year ago, but, no, went further on that, and we have not had that process of debate and discussion that refines procedures.

□ 2000

If, in fact, people try to bring this to the floor without subcommittee markup, people would be yelling at it.

Secondly, the inaccurate claim was made that because you are for a constitutional amendment in a certain area, you must think no legislating is possible. And the gentleman confuses the issue of soft money. Buckley clearly says you can limit contributions. The ban on soft money here is a ban on contributions. Maybe a later Supreme Court might say no to it.

I must say also I am further impressed by this. This Congress voted for the Communications Decency Act as part of the Telecommunications Act. It was defeated 9 to 0 in the Supreme Court. By the way, the people of constitutional knowledge who were surprised that the Supreme Court did that was quite slender. That did not stop Members from voting against it.

That is another new-found trait of the gentleman from Texas. He is now determined apparently never to vote for anything that would be unconstitutional. Maybe we could make that retroactive and he could go back into the record, because I am willing to point out to him areas where he has done just that.

So I do not think the gentleman as a defender of free speech comes with quite as much experience as he may bring to other issues.

Mr. DELAY. Mr. Chairman will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, the gentleman has talked about all my motives for bringing this to the floor and everything, except the substance of the amendment before us. Could the gentleman enlighten us, is he for or against the amendment that is before us?

Mr. FRANK of Massachusetts. Mr. Chairman, reclaiming my time, first let me say this. I have not spoken about the gentleman's motives. I talked about the gentleman's new-found love of free speech that costs a lot of money. I talked about the procedural inappropriateness of the way of doing this. And my answer is, I am for a Constitution America amendment. I am not for this one as written, as I am rarely on a complicated and sensitive subject for the first draft of anything, precisely because I recognize that the Constitution is an important document.

What I would like to see is a subcommittee markup and a committee markup dealing with this set of subjects. I know of no one who is capable of excogitating that and then, without any discussion, without anybody else, bringing it forward. So I am in favor of a constitutional amendment.

I also share the overwhelmingly majority of opinion, contrary to the gentleman from Texas, that there is plenty of area left by the Supreme Court in which you can legislate. The gentleman suggested that all these bills were unconstitutional, and no one but him thinks that. He is entitled to the splendid solitude of his constitutional opinion, but I do not think it ought to influence the House.

Mr. CAMPBELL. Mr. Chairman will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from California.

Mr. CAMPBELL. Mr. Chairman, I thank the gentleman for yielding.

I would like to engage in a short colloquy with the gentleman. Is it not true that the Supreme Court has held that it is constitutional to limit the contributions that an individual gives to $1,000?

Mr. FRANK of Massachusetts. Yes. In the Buckley case, that is exactly what they held.

Mr. CAMPBELL. Is it not also true that the Supreme Court has held that it is constitutional to limit the contributions that a political action committee can give to $5,000?

Mr. FRANK of Massachusetts. Subject to correction by the constitutional authorities, I would say yes.

Mr. DELAY. If the gentleman would yield further, I just want to correct the gentleman. He is absolutely right, it is constitutional for a $1,000 contribution from individuals and $5,000 contributions limited to PACs to political candidates.

Mr. FRANK of Massachusetts. Mr. Chairman, reclaiming my time, I must say I am a little puzzled when my friend from Texas says, ''I want to correct the gentleman, he is absolutely right.'' That is not what I would ordinarily list as a correction.

Mr. CAMPBELL. If the gentleman will yield further, I want to take two other examples, and on my own time I will have points to make. But I just I thought it would be useful to illustrate the gentleman's point that the Supreme Court has held in absolutely clear fashion that limits are contributions are constitutional in the context I have given.

The only other two I would mention, is it not true that the Supreme Court has for over 50 years upheld the constitutionality on bans of corporations' outright expenditures in campaigns, and the Supreme Court has recently as the Austin v. Michigan Chamber of Commerce case restricted the activity in the campaign field by chambers of commerce?

Mr. FRANK of Massachusetts. Mr. Chairman, reclaiming my time, yes. As my friend from California, who teaches constitutional law, among other things, at the time when he still had a day job, knows, there is a complex set of opinions, and some things are allowed and some are not, and there is also a gray area, and some of us think that what has clearly been banned from regulating should be expanded.

But no one, except apparently the gentleman from Texas, thinks that the current constitutional doctrine makes all of this unconstitutional. Everyone recognizes that there is an area of regulation, and I believe that the gentleman from Connecticut and the gentleman from Massachusetts have together come up with a bill that has enough appeal within what is constitutionally possible, so the gentleman from Texas's first reaction, he said, was to block the bill from coming to the floor; the second reaction was to come up with the most bizarre rule which is designed, in fact, to prevent anything from ever coming forward; and the third to inaccurately claim it is unconstitutional.

I will repeat as I close and say I think we should do a constitutional amendment. It should be done in the

normal way of a subcommittee and committee markup. But none of that means that the Shays-Meehan bill, particularly in some of its core provisions, like limiting soft money, is remotely arguably unconstitutional.

Mr. DELAY. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. HYDE), the distinguished chairman of the Committee on the Judiciary.

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

Mr. HYDE. Mr. Chairman, I listened with great interest to my friend from Massachusetts being highly critical of the gentleman from Texas (Mr. DELAY) for bringing his own amendment forward, complaining that it was not slowed down by a markup in the Committee on the Judiciary, where it might not have squeaked out and still be residing in the desk drawers over there. That is unusual, that someone would object to expedited treatment of their legislation. That makes this an historic day.

But really why we are here is to address perhaps a philosophical question as to the astonishing statement of the distinguished minority leader, that you cannot have healthy campaigns in a healthy democracy and free speech. That is a startling statement. I think we are entitled to wonder and explore whether or not that truly expresses the sentiment of Members of this House, because it has always seemed to me, naive as I may be, and certainly unlettered in the nuances of the Constitution, that you cannot have healthy elections without free speech. It is a condition precedent to a healthy election.

Now, Thomas Jefferson, who was no stranger to free speech, said in 1808, ''The liberty of speaking and writing guards our other liberties.'' So we should be very careful. I think the phrase the court uses is ''strict scrutiny.'' We should impose strict scrutiny on any efforts to limit the first amendment, which has served us pretty well for 222-some years. Yet here we are in this Chamber, under the watchful eye of Lafayette on my left and George Washington on my right, debating essentially the downsizing, the rationing of free speech, this very precious freedom.

George Orwell, in a review of a book by Bertrand Russell, said, ''We come the task of the intellectual to speak of the obvious.'' I certainly do not make any claim to being an intellectual, but the dangers of the amendment of the gentleman from Missouri (Mr. GEPHARDT), cosponsored by the distinguished gentleman and learned constitutional scholar from Massachusetts, those dangers, it seems to me, are painfully obvious.

Is it not obvious that the ability of citizens, individually or in groups, to publicly criticize political candidates or public policy or public officials is the heart and the soul of our political system?

Now, we proclaim, most of us do, that we are for limited government. But this amendment, if it became law, is Big Brother run amuck. Have you thought about the enhanced power of the media as the rest of us try to cope with the Federal speech police? This amendment allows the State to regulate campaign expenditures, therefore to regulate free speech. That is the dream, the wish fulfillment of every tyrant since the dawn of recorded history.

This amendment, if it became in the Constitution, would be a massive consignment of power to the courts, who will then make the determinations as to what is reasonable, an invitation to endless litigation.

Our Declaration of Independence tells us that government derives its just powers from the consent of the governed. That means an informed electorate is indispensable to a functioning democracy, and free speech, political debate, ideas, proposals for governing, are the necessary conditions for informing the electorate.

How do you communicate your ideas, your proposals, your criticisms; how do you effectively campaign when free speech is rationed? Newspaper ads, television, radio commercials, signs, leaflets, buttons, telephone banks, U.S. postage, all of these things cost money, and to limit a candidate's ability to raise money is to limit his or her speech, and, therefore, and thereby, limiting the information available for informed decisionmaking.

History has got a way of repeating itself, and this amendment reminds me of the Alien and Sedition Acts of 1798, where the Federalists tried to suppress criticism of the government. They, too, had the idea that there was just too much political advocacy, and the government could be trusted to decide and enforce the correct amount.

This amendment is a frontal assault against our most cherished principles, principles that monuments and military graveyards from Arlington to Iwo Jima remind us were paid for with American blood. If this amendment were to pass, we would demean the towering accomplishments of our founders and our framers, and we were not sent here to demean or downsize the Bill of Rights, but to defend it.

One hundred thirty-four years ago in a little cemetery in Pennsylvania, one of my State of Illinois' most illustrious sons asked a haunting question, whether this Nation, conceived in liberty and dedicated to the proposition that all men are created equal, can long endure. Each generation has to answer that question for itself, and I wonder what our answer will be?

Mr. Chairman, I hope we can defeat this amendment and the inadvertently pernicious philosophy behind it, and, for this generation, keep faith with those who gave us these blessed freedoms.

Mr. MEEHAN. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. CAMPBELL), a cosponsor of bipartisan campaign finance reform, the Shays-Meehan bill, and a constitutional law professor from California.

Mr. CAMPBELL. Mr. Chairman, I thank the gentleman from Massachusetts for yielding me time.

Mr. Chairman, the distinction before us is between expenditure of money, which the Supreme Court, in my view, has correctly identified as a form of expression, and contribution, which is an act. In offering this amendment, my good friend and colleague, for whom I have the highest regard, is, I believe, confusing the two.

I believe that the amendment is offered in order to suggest that you need to amend the Constitution in order to have Shays-Meehan, or McCain-Feingold, as it is known in the other body.

In reality, you do not, because there is this vital distinction between expressing your own views or spending your own money to express your own views, which is quite protected, and the act of contributing to somebody else for their campaign, contributing to a political party, contributing to a PAC, the soft money, which is the subject of the regulation under Shays-Meehan or McCain-Feingold.

The Supreme Court has been careful to emphasize this difference. It did it in the Buckley v. Valeo case when, in 1976, it dealt with the first attempt in modern times in the post-Watergate era to regulate the activities of campaigns. But it was not the first time that the Supreme Court drew distinctions that affected speech under the first amendment. Indeed, the Supreme Court has made quite a practice of dealing with speech under the first amendment.

''Congress shall make no law abridging the freedom of speech'' is the wording of the first amendment, and yet the Supreme Court has said, except the Congress may restrict commercial speech; except the Congress may restrict speech that constitutes libel and slander; except Congress may restrict speech that constitutes obscenity. Congress may restrict speech that constitutes an incitement to imminent lawlessness. Congress may restrict speech that constitutes a group libel. Congress may restrict speech that constitutes fighting words.

□ 2015

So with this background where the Supreme Court has, over many years, made distinctions, we come to the question of campaign finance. Every time that the Supreme Court has said that it is permissible for the Congress to deal with speech, it has said, provided the fundamental goal of free speech is protected, then for very important other reasons there can be restrictions, but that fundamental goal is protected.

Here, the fundamental goal is my ability to spend my own money and my own time speaking in my own way. But to prevent corruption and to prevent

the appearance of corruption, it is permissible and, in my view, highly desirable to limit how much somebody can give to me or how much somebody will spend to influence a campaign under the aegis of the Republican Party in my case or the Democratic party on the other side.

In conclusion, I say do not confuse these issues. We do not need to amend the Constitution to do what needs to be done, and what needs to be done is the Shays-Meehan campaign finance reform bill.

Mr. DELAY. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Chairman, I rise to speak in opposition of H.J.Res. 19. Some of our colleagues would have us believe that the only way we can have campaign finance reform is to amend the Bill of Rights and overturn the Supreme Court's decision in Buckley v. Valeo.

The First Amendment in the Constitution guarantees that Congress shall make no laws abridging the freedom of speech or of the press. The Buckley v. Valeo decision provides that, although certain limitations on contributions are permissible, that limiting political expenditures is an unconstitutional denial of free speech in violation of the First Amendment.

The proposed amendment, however, will allow Congress and the State legislatures to prohibit certain speech and actions by candidates, their donors, political action committees, issue advocacy groups, and the press.

Mr. Chairman, I believe that we are better off trusting the American people to discern the value of information they receive than we are in having Congress or the States regulate the information they receive. There are several problems with this proposed amendment.

First, the contemplated amendment proposes an unprecedented exception to our free speech right and would represent the first time the Bill of Rights has been amended. At the very place in the Constitution where we have protected the free speech rights of Americans for over 200 years, we should not add a prohibition on political speech.

Second, Mr. Chairman, because the proposed amendment uses vague terminology to define what Congress can do to regulate a political speech and elections, it will be left to future Congresses to implement legislation to decide what is reasonable and what is effective advocacy.

As we have seen with other constitutional amendments on this floor, a transient majority will frequently vote against the Bill of Rights. A majority of this House, as a matter of fact, has already voted twice this Congress to amend the Bill of Rights. We should not allow a simple majority to define who gets to say what during a campaign.

The third point, Mr. Chairman, the proposed amendment would also make regulation of the press possible for the first time. Heretofore, the first amendment has denied legislatures the power to regulate the press in any way or prohibit media endorsements of candidates.

Since the expense of producing and communicating an editorial comment could be included as an expenditure of funds to influence the outcome of an election as described in the proposed amendment, it will subject the press to regulation as we have never done before. This outcome will be intolerable to the American people. Even if there were an exception for newspaper editorials, who would get to decide when a publication is a newspaper?

Finally, Mr. Chairman, the proposed amendment would grant Congress and the State legislatures the authority to define express and issue advocacy. The ability to make the distinction between these two forms of speech will leave only candidates, political action committees, and the media free to comment about candidate records during elections, and it would deny freedom of speech to individuals and groups who might want to comment on issues that may have political ramifications.

We have many reforms that can be considered without overturning the Supreme Court decisions or amending the Constitution. We can consider other reforms such as public financing of elections, improved disclosure requirements, providing discount vouchers for media coverage, reinstating tax credits for small contributions, and on and on. There is a lot that we can do without putting our right to free speech in jeopardy.

Mr. Chairman, I urge all of my colleagues on both sides of the aisle to vote against this attack on our Bill of Rights.

Mr. MEEHAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am struck as I look at the clock and it is 20 minutes past 8:00, no further votes expected, and here we are debating campaign finance reform. It is interesting.

Mr. Chairman, I yield 4 minutes to my friend, the gentleman from Maine (Mr. ALLEN), who has been a leader in the effort to pass bipartisan campaign finance reform, working with both Democrats and Republicans in the freshman class.

Mr. ALLEN. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I rise tonight in opposition to this amendment, but I do not for 1 minute want to suggest that this debate is about the amendment.

What is going on here? We have the majority whip on the Republican side bringing forth a proposed constitutional amendment by the Democratic leader, the gentleman from Missouri (Mr. GEPHARDT), and then saying he is going to vote against it. What is going on here?

I will tell my colleagues what is going on. The gentleman from Missouri (Mr. DELAY) said that he wanted to frame the debate. I will tell my colleagues what is going on. This is an attempt to drag a red herring across this whole discussion.

What is going on here is this: Since campaign reform was brought back to the floor, the free speech coalition, so-called, is in full gear, is in overdrive. It really should be called the free speech/big money coalition. Every time the antireformers say ''free speech,'' they really mean ''big money.'' The antireformers cannot defend big money on its merits. The American people would not buy it. So they cloak the rhetoric in the terms of free speech.

Members of the free speech/big money coalition claim that all campaign finance reform is unconstitutional. These folks claim that money and speech are one and the same. They argue, since money is equal to speech, reasonable limits on contributions are unconstitutional. They are wrong. Antireformer free speech arguments are simply cynical attempts to confuse the issue of campaign finance reform.

I want to deal with two issues, one a soft money ban. Until tonight, I had never heard Buckley used as a way to suggest that a ban on soft money would be unconstitutional.

Some antireformers claim that soft money is constitutionally protected under the Colorado Republican Party decision. Wrong. That decision dealt with hard money, not soft money. In fact, the Colorado court said it ''could understand how Congress, were it to conclude that the potential for evasion of the individual contribution limits was a serious matter, might decide to change the statute's limitations on contributions to political parties''; in other words, contributions of soft money. In other words, Congress can ban soft money.

Take the second issue. Antireformers contend that the Supreme Court has said disclosure of issue advocacy is unconstitutional. And they sometimes hold out the case of McIntyre v. Ohio Board of Elections.

McIntyre involved an individual handing out fliers advocating a position for a local election. The flier did not have a disclaimer, and, yet, the Ohio elections board argued that the State's disclosure law had been violated.

The court held that small-scale anonymous pamphleting is constitutionally protected, but they said this applies only to printed materials, not to television or radio. So the court did not find that this Congress could not require disclosure about radio and television issue advertisements.

There are two primary constitutional arguments used by the free speech/big money coalition. They are both baseless. Soft money can be banned, and information about issue ads can be disclosed.

Both of the major pieces of legislation before this body right now, the Shays-Meehan bill and the Hutchinson-

Allen bill, the freshman bill, both ban soft money, and both have restrictions requiring disclosure on issue advocacy.

Antireformer arguments about free speech are red herrings. They are designed to confuse, to cast out. When antireformers say ''free speech,'' they mean ''big money.'' They want to protect big money, and they use the rhetoric of free speech. That is what this debate is all about. Free speech in this democracy does not equal big money. The antireformers are wrong.

The CHAIRMAN. The gentleman from Texas (Mr. DELAY) has 8½ minutes remaining. The gentleman from Massachusetts (Mr. MEEHAN) has 12 minutes remaining.

Mr. DELAY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I wish the gentleman would have yielded to me, because the gentleman is claiming all kinds of things about big money, soft money; and the gentleman himself received about a million dollars from labor unions in support of his election. Now that he is in office, he would want to ban similar type of spending that might be used against him.

Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. DOOLITTLE).

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

Mr. DOOLITTLE. Mr. Chairman, I am happy that we are considering this proposed amendment to the Constitution, because this amendment, without question, is where the debate ought to be on the government regulation of political speech which is under consideration.

I want to commend the gentleman from Missouri and my other liberal colleagues who have endorsed this approach. I do not endorse it, but I commend them, because it is honest. My liberal colleagues recognize that, in order to limit speech, it is necessary to amend the first amendment. They know that any attempt to abridge a citizen's first amendment rights by statute, such as most of the proposals before us do, in fact, is unconstitutional. So I commend them for their honest admission of this fact.

Mr. Chairman, this is a debate which will clarify that the so-called campaign finance issue is really about limiting our right to engage in political speech and participate in free elections.

In an effort to pave the way for big government regulations such as Shays-Meehan, this resolution would amend the Constitution to grant Congress and the States power to set spending and contribution limits and to define what a political expenditure is.

The words of the Gephardt resolution are relatively few, but the ramifications are stunning. The amendment would give Congress a free hand to regulate, restrict or, indeed, even prohibit any activity which is perceived by the government to constitute the campaign expenditure.

Candidate spending, independent expenditures, and even issue advocacy by private citizens and groups would be swept within the orbit of governmental regulation.

Thanks to the first amendment, America's premier political reform, Congress does not have the authority to stifle political speech. The Supreme Court has rightfully rejected efforts to suppress political speech time and time again.

If this amendment should pass, it would provide the government with a blank check to gag American citizens, candidates groups, and parties. Liberals call this reform.

The Founding Fathers had the wisdom and courage to construct the Constitution of the United States. The first amendment has served our Nation well for over 200 years. The first amendment speech protections are a legacy we are extremely fortunate to have.

Of all the types of speech that we are guaranteed by the first amendment, guess which was the most important in the minds of the framers? It was not the ability to go out and advertise automobiles or beer. It was political discourse, the very thing the British Government tried to abridge when it was in power. Our founders tried to prevent this from ever happening again by enacting the first amendment.

Mr. Chairman, the first amendment prevents the government from rationing the political speech of an American citizen through campaign spending regulations in the same way it prevents the government from telling the Washington Post or the Sacramento Bee how many numbers it may distribute or how many hours a day CNN may broadcast.

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Amending the first amendment for the first time in two centuries, the big government reformers want to make the unconstitutional be constitutional. They would rewrite the first amendment, a frontal assault on American freedom that even the ACLU has characterized as a recipe for repression.

While I relish the debate itself, I recoil at the prospect of gutting our first amendment freedoms. I prefer the crystal clear language of the first amendment, which says, ''Congress shall make no law abridging the freedom of speech.''

We as representatives would do well to abide by the Constitution and defeat this resolution.

Mr. MEEHAN. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY), who has been a leader in the effort to fight for campaign finance reform, and a leader in our bipartisan effort to support the Shays-Meehan bill.

Mrs. MALONEY of New York. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, we have an historic opportunity to pass real campaign finance reform in this Congress. That opportunity is Shays-Meehan. Although some of my colleagues in this body support an amendment to overturn the Supreme Court's decision in Buckley vs. Valeo, such an amendment is not needed to pass Shays-Meehan. Shays-Meehan will pass constitutional review. The DeLay amendment will do just that, delay. I have been told that the amendment's sponsor does not even intend to vote for it.

Shays-Meehan will ban soft money once and for all, and will require greater disclosure from groups which conduct sham issue advocacy ads. For months we have held hearings in the Committee on Government Reform and Oversight on alleged campaign finance abuses. All of the alleged abuses involved soft money. Not one of these hearings would have been needed or would have been held if Shays-Meehan had been enacted, if Shays-Meehan had been law.

If we vote in favor of the DeLay amendment, those of us who may favor it, it will be years before it could take effect while the States debate ratification. In the meantime, we will have lost our best chance in years to pass real reform, Shays-Meehan. There is an old saying that a bird in hand is better than two in the bush, and the Shays-Meehan bill is within our grasp.

So I am urging all of my colleagues who are sincere reformers on both sides of the aisle to vote present on all substitutes, on all bills, except Shays-Meehan. Let us keep our eye on enacting within this Congress and passing it and ratifying true reform, Shays-Meehan. Vote present or no on the DeLay amendment and yes for Shays-Meehan.

Mr. MEEHAN. Mr. Chairman, I yield 2 minutes and 10 seconds to the gentlewoman from California (Mrs. LOIS CAPPS).

Mrs. CAPPS. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise first to say how grateful I am that this debate has finally begun. Many of us have different views of campaign finance reform, but the fact that the House has begun to consider these approaches tells me that we have finally listened to the will of the American people who desperately want us to fix our political system.

I hope that as we debate this issue over the next several weeks we will do so in a bipartisan, civil, and thoughtful manner, because in fact, I do believe that the nature of our deliberation itself is a part of the reform experience and enterprise.

I would support a constitutional amendment on campaign funding if I believed that it would be the only option available to us to change this system. But I oppose the amendment at this time for these reasons.

First, instead of taking the long, arduous, and radical step of amending the Constitution, we do have the ability now to make dramatic changes to

our political system by passing a bipartisan Shays-Meehan bill later in this debate.

Second, changing the Constitution is only necessary if we were to impose overall mandatory spending limits on campaigns. The Shays-Meehan bill contains numerous important reforms. In particular, it bans soft money and regulates issue ads, but it does not mandate overall spending limits.

Third, this amendment is being offered as a vehicle to criticize the Shays-Meehan and freshman reform bills as unconstitutional, and they are not. The Supreme Court has repeatedly upheld a variety of contribution limits, and has furthermore ruled that Congress is within its right to enact additional reforms.

The Shays-Meehan bill will not restrict free speech. Failure to pass this bill will suppress the voices of average Americans who are clamoring to be heard over the din of wealthy special interests dominating our political landscape, and this is the reason now that we must defeat this amendment and support the Shays-Meehan bill.

Mr. MEEHAN. Mr. Chairman, I yield 1 minute and 50 seconds to the gentlewoman from Michigan (Ms. RIVERS).

Ms. RIVERS. Mr. Chairman, I have not been convinced that we need an amendment to the Constitution in order to enact real campaign finance reform in this Congress. In fact, throughout the time that I have served in this particular body, I have avoided all attempts to change the Constitution, many of which came, of course, from that side of the aisle.

Mr. Chairman, I heard someone say earlier tonight that the reason they were here was to preserve the Bill of Rights. I know that just a week ago, 217 Members of this body voted to change the Bill of Rights and the first 16 words of the First Amendment.

I also know that many of the same people who are arguing about free speech interests tonight were also cosponsors and voters in support of the flag-burning amendment, which, indeed, restricted the ability of individuals to make their views known through burning the flag.

I also know that the majority whip and many Members who are participating in this debate tonight voted for the Internet Decency Act, and to restrict people's ability to express themselves on the Internet. So I have to assume that in fact this is not about the first amendment and people's rights to express themselves. It is about stopping campaign finance reform.

The argument that was put forward is that this particular amendment was brought to the floor by the minority leader, when in fact it was brought to the floor by the majority whip. There is a trend that I see happening in this body, a very disturbing trend. A week ago we saw the elements of the President's budget brought not at his request to the floor but by the chairman of the Committee on Rules. Why? Because it was important to construct a straw man that could be attacked and then voted down. That is what we have tonight, a straw man.

We also have an attempt to mislead. Shays-Meehan does not require a constitutional amendment to be put in place. How do I know? Because when it was introduced, I sent it to constitutional scholars throughout my district.

Mr. MEEHAN. Mr. Chairman, I yield 3 minutes to the gentleman from Tennessee (Mr. WAMP), who has been a leader in the bipartisan effort to get campaign finance reform, and a leader on Shays-Meehan.

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

Mr. WAMP. Mr. Chairman, I certainly thank the gentleman for yielding time to me.

Mr. Chairman, while I think this is a cynical amendment, and certainly I do not want to question anyone's motives, I do think this is valuable in that an amendment like this will bring out the more extreme viewpoints in the House on this particular issue, because we have people from one extreme that say we need a constitutional amendment, which obviously most of us think is a bad idea, and then the other side that says we should just have unlimited expenses by whoever and whatever and whenever, no matter which direction our society is going in.

I want to bring the perspective of kind of the logical, commonsense approach from East Tennessee, kind of out of the heart of America. I do not accept PAC money. I always thought that was kind of a bad thing, so I just decided a long time ago not to take that money. I raise my money from individuals, the old-fashioned way. I can look them in the face.

In 1996, 95 percent of the money in my campaign was from the State of Tennessee, just kind of down home grass roots. I think we keep our hands more clean that way and say no to it all.

Where I am coming from here is I do not want big special interest groups with tons of money to dominate our elections to the United States House of Representatives. I think there is a commonsense approach that says we should have some limits on soft money from tobacco and alcohol and gambling interests, of all things, that is climbing so fast that it is going out of control.

Do we want big tobacco to have the ability to just dump millions of dollars, which they already have, directly to the political parties, without any restraints or any controls? Do we want to cause Members of the House of Representatives to lose control of our own elections because of outside influences, where they had independent groups come in and bombard them with their $1 million, and they raise money from individuals back home, and they cannot even stay in the game because of these outside influences? Come on. Common sense says there is some reasonable balance, and we can reform this system.

I want to thank the leadership for bringing campaign finance reform to the floor, but I want to encourage our leadership to do what they said they were going to do and bring reform to the floor. We have a bunch of good substitutes to choose from, and it is time we bring them to the floor. I do not mind staying up until 4 in the morning, but I want to see these votes scheduled.

I say to our leadership, I thank them for changing their strategy and bringing this issue back to the floor, where it deserves to be heard. But I also say, let us get on with it.

I am an appropriator. I know we have appropriations bills to bring to the floor, but we cannot just continue to delay this issue. I am not using the gentleman's name, I say to the gentleman from Texas (Mr. DELAY), the majority whip. I just meant to say, let us not delay, no pun intended, sir. I have the greatest respect for the gentleman.

But we do need to debate these substitutes. As soon as we can, we need to move beyond the cynicism, beyond the extreme, come to the middle ground.

Mr. HOSTETTLER. Mr. Chairman, will the gentleman yield?

Mr. WAMP. I yield to the gentleman from Indiana.

Mr. HOSTETTLER. Mr. Chairman, as someone who has never received special interest PAC money in the history of his elections, I think it is important that the gentleman makes it clear that the gentleman has in the past. Is that not the case?

Mr. WAMP. No. I have not, did not. I have never accepted PAC money. I will make that clear. That is right. I thank the gentleman for clarifying.

Mr. MEEHAN. Mr. Chairman, I yield myself such time as I may consume to say that I have never taken PAC money in the history of my election.

Mr. Chairman, I yield the remainder of my time to my colleague, the gentleman from Connecticut (Mr. SHAYS), who has played such a great leadership role working with both sides of the aisle to bring real, true, bipartisan campaign finance reform to a vote on the floor of this House.

The CHAIRMAN. The gentleman from Connecticut (Mr. SHAYS) is recognized for 3 minutes.

Mr. SHAYS. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, it is exciting to begin the process of debating campaign finance reform. It has been an absolute pleasure to work with the gentleman from Massachusetts (Mr. MARTY MEEHAN) and Members on both sides of the aisle who favor reform, and I also thank my freshman colleagues on both sides of the aisle for working so hard to bring campaign finance reform before this Chamber. Had the freshmen not made their effort, we would not be here today, and I thank them from the bottom of my heart.

The Sharp Meehan substitute does not circumvent the Constitution of the

United States. The amendment my majority whip has offered is not an issue I support, and I will be voting against his Constitutional amendment.

We support a ban on soft money, both on the Federal and State level, for Federal elections. We also believe we need to call the sham issue ads what they truly are, campaign ads. It means that people who attempt to influence elections will exercise their freedom of speech through the campaign process, and that we all play on a basically even field.

Right now if we say, ''Vote for, vote against, elect, reelect so and so,'' it is a campaign ad. Under our bill if one talks about a candidate 60 days to an election, it is a campaign ad and must come under the campaign rules.

Current law does not limit what we can spend, it limits what we can raise from each individual. A wealthy person can spend whatever they want under our campaign laws. We do not change that. They have to file and record what they spend. That is the law now. We are not changing it.

We codify Beck, which was the Supreme Court decision that said that a nonunion employee does not have to pay their agency fee to cover campaign expenditures. We improve the FEC disclosure and enforcement. We say that wealthy candidates who spend more than $50,000 cannot turn to their own parties for additional help.

We say that foreign money and money raised on government property is illegal. Believe it or not, it is not illegal now, because, surprisingly, soft money is not considered as a campaign contribution. It was intended years ago, to be used for party-building, but it has been totally misdirected.

I would urge this House to pay close attention to what happens in the next few weeks. It was my hope and expectation we would deal with campaign finance reform in February, as my leadership promised, or March, at the latest.

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That did not happen. And then we were told we would deal with it in May. Unfortunately, that has not happened. There is a point where the word of our leadership needs to be honored. I hope we can expedite debate and conclude our work to reform our campaign laws.

Mr. DELAY. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, it is amazing to me no one wants to talk about this constitutional amendment. When the gentleman from Missouri (Mr. GEPHARDT), the Democratic leader said, and I quote, ''I intend to fight for and make the case for this amendment, because I believe the future of our democracy demands such a change,'' yet he refuses to come down and speak for an amendment that he and others, including the gentleman from Massachusetts, have beaten their chest about for months in order to cover up some of the campaign abuses by the Clinton administration and the Democrat National Committee.

The gentleman from Massachusetts has asked many questions trying to confuse us about the difference between contributions and expenditures for candidates and contributions and expenditures for organizations and parties. The Supreme Court was very real and very straightforward on the two. They said Congress could possibly limit contributions and expenditures to candidates because there is a potential for corruption.

Now, I do not know anybody in this House that is corrupted by the expenditures or contributions. On the other hand, they also said parties and groups cannot be corrupted, therefore we cannot limit their ability to speak out by raising money and spending it.

So I answer the gentleman from Massachusetts (Mr. FRANK) in his own words, a letter to our colleagues signed by the gentleman from Massachusetts and the gentleman from Missouri (Mr. GEPHARDT):

''Many of the changes to our campaign finance system that people rationally argue for are simply unconstitutional.'' We heard him say right here that that is not the case. ''Since the Supreme Court's 1976 opinion in Buckley versus Valeo, through its recent decision in Colorado Republican Federal Campaign Committee, it has been made repeatedly clear that the constitutional barriers erected by the court cannot be wished away. That is, the Supreme Court has consistently and ever more assuredly told us that any restrictions on expenditures by candidates or anyone else are unconstitutional.'' This is the gentleman from Massachusetts.

''While we may restrict contributions to candidates, those permissible restrictions are very narrow and cannot reach the kind of abuses that we are interested in curbing because they are easily circumvented. In short, neither Congress nor the States have any constitutional authority to limit expenditures, independent issue advocacy, or uncoordinated.''

And I quote from the gentleman from Missouri and the gentleman from Massachusetts: ''The current explosion in third-party spending is simply beyond our ability to legislate.''

They want this constitutional amendment so that they can change the first amendment to the Constitution and limit our ability of free speech. And the reason I brought the amendment here is to catch them, to catch them after they had beaten their chests about Shays-Meehan and others.

We will get into this and it will be a long, open and fair debate; what the reformers have asked us to do. And we will have that open and fair debate as long as it takes, because I believe that people in this body are too cavalier with American's freedoms. Too cavalier to say, as it was just said, we ought to stop these bad old special interests. Well, whose special interests? Americans that spend $100 or $200 to contribute to a group like National Right to Life or National Organization of Women? Are those big bad special interests?

Mr. Chairman, I will be asking those that vote ''present'' on this amendment why they cannot stand up for what they have believed in in the past.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the joint resolution is considered read for amendment under the 5-minute rule.

The text of House Joint Resolution 119 is as follows:

H.J. RES. 119

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

''ARTICLE —

''SECTION 1. To promote the fair and effective functioning of the democratic process, Congress, with respect to elections for Federal office, and States, for all other elections, including initiatives and referenda, may adopt reasonable regulations of funds expended, including contributions, to influence the outcome of elections, provided that such regulations do not impair the right of the public to a full and free discussion of all issues and do not prevent any candidate for elected office from amassing the resources necessary for effective advocacy.

''SECTION 2. Such governments may reasonably defined which expenditures are deemed to be for the purpose of influencing elections, so long as such definition does not interfere with the right of the people fully to debate issues.

''SECTION 3. No regulation adopted under this authority may regulate the content of any expression or communication.''.

The CHAIRMAN. The Chairman of the Committee of the Whole may postpone a request for recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

Are there any amendments to the joint resolution?

Mr. MEEHAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this has been a very interesting and lengthy debate about the first amendment implications of spending limits, and I thank the gentleman from Texas (Mr. DELAY) my colleague from Massachusetts (Mr. FRANK), the gentleman from California (Mr. CAMPBELL), the gentleman from Maine (Mr. ALLEN) and the gentleman from Virginia (Mr. SCOTT) for all of their input into the constitutional implications of spending limits.

But, Mr. Chairman, let me make one thing very, very clear. The Shays-Meehan bill does not include spending limits. I have a sneaking suspicion that reform opponents have contrived a debate here today that is nothing more than a red herring. Their message is that any campaign finance reform is impossible without amending the United States Constitution, and nothing could be further from the truth.

According to the eminent constitutional scholars such as John Miekeljohn and Thomas Emerson, the core principle underlying the first amendment is that voters should have the ability to tap into the vast marketplace of ideas so they can draw their own conclusions about political issues and candidates.

Nothing in the Shays-Meehan legislation precludes their ability to do that. In fact, I firmly believe that the bill would enhance political dialogue by increasing disclosure.

Now, Supreme Court decisions have affirmed that reformers stand on solid constitutional ground when we argue that campaign finance reform and first amendment rights are not mutually exclusive. The Court has repeatedly recognized that Congress possesses a broad ability to shield the political process from corruption and the appearance of corruption.

In the landmark case of Buckley v. Valeo, the Court ruled that Federal contribution limits ''do not undermine to any material degree the potential for robust and effective discussion of candidates and campaign issues by individual citizens, associations, the institutional press, candidates, and political parties.''

More recently, in 1989, the United States Supreme Court reaffirmed that position in Austin v. Michigan State Chamber of Commerce, ruling that the current ban on corporate treasury contributions and expenditures serves to combat ''the corrosive and distorting effects of immense aggregations of wealth that are accumulated with the help of corporate form * * *''

It is clear to me and the majority Members of this Congress that support the Shays-Meehan bill, that it is time to move forward with this debate. Legitimate constitutional concerns must be addressed, but the first amendment shell games should not be used any longer to postpone debate on reform any longer than they already have.

Let me also state that tomorrow marks an anniversary. It is the three-year anniversary that the Speaker of the House and the President of the United States met in New Hampshire and shook hands in agreement to get real comprehensive campaign finance reform to a vote in this Chamber. The three-year anniversary. Can my colleagues imagine? It has been three years and we still have not had a vote on a comprehensive, bipartisan, bicameral McCain-Feingold Shays-Meehan campaign finance reform legislation.

Tomorrow morning when we take the well, it will be an anniversary of sorts. I would encourage Members from both sides of the aisle to come to this well and mark that third-year anniversary with a renewed call for a vote on campaign finance reform. The public has had it. This vote is long overdue. Let us mark this anniversary with a vote on real campaign finance reform and pass the Shays-Meehan bill.

Mrs. CHENOWETH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise tonight in opposition to the amendment. The Supreme Court has spoken very clearly. Limits on money spent in elections in certain cases are limits on free speech. We have heard the references to Buckley v. Valeo. The Supreme Court stated very clearly that spending money in the political process in most cases equals free speech, and the bottom line of what we are discussing here today is free speech.

Now those who would want to say that we are trying to combine free speech with big money, it just simply does not wash. I know in my own personal campaign, the average amount of my contribution was $30, yet I had millions dumped in against me and it was uncontrollable. Uncontrolled, and no one had to disclose.

What I am asking, and what we are asking for here ultimately, is let free speech reign but let the voters understand that they have the right to have every penny disclosed that is contributed or is accepted in a campaign.

I think it is very clear here what the bottom line is, the reason why this amendment was even drafted. Let us look at this again coming from the gentleman from Missouri (Mr. GEPHARDT) printed in Time Magazine, February 3, 1997. ''What we have here is two important values in direct conflict: Freedom of speech and our desire for healthy campaigns and a healthy democracy. You can't have both.''

Now, I think that lays it out pretty clearly. You cannot have both. So what do we peel off? We peel off free speech so we can have healthy campaigns in their definition. There are no healthy campaigns. There is no free press. There are not freedoms without free speech.

Mr. Chairman, how do supporters of this so-called constitutional amendment defend this? They say that they are only trying to balance conflicting values. Right. Give us a break.

Many tried to argue that we need to restrict free speech because they believe that money buys elections. Well, let me remind them that the results of the California primary last week proved that money does not buy elections and, in fact, the high profile candidates who dumped millions of dollars out of their own pocket into Statewide races were turned away empty handed.

What the lessons are that we can take from these results is that money does not decide elections, the informed voters in America decide elections. And that is what we need to focus on, making sure that American voters are fully informed.

Unfortunately, many people still do not trust the American people to make wise decisions. Despite the repudiation of the ideals of big government, my liberal friends continue to search for ways to place restrictions on the freedoms of the American people. Their answer to moral decay and the breakdown of the family is to step in and take prayer and the Ten Commandments out of our schools. Their answer to a struggling economy and unemployment is to take more money away from families and create more paperwork for bureaucrats. And their answer to illegal campaign contributions and possible foreign influences in elections is to change the Constitution to restrict the political participation of Americans and free speech.

Do they not get it? It is printed right here, a direct quote from the gentleman from Missouri. That is the bottom line of this debate.

The fact is that well-intentioned liberals in previous Congresses passed reform bills in 1974, and the result has been an increase in the strength of PACs and an increase in the amount of fund-raising that politicians are forced to do. The answer is not to close off more avenues of free speech.

The ACLU and the late Supreme Court Justice Thurgood Marshall, two voices normally aligned with those supporting this amendment, have made very clear statements on this issue. In the words of Justice Marshall he said, ''One of the points on which all members of the Court agree is that money is essential for effective communication in political campaigns.''

The ACLU, a bastion of liberalism, said that H.J. Res. 119 is vague, overbroad and it would give Congress a virtual blank check to enact any legislation that may abridge the vast array of free speech and free association rights that we now enjoy.

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I happen to agree with the ACLU on this issue. Unfortunately, the proponents of H.J. Res. 119 disagree.

The CHAIRMAN. The time of the gentlewoman from Idaho (Mrs. CHENOWETH) has expired.

(On request of Mr. DELAY, and by unanimous consent, Mrs. CHENOWETH was allowed to proceed for 2 additional minutes.)

Mrs. CHENOWETH. Mr. Chairman, let me remind Members again of their views on free speech and healthy campaigns and a healthy democracy. They said it right here. They say, we cannot have both. And what we are hearing today in this amendment is, we peel off free speech.

We just heard the distinguished gentleman from Illinois quote Abraham Lincoln, when Abraham Lincoln asked, at a very poignant time, a very important time in this Nation, how long can we endure, how long can we endure with the freedoms that we do have.

We must endure and we must protect those freedoms and then this Nation will remain free. The Constitution's authors trusted the people of this great Nation to make well-informed decisions about their lives and about their representatives, and I trust the people. Unfortunately, some Members still do not trust the American people to make the right decisions and they do not trust that they are well informed in this free society.

I ask that we defeat this amendment, H.J. Res. 119.

Mr. DOOLITTLE. Mr. Chairman, will the gentlewoman yield?

Mrs. CHENOWETH. I yield to the gentleman from California.

Mr. DOOLITTLE. Mr. Chairman, I would like to ask the gentlewoman, we have had about 25 years or so of extensive Federal regulation of our campaigns and yet things seem to have gone from bad to worse. Would the gentlewoman care to share her opinion as to why we seem to have have ever-increasing problems despite all the massive regulation that has been in the law?

Mrs. CHENOWETH. Mr. Chairman, it seems very clear to me, we have been trying to put the solution in the hands of the bureaucrats instead of letting the solutions rest with the well-informed electorate. When the electorate understands who is trying to give an inordinate amount of money to political candidates, they always respond. They respond negatively to anyone who gives the appearance even of allowing themselves to accept an inordinate amount of money.

Mr. TAYLOR of Mississippi. Mr. Chairman, I move to strike the last word.

Mr. Chairman, 200 years ago our Nation was founded with the principle that people would be chosen to represent based solely on the quality of their character. Those times have changed, but I think that ideal should remain the same. Obviously, it has not.

If you leave the Cannon House office building and take about 110 steps, you will find yourself at the door of an exquisite building with marble floors, beautiful red carpets that I visited on several occasions, and it is the Republican National Committee.

If you go a few hundred more steps, you will find a much uglier building that is not near as nice, but it is the Democratic National Committee. But they both exist for the same purpose. They raise money and they pedal influence.

I am not here to defend that system. I am here to change it.

I think it has gotten to the point where, and I think it can be proven, 95 percent of all congressional elections are won not by the best man but by the person who raises the most money.

Even now, as there is an open race in my home State of Mississippi, if people ask me who I think will win, I will tell them the name of the guy, a very nice guy by the name of Ronnie Shallison, and both Democrats and Republicans alike, the very next sentence out of their mouth is, but who is raising the most money. You see, that is what it has become in this town. Not the best person, not the person who wants to make our country, to keep it the greatest Nation on earth, but the guy who can make and raise the most money.

Some Members in this room will try to tell you that that is good. I am here to tell you that that stinks.

There is another system out there that we keep talking about, but maybe it has not been explained to the American people. It is called soft money. If you as an individual want to contribute to a candidate, you are limited by law to $1,000. If your spouse wants to give $1,000, that is okay. If your kids wants to give $1,000, that is okay. It is all reported.

If you belong to a political action committee like the NRA or the National Right to Life, that group can give a candidate $5000. But if a PAC or a wealthy individual or an Arab oil sheik or whoever wants to give $100,000 to a candidate, they can go around that law by giving it to either the Democratic or the Republican Party, and then that party writes a check for $100,000 to the candidate and it is perfectly legal. And some Members tell you in this room that is right. I am going to tell you, that is wrong.

There is another process out there called independent expenditures. Once again, you as an individual are limited, but if an organization or, once again, an incredibly wealthy individual who has got a personal axe to grind wants to spend $1 million against a candidate or $10 million against a candidate, he can go straight to the television station and he can go straight to the radio station, he can go straight to the newspaper, he can spend all he wants, he can say anything he wants, and some folks call that free speech.

Well, if all you do is cater to the rich folks, yes, it is free speech. But what happens to the average Joe who cannot raise $1 million and who cannot squander that kind of money. See, I visited both of the headquarters. The only average Joes I saw there and the only poor folks I saw there were working there. They do not have much of a voice in this town, and they do not have much of a voice in this town because money talks.

So if you think that is right, vote not to change a thing. But if you think that is wrong and that this corrupt system is threatening the very democracy that all of us swore to uphold and defend, then let us have a real debate and let us close some of these loopholes, and let us see that the people can run for Congress and have a fair chance of getting elected, not because they raised the most money but because they are the best person, they have the best character, and they want to do the best things for our Nation.

Mr. HUTCHINSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong opposition to the Gephardt amendment. While the gentleman from Texas, the majority whip, and I have different views on some of the reform proposals before this House, I think we clearly agree that this constitutional amendment poses a dangerous threat to our liberties.

William Gladstone praised the United States Constitution as the most remarkable work known to man in modern times. Henry Clay, in a speech to the Senate in 1850, said the Constitution was made not merely for the generation that then existed but for posterity. And it is with that high regard for the Constitution that we begin this debate on campaign finance reform.

The gentleman from Texas knows that it is not necessary nor prudent to amend the Constitution in order to accomplish reform. For that reason, I and others have opposed this amendment. While we are in total agreement that the Constitution should not be amended in this fashion, there is a respectful disagreement on the compatibility of campaign finance reform and the Constitution.

I believe that you can summarize three different prevailing approaches to campaign finance reform today. The Supreme Court, luckily, 22 years ago has commented on each approach. Let us examine these.

One approach is for full disclosure. Let us remove all limits and let us just disclose everything. The Supreme Court understands why that might not be a good idea and said that Congress has a right and authority to require more.

A second approach is to impose spending limits, let us take money out of the system. And the Supreme Court has in fact ruled that unconstitutional and that an abridgment of political speech. I reject that.

Then there is a third approach, and that is the approach of the freshman bill, the Hutchinson–Allen bill to put reasonable limits on contributions which the Supreme Court says meets the test of free speech. The case that is most often cited, many times referred to tonight, is Buckley vs. Valeo.

In that case, the Supreme Court of the United States, after reviewing the improper influence of big money in the 1972 presidential campaign, said that it was constitutional and consistent with free speech to put limits on campaign contributions, not limits on campaign spending, and that is the distinction, but restrictions on large campaign contributions.

The Supreme Court described the appropriate limitations and approved the limitation of $1,000 per individual and, of course, corporate and labor union contributions had already been approved as appropriate to be banned. However, as has previously been described, there is the loophole of soft money, and everything worked fine until the loophole came through that those contributions that were illegal, if

given individually to a candidate, were permissible through the political parties and went to the benefit of the candidates.

That loophole did not exist when Buckley vs. Valeo was decided by the United States Supreme Court. Despite the Supreme Court's ruling, there are those who want to remove all campaign contribution limits and allow anyone, whether individual or special interest group, to pour as much money as they want into the political system. In other words, let the good times roll, as long as there is full disclosure.

Let me read to you what Buckley vs. Valeo, the Supreme Court, said about disclosure:

While disclosure requirements serve the many salutatory purposes intended, Congress is surely entitled to conclude that disclosure is only a partial measure and that contribution ceilings were a necessary legislative commitment to deal with the reality or appearance of corruption inherent in a system. And so more than disclosure is appropriate. And today we conclude that disclosure is not adequate, that we need more in our system.

The second view of reform today that we have talked about is that we ought to restrict spending limits, and that clearly is unconstitutional, as the Supreme Court has said. And I reject that view.

So the Supreme Court has given us some guidance in all of this, but I believe it comes down to the third approach that I have talked about, the freshman bill, the Hutchinson–Allen, because it respects the rulings of the United States Supreme Court.

This bill does not violate the first amendment because it does not try to regulate campaign spending. The freshman bill reduces the influence of big money contributions in American politics and strengthens the voice of the individual. That is what is important.

The freshman bill adopts that third approach to campaign spending, an approach that addresses the worst abuses in our system, and yet it is consistent with the first amendment.

In fact, the Supreme Court has said that the overall effect of contribution limits is merely to require candidates and political committees to raise funds, and this is important, this is a quote, to raise funds from a greater number of persons.

We do not want to restrict campaign spending. We want to make sure that we raise money from a broad spectrum of people that strengthens the role of the individual. In other words, by saying that the Loral Corporation or the tobacco companies cannot give their millions of dollars to political parties is consistent with the first amendment.

The CHAIRMAN pro tempore (Mr. WATTS of Oklahoma). The time of the gentleman from Arkansas (Mr. HUTCHINSON) has expired.

(On request of Mr. DELAY, and by unanimous consent, Mr. HUTCHINSON was allowed to proceed for 5 additional minutes.)

Mr. HUTCHINSON. Mr. Chairman, whether the Loral Corporation or other companies give their millions of dollars to political parties, it is consistent to ban those contributions, it is consistent with the first amendment.

It does not limit free speech and it has the beneficial effect of strengthening the role of individuals in our political process. That is why I urge my colleagues, along with the gentleman from Texas, to reject this constitutional amendment before us today and to support campaign finance reform that tells the homemaker, that tells the factory worker, that tells the voice of grass roots America, your voice counts in American politics. The freshman bill does that. If you support empowering individuals in the role of our government, then you will support the freshman bill.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. HUTCHINSON. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, I compliment the gentleman for his approach in trying to protect freedom of speech at the same time trying to regulate campaigns. The gentleman was chairman of the State party in Arkansas. He takes a much more evenhanded approach than the Shays-Meehan approach, and I applaud him for opposing the Gephardt constitutional amendment.

The difference between the gentleman and myself is the gentleman wants to use regulators and bureaucrats to regulate. I want the people to make the decision, my constituents to make the decision, not a Washington bureaucrat. But the gentleman from Mississippi would not yield to me. So I want the gentleman, since he was a State party, I was shocked to hear the gentleman from Mississippi say that the national parties, both Republican and Democrats, exercise undue influence on elected officials that represent their parties. That is shocking to me, that the gentleman would even think of such a thing.

□ 2115

In fact I think in the gentleman's bill, he does not restrict campaign contributions or moneys going to State parties.

Mr. HUTCHINSON. Mr. Chairman, reclaiming my time, let me respond to the gentleman. I was a State party chairman in Arkansas. I think it is important that we do not federalize all of the State elections and all of the State campaign processes. For that reason, the freshman bill does not regulate the States in every aspect.

The gentleman from Texas did point up that there are two different philosophies. One is a regulated fashion, and one is just simply disclosure. I talked about that. That is an important distinction. I have thought about that philosophically. One way is to just have full disclosure. I do not believe we can move in that environment, where political action committees can give a million dollars, where corporations can give a million dollars, where individuals can give a million dollars. I do not believe disclosure can overcome that enormous influence of big money. The court has said that appropriate contribution limits are reasonable and constitutional. He can call it a regulated environment if he wishes, but I think we need rules in our society that recognize the importance of free speech, recognize the importance of the first amendment to the Constitution, but at the same time tries to make sure that everyone has a voice in our democracy, a voice in our freedom, and a voice in the political process.

Mr. DELAY. Mr. Chairman, if the gentleman will yield further, I do not disagree with the gentleman's intent and his good intentions, but it does strike me as odd that the gentleman from Mississippi was making the point that money is the root of all evil and money elects people.

We just had a primary in California where one candidate spent $40 million of his own money, another candidate spent $20 million of her own money, and both candidates lost to the person who spent less than $10 million of other people's money. So this notion that money buys races has been disproved time and time again.

Mr. HUTCHINSON. I thank the gentleman. That is a very good point. I reject the idea that money always controls in politics. In fact in my campaign, I spent $100,000 less than my opponent and I won. We can cite many examples of that. I do not think necessarily that when we have contributions to political parties that there is always corruption. But let me ask the gentleman from Texas, and I think he would agree with me, that whenever $600,000 is given by the Loral Corporation in soft money to the Democratic National Committee which is followed by a waiver of the transfer of technology to China, that that is a legitimate concern by your constituents, that they are concerned about that and the influence of that money, which is soft money, does the gentleman agree that there are people in his district that are concerned about the propriety and the appearance of a quid pro quo of getting something in exchange for $600,000?

Mr. DELAY. I hate the appearance. If the gentleman would yield further, I would just say that through disclosure, then my constituents, not some bureaucrat in Washington, D.C. can express themselves through elections and other means as to their feelings, as to the connection of $600,000 by Loral connected to a waiver to sell the Chinese certain information. That is for our constituents to decide, not a regulated bureaucracy.

Mr. HUTCHINSON. That is the difference in philosophy, whether disclosure is enough. We all know that $600,000 is transferred, but the appearance of impropriety is still there. The

appearance. That is the concern of the American citizen. That is why I believe the freshman bill is appropriate. I ask for support for that and rejection of the constitutional amendment.

Mr. BLUNT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to talk for just a few minutes tonight about the amendment itself. I came over here to encourage opposition to the amendment and as I listened to the debate, nobody is for it and so maybe I do not need to do that, but I would like to review why this amendment was introduced and what it would have done.

I think I heard that the sponsor, the gentleman from Missouri, was going to vote ''present'' on this amendment. I heard the cosponsor, the gentleman from Massachusetts, say that he was no longer for the amendment and it should have taken more time in the committee process and the amendment that they had drafted was not the amendment that he could support today. But I have a letter here that the whip has already referred to that was sent out February 7, 1997 that encourages support of this amendment.

It says, ''The current explosion in third-party spending is beyond our ability to legislate.'' It says, ''Legislating where we have constitutional authority to do so is necessary.'' Then it says, ''This amendment is necessary beyond that.''

It also says that this amendment would not only allow the Federal Government to regulate spending in Federal elections and set spending limits, it says this amendment would allow State governments to regulate spending in State elections.

So suddenly we move not only beyond what controls Federal elections but now we have decided we are going to see what we can do to control State elections as well as we would with this amendment. This amendment, as proposed, says to promote fair and effective functioning of the democratic process with respect to elections for Federal office and States.

This is not just an amendment that the gentleman from Texas made up and brought up here today. It is an amendment that was filed. It was an amendment that the authors at the time said was necessary to solve the problem of money in politics and that the way to solve that problem was this amendment that would allow the Congress to regulate contributions, would allow the Congress to regulate speech.

The gentlewoman from Idaho has mentioned that quote at the same time that the letter was circulated to our colleagues who were here in 1997. That quote was that we have two important values in direct conflict, freedom of speech and our desire for healthy campaigns and a healthy democracy. Then it says, ''You can't have both.''

You cannot have both free speech and healthy campaigns? I think that is out of Time magazine, February 1997. And so this amendment would be necessary to do the things that today we are saying can be done in legislation.

In February of 1997, two attorneys, two constitutional scholars, two leaders in the House, said this could not be done with legislation; that in fact it would take a constitutional amendment to limit third-party spending; that you could not legislate that under any authority we had at that time, that it would take this amendment to legislate that. And what did this amendment do? This amendment decided in the balance between free speech and what the sponsor calls healthy campaigning that free speech would be what would have to go.

This amendment is designed to create a hole in the Buckley v. Valeo case. This amendment is designed to do what that case says you cannot do. The Buckley v. Valeo case said you cannot limit spending, so we come up with a constitutional amendment that addresses that very decision and says, no, you can limit spending if we go ahead and resolve this conflict by limiting freedom of speech and saying to the Congress, you can limit spending.

Then again in that letter our colleagues received, it says that not only can we limit spending here, we will even allow the States to limit spending, allow the States to limit speech, allow the States to do what the Supreme Court has said they cannot do.

Amending the first amendment in this way would give Congress sweeping and unprecedented powers that it has never had before. If you can begin to limit speech, I think as the language of the amendment read, the language of the amendment said to limit speech in a way that the Congress did not feel would interfere with elections. What does that mean? How could you possibly do that?

The CHAIRMAN. The time of the gentleman from Missouri (Mr. BLUNT) has expired.

(By unanimous consent, Mr. BLUNT was allowed to proceed for 1 additional minute.)

Mr. BLUNT. Then if the Congress later decides that they want to limit the speech of the news media, why could you not do that? Why could you not limit the coverage that news organizations give in the last days of the campaign? Why could you not require that they list their advertisers, list their owners, list all the information that the Congress might decide needs to be listed as part of the speech of the media?

This is an amendment that the sponsor said was necessary to do many of the things that the legislation that we will be dealing with in the next few weeks would do. But now nobody is for the amendment. The sponsors are not for the amendment. They are going to vote ''present.'' They are going to vote ''no.'' Nobody is for the amendment that only months ago was seen as a necessary element to do the kinds of legislation that we are talking about doing today.

Ms. RIVERS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, allow me to reflect on inconsistency for just a moment. The majority whip just spoke with the gentleman from Arkansas, and he said, ''I appreciate your approach to this issue.'' But yet I have, ''And oppose the bipartisan gag order,'' the Dear Colleague from the gentleman from Texas that says, ''The Hutchinson freshman bill, H.R. 2183, violates the first amendment rights of citizens, citizens groups and political parties.''

The gentleman from Texas also said that he believed that constituents were very concerned with quid pro quo kinds of arrangements around fund-raising.

I turn to the Washington Post, Monday, November 27, 1995.

> ''See, you're in the book,'' DeLay said to his visitor, leafing through the list. At first the lobbyist was not sure where his group stood but DeLay helped clear up the confusion. By the time the lobbyist left the Congressman's office, he knew that to be a friend of the Republican leadership, his group would have to give the party a lot more money.

Inconsistency seems to be the order of the day. As I said in my earlier comments, it dogs the concerns that are being raised over and over about the attacks, supposed attacks on the first amendment. Why do I say this? Because those that are so strenuously arguing for a hands-off approach to the first amendment relative to campaign finance reform were in fact more than willing to reject the original language and intent of the Constitution when it came to the first amendment last week and religious freedom, to the first amendment previously regarding the flag burning amendment, to the first amendment previously regarding the Internet, and to the first amendment and individuals' rights to speech whenever we talk about any organization, domestic or foreign, that deals with the issue of abortion. Apparently our indignation around changes to the Constitution are situational.

I sometimes feel like Alice in Wonderland. We are considering a constitutional amendment brought to the floor by people who do not support it. That amendment is being discussed only by people who wish to defeat it. No one is promoting the constitutional amendment. Yet it is consuming the time of the other side. I said I feel like Alice in Wonderland. Like Alice in Wonderland, when the Cheshire cat fades in substance, his little smile is left. That is the hope around this debate, that when the words fade from the debate tonight, people will be left with this lingering concern that there is some sort of attack going on relative to the first amendment, and it is not true.

Why is it happening? I will tell you why. Because we are very, very close in this body to bringing change to the way we do business here, and that terrifies some people. That is what is driving this charade tonight. A consensus is building around Shays-Meehan. There is a bipartisan group that is

growing in this body. Good government groups across the Nation have endorsed it. Ethics organizations around the country have said that it is something that we have to do. We are poised to restore integrity to the campaign process in this country. Unfortunately that leads some people to frighten, to misinform, to mislead the public into believing that making our political system one we can trust requires us to amend the Constitution we love. It is not true. Shays-Meehan does not require a change in the Constitution. It is very clear.

When the bill was originally introduced, I had concerns about some provisions which no longer exist in the bill, and I sent the document out to legal scholars all over the State of Michigan. I asked for responses. Any of the concerns that I got back have been addressed in the current iteration. There is no one of any legal stature arguing that Shays-Meehan is unconstitutional. It may be that individuals have looked at this issue and they have a view on it, but it is not necessarily held by people who actually work with the Constitution and the legal system on a day-to-day basis.

I find this whole argument so far this evening to be extremely confusing. We have issues in front of us, plans in front of us that people want to talk about, people want to debate, people want to pass. But this side wants to spend all of their time talking about an amendment that no one is promoting. Why? Because they hope it will frighten people enough that they will reject all change. Do not give them what they want.

Mr. DELAY. Mr. Chairman, will the gentlewoman yield?

Ms. RIVERS. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, the gentlewoman spoke of inconsistencies and took a shot at the gentleman from Texas, and I just wanted to question her about the inconsistencies she called. First let me say I hope the gentlewoman will submit for the record all the legal scholars and the written opinions that she claims support her position.

The CHAIRMAN. The time of the gentlewoman from Michigan (Ms. RIVERS) has expired.

(On request of Mr. DELAY, and by unanimous consent, Ms. RIVERS was allowed to proceed for 5 additional minutes.)

Ms. RIVERS. Mr. Chairman, I would be willing to put forward any materials that I can put together if the gentleman would do the same and show me who he is relying upon for his conclusions.

Mr. DELAY. I did not make the claim.

Ms. RIVERS. Mr. Chairman, when I see his, I will give him mine.

□ 2130

Mr. PETERSON of Pennsylvania. Mr. Chairman, I move to strike the last word.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. PETERSON of Pennsylvania. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, I appreciate the gentleman yielding, and I noted the gentlewoman from Michigan takes a shot at the gentleman from Texas but does not want to stand her ground. She claimed that she submitted to all the legal scholars of the State of Michigan and not one legal scholar that she knows of claims our position to be the right position.

I just ask the question, has the gentlewoman from Michigan (Ms. RIVERS) talked to the ACLU, a group that the gentlewoman would probably like their kind of support? She made inconsistent statements, inconsistent statements that no one believes in our position.

Ms. RIVERS. Mr. Chairman, would the gentleman yield, because that is not what I said.

Mr. DELAY. Mr. Chairman, if the gentleman would continue to yield to me, I think it is ironic that the gentlewoman, who had over 5 minutes now, wants us to yield to her after taking shots at the gentleman.

So I just say there are no inconsistencies from this gentleman, particularly in light of the fact that the gentlewoman from Michigan raised the fact that the first amendment that I supported on religious liberty is an assault on the first amendment.

As my colleagues know, the gentlewoman and—well, I retract that. The party, the Democrat party, has for so long tread on the freedoms of Americans that they cannot even understand, understand that when we are trying to pass a constitutional amendment to enhance the first amendment and enhance freedom, and here we are trying to defeat an amendment brought by the gentlewoman's own minority leader that is trying to destroy the first amendment, there are two very clear, consistent approaches to amendments to the Constitution.

(On request of Mr. DELAY, and by unanimous consent, Mr. PETERSON of Pennsylvania was allowed to proceed for 3 additional minutes.)

Mr. MCINNIS. Mr. Chairman, would the gentleman yield?

Mr. PETERSON of Pennsylvania. I yield to the gentleman from Colorado.

Mr. MCINNIS. Mr. Chairman, I ask the gentleman from Texas, I was interested in the gentlewoman's comments from Michigan and wondered if he had an idea of the political contributions that this particular individual had?

Mr. DELAY. Mr. Chairman, will the gentleman yield to answer the gentleman?

Mr. PETERSON of Pennsylvania. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, I have no idea.

Mr. PETERSON of Pennsylvania. Mr. Chairman, I move to strike the last word and oppose the Gephardt-Frank-DeLauro constitutional amendment and any proposal that would limit free speech.

The Buckley decision recognized that campaign finance restrictions proposed severe constitutional concerns because they limit the ability of individuals to advocate candidates and causes in the public forum and require government monitoring and control of political speech activities. Overturning Buckley would cut to the heart of our democratic system by empowering Congress and the States to severely restrict the ability of individuals and groups to communicate their views about candidates and causes if such advocacy were in any way in support or in opposition to a candidate for Federal office.

Overturning Buckley through this constitutional amendment raises many more questions than it answers. The sponsors would grant to Congress the abilities the Supreme Court held the first amendment denied, legislative control over the regulation of campaign finances. Since the common purpose of the proposals is to carve out an exception to the first amendment principles announced by the Court, against what baseline would such legislation limiting contributions and expenditures be measured, or would Congress and the States have largely unfettered discretion to dictate the nature, scope and enforcement of campaign legislation?

What about the press? May news coverage or editorial endorsements be considered contributions or expenditures in support of or in opposition to favored and disfavored candidates? Now, there are times I would like to have those overruled or disallowed. Right now the Federal Elections Commission specifically exempts from the defining definition of expenditure any news story, commentary, or editorial distributed through the facilities of any broadcasting organization not owned by a party.

I think what we really need to be careful about is any proposal, this proposal or any proposal we consider limiting free speech. What about those who are concerned of child pornography and want to raise money and speak against it and support candidates who will do something about it? What about those who have a concern for drunk driving? Mothers Against Drunk Driving; should they be limited in their free speech? How about those who want drug-free schools and want to deal with drug addictions and drug abuse? Should they be limited to free speech when in the process of electing people? Those who are opposed to the expansion of gambling; many of us feel that gambling is a tax on the poor, but there are those who want more gambling. Should they be limited to free speech? I do not think so. Those who are concerned about teen smoking? I have read lots of ads today about teen smoking. I am not opposed to those. Partial-birth abortion. Should people be limited in speaking out against this horrible crime that is going on in this country, partial-birth abortions? For the right to bear arms,

should we be limited for those who believe in the right to bear arms?

These are the issues that inappropriate legislation will inadvertently control, and I think we must be very careful. Should we trust future Congresses and State legislatures to determine who and what issues can be discussed? And how much money can be spent?

I happen to come from a State that has no limits, Pennsylvania. Campaign finance reform is not an issue for the State of Pennsylvania because while most of the money comes from people, people give checks, people give money to campaigns, soft money is not a big issue there because people give the money, and people are disclosed, and if my colleagues accept money from somebody with bad character, they are considered someone who they are not going to support in the election process.

This amendment would give Congress, the States, the rights to regulate the press and could limit the right to commentary. Do we want to do that?

In conclusion, I would like to just share with my colleagues from the Washington Times: ''This is not so much an amendment to the Constitution as an assault on it. The Founders, in their concise wisdom, said that Congress shall make no law abridging the freedom of speech. There was no wiggle room, nothing ambiguous, and even so, the effort to find the exact practical boundaries of the first amendment had been one of the richest, most contested practical bound areas of the law.''

Imagine, if my colleagues will, what would happen if a pernicious and expansive ambiguity were introduced in the first amendment. Imagine the free-for-all we in Congress would have given the power to regulate political speech, bound only by the obligation to be reasonable about it.

The Gephardt amendment would trash the Constitution and the guarantees of free speech, and I think this House better be very careful with a lot of pieces of legislation that have been introduced that in my view, if not changed, will limit the right of people to fight against pornography, to fight against drunk driving, to fight against teen drug abuse, to fight against expansion of gambling, teen smoking, partial-birth abortions, the right to bear arms, and on and on. Those are freedoms that go to the heart of this country and should be talked about in the process of electing candidates at the State and national level, and we should not inhibit that, and we must be careful because in my opinion many of the bills, as written, do just that.

Mr. ALLEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the longer this debate goes on tonight, the weirder it gets. If my colleagues listen to the last few speakers here, some might think that we are engaged in a great legislative debate to defeat a constitutional amendment that required all of the resources of this body to come in here and debate and defeat. We would not even be discussing this amendment if the majority whip had not brought it to the floor. Almost everyone who has spoken here tonight is opposed to this amendment.

This is not a debate about this particular amendment. The Committee on Rules in this case brought to the floor the freshman bill, the Hutchinson-Allen bill, H.R. 2183. The Committee on Rules of this House authorized 11 substitutes to that piece of legislation. This amendment was not one of them. The Committee on Rules authorized hundreds of amendments to this particular piece of legislation. We have plenty of opportunity to discuss campaign reform.

Instead, the majority whip, the gentleman from Texas, brings to the floor a proposal that is a constitutional amendment that no one, the author himself, did not offer; and we are here, in his words, trying to defeat an amendment that we would not have to defeat if it had not been brought to the floor.

Mr. DELAY. Mr. Chairman, would the gentleman yield?

Mr. ALLEN. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, I hope the gentleman did not misspeak. He said that the minority leader did not author the constitutional amendment. Did not the minority leader author this constitutional amendment?

Mr. ALLEN. He did not offer it to the Committee on Rules.

Mr. DELAY. The gentleman said offer it. I stand corrected.

Mr. ALLEN. It is not author; offer.

But what is going on here is real simple. The debate about this constitutional amendment is an attempt to drag a red herring across this whole debate, it is a chance to confuse big money and free speech and to defend big money in the name of free speech. And the analysis put forward by the gentleman from Missouri a few minutes ago had everything to do with expenditures, about expenditures and the constitutional problems of regulating expenditures.

Well, there is a problem. The Shays-Meehan bill does not regulate expenditures. It deals with contributions. The Hutchinson-Allen bill does not deal with expenditures, it deals with contributions. Both of these bills are constitutional. It is constitutional to enact a soft money ban, it is constitutional to regulate issue advocacy.

This debate is a fraud. It should stop now.

Mr. MCINNIS. Mr. Chairman, I move to strike the last word.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. McINNIS. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, I do not understand how the so-called reformers do not want to debate the issue. They make incredible statements on the floor of the House, then yield back and do not want to debate. They claim that this leadership of this House does not keep their word in offering open and fair debate. We are going to have the most open and fair debate on this issue that my colleagues can imagine. Yet they do not want to debate because they do not want to look at the issues of free speech versus regulated speech, free speech versus stopping Americans from exercising their constitutional right.

I was just going to ask the gentleman from Maine about the fact, and I have an USA Today article here dated Monday, September 30, 1996, and I do not blame the gentleman, I congratulate him; he got elected. But in this article it says the AFL–CIO has spent more than $500,000 on a series of television ads criticizing Longley, the gentleman's opponent in the last election, votes on Medicare, student loans and private pensions. The ads have helped make Portland the political advertising capital of the Nation. The gentleman from Maine (Mr. ALLEN) was the total beneficiary of this $500,000, yet he has the audacity to stand up on this floor and talk about the corruption created by big money expenditures especially when they have been made on his behalf.

Mr. ALLEN. Mr. Chairman, will the gentleman yield?

Mr. MCINNIS. Mr. Chairman, I control the time, and I will yield if I can get unanimous consent to continue for 5 minutes after the gentleman concludes.

(By unanimous consent, Mr. MCINNIS was allowed to proceed for 5 additional minutes.)

Mr. MCINNIS. Mr. Chairman, I yield to the gentleman from Maine.

Mr. ALLEN. Mr. Chairman, the brief answer is labor. Whatever ads the AFL–CIO ran in my district were legal, they were accurate, and they were part of this debate.

As we know, all of us who were involved in the 1996 elections, there was a great deal of outside money on all sides. In my particular district in the last month of the campaign there were no AFL-CIO ads. There were, however, a vast number of ads run by the Republican National Committee.

The truth is, I say to the gentleman from Texas (Mr. DELAY), that in the last 3½ weeks, I will be exactly specific, there were no AFL–CIO ads run against my opponent. There were, however, up to $50,000 a week of ads run by the Republican National Committee.

This is a democracy. These outside ads are constitutional. It is entirely proper that they be run. The important point is that neither Shays-Meehan nor the Hutchinson-Allen bill would prevent these ads from being run. It is perfectly appropriate to have that kind of discussion.

□ 2145

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. MCINNIS. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, I am glad the gentleman is now ready to debate through this gentleman's time, because he would not take his own time to yield to me, but I just ask the gentleman once again, the gentleman, before the September that he is talking about, received benefits of over $500,000 from AFL–CIO, spent on him or against his opponent all the way through to September 15. There was more money spent past then, some claim to be almost over $1 million, spent by the labor unions, attacking his opponent. Then the gentleman admits to a huge amount of money being spent in the last 3 weeks on his behalf, independent expenditures.

Yet I am just asking the gentleman, does the gentleman approve of that kind of expenditure, or does he not? Obviously he does not, because he now wants to support Shays-Meehan and Allen-Hutchinson, that would limit the ability of outside groups to spend that kind of money.

Mr. MCINNIS. Mr. Chairman, reclaiming my time, I want to stand here and tell the gentleman, I think the key to campaign reform is disclosure. I know the gentleman earlier talked about the Loral situation, which, in my opinion, is a corporation that ought to hold its head in shame for what occurred. But, you know, no campaign brought that out. None of these do-gooder bills, in my opinion, brought that out.

What brought it out was disclosure. The newspapers got hold of it. If you want better campaign in this country, require disclosure every Friday, and make us put it on the Internet. If somebody in my district gave me $100,000 and you found out about it on Friday, where do you think it would be in Sunday's newspaper? It would be the headline. It is disclosure.

I want to put everybody on this floor on warning, and want to be fair with everybody: Those of you on this floor who stand up, in my opinion, in somewhat of a hypocritical fashion and say, ''Let's ban soft money, let's stop the big money,'' and we heard big money from the previous gentleman, I am going to bring out, I have got your contribution reports here.

For example, the gentleman who just talked about big money, and I say this in due respect, he and I had a debate on C–SPAN, but I want full disclosure.

The gentleman from Maine (Mr. ALLEN), this is his report. In the last reporting period, $55,000 from PACs, $54,900. Page 1, PACs, 12 of them; page 2, PACs, 12 of them; page 3, PACs, 12 of them; page 4, at least 12 of them; page 5, at least 12 of them; page 6, at least 12 of them.

Let us talk about the gentlewoman from Michigan (Ms. RIVERS), who was the previous speaker. The American Trial Lawyers Association, $10,000; the United Steel Workers Union, $10,000; the Education Union, $10,000; Teamsters Union, $10,000; United Auto Workers, $10,000; Human Rights Campaign, $10,000; Machinists, $10,000; American Federation of State, County and Municipal Employees, $10,000.

I just want everybody to be on notice, when you stand up here and talk about the corruption of big money, you had better check your own contribution list. I do not think it is corrupting. I think disclosure saves that. I think disclosure lets the voters make their decision. And if you are going to stand up and act like ''holier than thou,'' I have this book.

You can disclose mine, I am not ashamed of any one of them. But I want to make sure the American public as they see this debate know exactly where you got your money. So if you allege this has corrupted it, you have some self-explaining to do.

Mr. ALLEN. Mr. Chairman, will the gentleman yield?

Mr. MCINNIS. Mr. Chairman, I do not have the time to yield. I will not yield. I control the floor.

The CHAIRMAN pro tempore (Mr. WATTS of Oklahoma). The gentleman from Colorado controls the time.

Mr. MCINNIS. Mr. Chairman, the idea here is not for us to attack each other. That is not my intent. My intent is to, first of all, make sure that those of us speak with a true heart, number one; number two, that we have disclosure.

This is a rich man's game, if you let Shays-Meehan go through. If you let this freshman bill go through, it is a rich man's game. The very wealthiest people in this country can play.

Well, I am not wealthy. My dad owned a little hardware store. I raised some contributions. I work hard on raising money, because I know in my district I face the odds of having somebody wealthy run against me. I have to have that money. I have to be armed.

Do not eliminate the poor man, the working person out there that wants to run for political office. If you are worried about what they are getting in contributions, make them disclose it every Friday. Then if the voters do not like who they receive contributions from, let the voters vote no. Let the voters vote.

Some people underestimate the intelligence of the voters out there. Take a look at what happened as a result of disclosure in California to Mr. Checchi. The disclosure showed how many millions and millions and millions of dollars was going into that campaign. What happened, the people rejected it. They did not say he could not use the money. Of course the Supreme Court will protect him using his own money. Even the money contributed, they did not prevent that. In fact, what happened earlier, everybody, before the California reform was, by the way, thrown out because it was unconstitutional, people were concerned, how can anybody ever match Mr. Checchi's money?

It is disclosure that brought accountability and disclosure that will work for us. I intend to practice disclosure. If you or I hear people saying about how corrupt it is, how corrupt the people in this House are, how corrupt you are because you have to go out and raise money because you cannot write your own check, we are going to talk about that. Every one of those contributions we are going to talk about.

Mr. Chairman, I yield to the gentleman from Kentucky (Mr. WHITFIELD).

POINT OF ORDER

Mr. SHAYS. Mr. Chairman, I rise to a point of order.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. SHAYS. Mr. Chairman, does the gentleman yield a particular amount of time under the 5 minute rule, or just yield blanket time? I just want to know for future reference as well. I apologize for interrupting. I want to know what the process will be. We are going to do this for weeks.

The CHAIRMAN pro tempore. While the gentleman from Colorado (Mr. MCINNIS) is standing on his feet, he may yield time.

Mr. SHAYS. Can the gentleman yield a particular amount of time, or just yield time?

The CHAIRMAN pro tempore. The gentleman just yields time.

Mr. WHITFIELD. Mr. Chairman, I thank the gentleman very much for clarifying that.

Mr. Chairman, all of us in 1996 have groups that came in and bought television ads for issue advocacy. In my race, the labor unions spent $850,000 on issue advocacy. I did not like that particularly, but I think they have the right to do that.

I find it quite disturbing that anyone would take the notion that you have a right to curtail the right of any group to buy television ads or radio ads or newspaper ads to talk about issues, even if it mentions a candidate by name, as long as they do not expressly ask for the defeat or the election of that candidate.

I would like to say more about this issue, but I appreciate the gentleman letting me get that comment in.

Mr. MCINNIS. Mr. Chairman, reclaiming my time, I see that my respected colleague from the State of Texas is next, and since she will be speaking after me, I would like to go through those political contributions.

The gentlewoman from Texas (Ms. JACKSON-LEE), 58 percent of her funds come from political action committees: $47,000, industrial unions; $41,000, unions; public sector unions, $34,000; transportation unions, $26,750. Let me get a little more specific. Communications Workers of America, $15,000; Teamsters Union, $13,000; Association of Trial Lawyers, $10,000; American Federation of County Municipal Employees Union, $10,000; United Steel Workers Union, $10,000; Laborer Union, $7,500; Food and Commercial Workers Union, $7,000; IBEW Union, $7,000; National Association of Retired Federal Employees, $7,000; United Auto Workers, $6,500.

I think this is very key. This is disclosure. Some people have no objection to that. Actually, I have no objection to it. I think disclosure does it. I just want to be up front where these contributions come from as we listen to the statements throughout this long evening.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have never come on the floor of the House and denied the ability of anyone to present full disclosure. In fact, I support full disclosure, and I am glad my good friend from Colorado has offered to give the record of my contributions, because I am glad to stand with the men and women of America, and particularly the working men and women of America. I hope to stand with them in this debate that we will continue, and also stand with all America.

This amendment that we have on the floor of the House at this time obviously is not a serious amendment. And I appreciate my good friend from Texas as well. I know that in many instances the gentleman comes with a great deal of sincerity. But this constitutional amendment is what it is, it is an attempt to frivolously treat the very serious issue of campaign finance reform.

We have a number of very valid legislative initiatives, one by the freshmen, one by Shays-Meehan, that are real campaign finance reform. My good friends on the other side of the aisle know that they are taking up the people's time and making this discussion. Why? Because they are asking for a constitutional amendment. It takes two-thirds vote in the House and three-fourths of the States that would be required to pass this amendment.

The reason why I came to the floor, not only to have the gentleman from the Committee on Rules recount for this body the contributions that I received legally, by the way, and we are all looking to ensure that we have a system that responds more to the people's needs than to this excessive counting of money, but I do not have a problem with disclosure. What I have a problem with is frivolity.

Mr. Chairman, if I can turn to the Speaker on this whole idea of campaign finance reform, that is why I know my friends on the other side of the aisle are taking up our time to frivolously discuss this issue, the Speaker, the very person who leads them, said, ''One of the greatest myths of modern politics is that campaigns are too expensive. The political process in fact is underfunded, it is not overfunded.''

So even for all he has recounted that all of us have received, his own Speaker says we need more money, more money, more money. So this is not a serious constitutional amendment.

I came to the floor of the House because we have a serious issue that should be discussed. My good friend the gentleman from Pennsylvania (Mr. PETERSON) started mentioning gun reform, and the gentleman started mentioning partial-birth abortion.

I want to mention tonight James Byrd, in Jasper, Texas, who was killed by hate crimes and a violent group. We are not discussing anything serious when we talk about a constitutional amendment for campaign finance reform. We know it is not going to pass.

Why are we not talking about a man who was picked up by men, and where he was beaten, chained to a truck and then dragged for 2 miles? Why are we not talking about someone whose torso was found on the edge of a paved road, his head and arm in a ditch? Why are we not talking about hate crimes? Why are we not talking about the tragedy that happened in Texas, that happened in Virginia, that is happening around this world?

Why? Because we want to come to the floor of the House and make fun of people, and try to act like we are making some progress on campaign financial reform. Mr. Byrd's family needs the country, this United States of America, to address what happened in Texas, to address the Klan, to address hate crimes. But, no, we are here at almost 11 o'clock at night talking about a constitutional amendment that means nothing, because it is going nowhere, because the very Speaker, the head of the party that they represent, has said, ''We are underfunded in campaign finance reform.''

I am sad that I have come to the floor of the House asking for some relief for the family of Mr. Byrd, some recognition of the tragedy that has occurred in Texas, and they can count on those of us who care to respond to this devastating, vicious crime.

That is what we need to be on the floor of the House discussing, not a frivolous constitutional amendment that is going nowhere, because if we wanted to be serious about what we are doing, we would move forward on the legislative initiative that is there already.

I would hope my good friend from Texas would join me in offering our sympathy to the Byrd family, but, as well, that we would be counted on to try to address the viciousness that has happened to this man's family, his dismembered body, only because of the color of his skin and because of the hatred that has been promulgated and promoted. I hope we all stand up against it.

Mr. DELAY. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE. I yield to the gentleman from Texas.

The CHAIRMAN. The time of the gentlewoman from Texas (Ms. JACKSON-LEE) has expired.

(On request of Mr. DELAY, and by unanimous consent, Ms. JACKSON-LEE of Texas was allowed to proceed for 3 additional minutes.)

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Chairman, I appreciate the gentlewoman yielding, and I, too, send my sympathy to the Byrd family in Jasper, Texas.

But the gentlewoman is calling frivolous her own minority leader's constitutional amendment, and she quotes the Speaker of the House on too much money. If the gentlewoman would hold it up again, I would like to read the quote again.

I guess the gentlewoman is not going to.

The gentlewoman says the Speaker says there is not enough money in politics. I would just ask the gentlewoman, what is enough money? Is the gentlewoman aware we spent in the Presidential and all elections last time, in 1996, $2.8 billion? That is less than the American people spend on potato chips. That is 1 percent of all the advertising in the country for products. And we are talking about the foundation of our democracy, our electorial politics. We spend 1 percent of all the advertising trying to convince the American people that you ought to be elected or I ought to be elected. What is too much?

□ 2200

It is your time, and I just ask the question: How much is too much?

Ms. JACKSON-LEE of Texas. Mr. Chairman, reclaiming the time then, and I thank the gentleman very much. It was very clear, and I would be happy to emphasize the point. It says, in fact, it is underfunded.

I think that we can take the actual facts from what the Speaker says. It is underfunded. Is not overfunded. So the Speaker seems to be saying, if I can read the clear English, the black-and-white English here that says he wants more money.

What I am simply saying is that this constitutional amendment is not an amendment that is serious about campaign finance reform, realizing that we have serious legislative initiatives that Democrats have been asking time and time again to come to the floor of the House. Yet, we have a constitutional amendment that takes two-thirds of this body, three-fourths of the States, when States have their own individual campaign finance reform structures.

We are asking for Federal legislation that deals with soft money, that deals with PACs, that deals with issue ads. This amendment does not do so.

Might I just close by simply saying I came to the floor of the House to offer my deepest sympathy to the Byrd family and to ask this Congress, this body, to address the question of hate crimes in America and the vicious and horrible and almost outrageous tragedy that has happened to the Byrd family in Texas, my home State.

I am asking and pleading, let us stop this debate and deal with the crisis that we have in hateful and violative vicious acts in America simply because of the color of your skin.

Mrs. NORTHUP. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am glad to have an opportunity to speak in opposition to

this constitutional amendment. This debate reminds us of just what this country is. It is a country full of people that have their own opinion. That is what has made it so great is that we have debated all of our opinions in public, and we have had vigorous debates that reflect our democracy.

I think from the last speaker we can see there is somebody that thinks this debate is frivolous, that this amendment is frivolous. Yet, our minority leader, the gentleman from Missouri (Mr. GEPHARDT), and the gentleman from Massachusetts (Mr. FRANK) realized what other reformers have failed to see; you cannot pass the current proposals of campaign finance reform without infringing on the constitutional right to free speech.

At the heart of each of the proposals is a muzzle on first amendment rights. They stated this in their ''Dear Colleague'' letter last year. So while one person that is a Member of the minority party thinks it is a frivolous amendment and not worthy of our time, their same party's minority leader believes that it is the core and the necessity of campaign finance reform.

I do not believe that we should infringe on the right of free speech. I do not believe that we should amend the Constitution. I think it served our country well that every group and every individual has an opportunity to express their ideas and their perspective in campaigns and outside of campaigns.

It scares me a lot to think that we would begin to change those rules, that we would begin to eliminate the ability for people to freely debate the issues that confront us in elections and confront this country.

The fact is that we spend $9 trillion in this country. We are the most powerful country in the world. There are a lot of people that believe it is worth their time and energy and money to influence the debate. What we need to do is make sure that all of the money spent is clear to the voters that it is reportable and that any law we pass is enforceable.

The reality is that we are not even able to do that today. We had an election in 1996, and there are all sorts of abuses and suspicions that crimes were committed in the course of that election.

The presidential election is the most closely reflective of what proposals today are for the congressional elections. Yet, despite those laws, what we have is probably the most flawed election in our history.

We cannot investigate it. We cannot trace the money. We cannot find people to testify. In fact, what happens in a system like that is the person that is most willing to abide by the law, that is the most careful to do exactly what the letter of the law requires, ends up the person least likely to win, the person the most disadvantaged.

Because when you push the money off the table, when you have people who want to influence elections that cannot do it through the legal process so that the American voters can watch and judge, what you do is create a system that invites the person most willing to abuse the system to do that for their own political advantage.

I am proud to have lived very carefully, not only technically, but within the spirit of the law in the course of my campaigns. I accept that I am in a very tough district and that I will probably have a tough campaign every 2 years. I accept the fact that I may lose.

What I do not accept is that we might go to a system where a person could step forward to run that would be the most likely to collaborate with independent expenditures off the radar screen and have the best advantage. I think that compromises the voters in my district and the voters all across this country.

Secondly, as soon as you start deciding the rules, you start deciding who wins and who loses, what groups are able to affect elections, and what groups are not.

I surely do not think those people that would support campaign finance would begin to restrict what newspapers can print on their editorial page. I have not seen that proposed. Yet, that is an independent expenditure. No one appoints them. No one asks them to be objective. No one enforces that objectivity.

In fact, you only have to live in my district to see what one editor can do that is not objective to understand the disadvantage that presents. But we cannot regulate that, and we are not going to regulate that, and I do not support regulating that.

The fact is that I have raised money for my campaign. I am proud that very little of my money has come from PACs, about 22 percent last time I checked. Most of my money comes from individuals. Almost all of it comes from my district. I raise money by going from one individual to another and say I am going to commit myself.

The CHAIRMAN. The time of the gentlewoman from Kentucky (Mrs. NORTHUP) has expired.

(By unanimous consent, Mrs. NORTHUP was allowed to proceed for 2 additional minutes.)

Mrs. NORTHUP. Mr. Chairman, what I am proud to do is go from individual to individual, many people who have never given to campaigns before, and say this is what I believe; can you help me?

My husband and I have raised six kids. We could not possibly fund an election ourselves. That is the Democratic process. Any laws that limit individuals from participating in campaigns and in elections and in free speech and in the debate of what direction this country is going in is a terrible opportunity to take away their opportunity to participate in a democracy.

I am tired of people saying that the whole system is corrupt. I believe in the system. I believe in this country. I believe in my colleagues. Not everybody agrees with any of us. None of us wins in a unanimous election. But I believe most of us abide by the laws.

We participate because we believe in a democracy. We believe the debate is good. I am sorry for those people who have decided to gain political advantage by implying to the American people that the whole system is corrupt. I do not know who they talked to or who they work with, but they are not with the people that I work with every day.

Ms. WOOLSEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think I am probably going to be one of the last people to speak tonight. I was over in my office preparing for the next issue we are going to be debating and listening to this charade that is supposed to be a debate on campaign finance reform, finding myself extremely embarrassed, embarrassed for the majority party, embarrassed for the people of this country, embarrassed that my colleagues would think people could listen to this and think they were serious; that they would bring before the House campaign finance not reform, but what they would call a constitutional amendment that they do not believe in, and then they would stand there and talk against the amendment that they brought forward.

I think my colleagues must think that the people of the United States of America are not very bright. They are wrong. The people will listen to this. They will know it is a ruse. They will know that what my colleagues cannot bear is to have us debate the Shays-Meehan bill, that they do not want to talk about doing away with soft money, that they do not care whether we have accountability with our issue ads.

At the same time, when somebody comes before us that speaks well, like my colleague, the gentlewoman from Michigan (Ms. RIVERS), and others, my colleagues bring forward those who have contributed to them and think that will embarrass us, think that because all they do is bring forward our labor contributors, to think that we are not proud to be supported by nurses and teachers and by truck drivers and electricians and the workers of this country, how dare they think that that would be an insult to us. We are proud of that. Those are the workers of the United States of America. Those are the people that also support campaign finance reform.

Let us get over with this this evening. Let us get started. Tomorrow is the anniversary of 3 years that the Speaker and the President shook hands on bringing campaign finance reform to the floor for a vote that will have real meaning on the people of this country so they can support and buy into our political system.

Mr. HILL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have found this to be a very interesting and informative debate, and I find it kind of interesting to listen to my colleagues on the other side talk about this frivolous constitutional amendment that we are here debating tonight. I would have to say that ''frivolous'' is probably not the appropriate word to describe it. Probably ''threatening'' is the more accurate word.

What is interesting about tonight, our colleagues over there are saying that this is sidetracking the debate. But, Mr. Chairman, one of the things that is very interesting is last year the Senate also debated this constitutional amendment or one very similar to it, and 38 of the Members in the Senate of the other party voted for this constitutional amendment. This has been a serious proposal, a serious suggestion on the other side. I think it certainly is the wrong one.

I think the wrong idea in reforming our campaign finance laws is to limit free speech. That is why I am proud to be part of the freshman task force and a supporter of the freshman bill because it is the only one of the significant bills that deals with soft money that does not seek to restrict free speech. In fact, what it does is, it tries to create a balance so that everybody has an equal opportunity to speak out on the issues.

The soft money issue I think has people kind of confused because there are lots of different kinds of soft money. There is the soft money that our political parties raise. There is the soft money that people give to groups, right-to-life groups or environmental or conservation groups or organized labor dues. That is another form of soft money.

One of the things that the freshman bill tries to do is to create some distinction between those. It says that the parties cannot raise soft money and spend it anymore.

Why is that important? It is important because in 1992, the two parties raised about $35 million in soft money. By 1996, that number had grown to about $275 million. It is estimated that in 1998 it could be as much as $500 million. Some people estimate it could go to as much as a billion dollars in the year 2000.

The gentleman from Colorado spoke earlier and was criticizing Members who had received support from various groups, talking about the big money in politics. When people are giving hundreds of thousands of dollars, even millions of dollars a year in soft money to the political parties, that is really big money.

Do we want to know what, Mr. Chairman? The people who give that money do not even like being asked for that money. More and more of those groups that are being asked to fund the soft money of the political parties are saying we do not want to do it. These are not voluntary contributions in their views.

What we ought to be working for, Mr. Chairman, are competitive elections. One of the innovative things that the freshman bill does is that it allows parties to help its candidates with the hard money, the money that individuals give to make sure that, if an independent group attacks a person, that they have the ability to respond.

My friend from Colorado said that if the freshman bill passes, then politics is just going to be a rich man's game. The truth is just the opposite if the freshman bill passes, because the freshman bill will assure that every election can be a competitive election, because every candidate will have access to the resources in order to support their campaign.

There is a lot of difference between the Shays-Meehan bill and the freshman bill. The big difference is that the freshman bill does not seek to limit speech. It does not seek to limit the ability of independent groups to talk about candidates or talk about office holders. It does not seek to restrict the debate. It seeks to make sure that everybody can participate in the debate in an equal way.

□ 2215

That is the goal, fair and competitive elections. I would just urge my colleagues tonight to defeat this amendment for certain and also to support the freshman bill.

Mr. WHITFIELD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to point out that a while ago there was some discussion about which groups were contributing to which candidates, and I do not think anyone on this side meant to diminish anyone for the contributions that they had received, or certainly not to diminish the groups that contributed. But I think that what we are speaking from on this side is that we want to guarantee the right of those individuals and those groups to be able to continue that free speech.

I think it is important that we remember that hard money is money regulated by the FEC. It is money that can be used to expressly advocate the defeat or the election of a political candidate. All other money is soft money.

It is interesting that most of these so-called campaign finance reform bills are designed not to cut back on or reduce the money spent by candidates for political office, but they are designed to prevent and reduce the money spent by so-called special interest groups.

What are special interest groups? Special interest groups are labor unions, teachers, right-to-lifers, pro-choice, proenvironment, anti-environment. And why should any of those groups be denied the right to spend whatever money they want to spend to bring to the attention of the American voter the voting records of individual candidates, as long as they do not expressly advocate the defeat or the election of that candidate?

I, for one, commend the majority whip for bringing the Gephardt constitutional amendment to the floor. I do not think it is going to pass, but I think it illustrates the fact that the Gephardt amendment to the Constitution is very open in what it attempts to do, and that is that it attempts to diminish speech. It allows the Government, through some bureaucrat at the FEC, to determine what is too much, what is not enough, what is inappropriate, what can be done and what cannot be done.

Even the gentleman from Missouri (Mr. GEPHARDT) himself said, ''What we have here is two important values in direct conflict: freedom of speech and our desire for healthy campaigns. You can't have both.''

I would ask the gentleman, if he were here, what is a healthy campaign? What is too much money? I think it has been pointed out very clearly here this evening that the amount of money spent on campaigns by all candidates for Federal office in 1996 was a very minute amount compared to the money spent to advertise alcohol, soapsuds, detergents, toothpaste and all sorts of products that are manufactured throughout America.

Is it inappropriate for the American people to be fully aware of all the issues that they are going to be voting upon? I think that if the American people realized that this constitutional amendment that we are going to be voting on maybe tomorrow, that the Shays-Meehan bill and others was going to effectively limit their right to participate in the American political system, that they would be rightfully upset.

Buckley v. Valeo has made it very clear that free speech is a part, and an integral part, of the political system in America, and that we cannot limit the amount of money spent on these political campaigns. We cannot limit the amount that one individual can spend of his own money or her own money in their campaign.

As I said earlier, I find it quite ironic that all of these bills want to limit everybody's money that they spend for issue advocacy, but they do not want to limit the amount of money that the politicians spend in their campaigns.

As a matter of fact, some of these bills go so far as to say that during the last 60 days before an election, no one will be speaking except the candidates themselves or the news media. I do not want, particularly, to have a system that controls our political system in America that is controlled by the news media exclusively or even political candidates, because I think a vital part of our freedom in America guarantees the rights of any group to spend any money they want to to talk about issue advocacy.

Mr. SHAYS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am proud of many things. I am proud to be a Member of Congress. I am proud to be a citizen of

the United States. But I am not proud of our campaign laws. I have heard no one say our whole campaign system is corrupt. That is an absurdity.

I have heard some people say that parts of the system are corrupt. Parts of the system are corrupt, and I think we should change those parts that are corrupt. The system of campaign finance in the Nixon administration was corrupt, and I congratulate the Democrats and Republicans who reformed that system in 1974. It worked quite well for several years until people found a major loophole, and it was called soft money, the unlimited sums that individuals, corporations, and labor unions and other interest groups can give to the political parties for party building. These contributions, in a very pernicious way, got redirected to support candidates, not party building, totally subverting the campaign laws that worked quite nicely for 12 years.

Mr. Chairman, I am also proud of the fact that the last Congress passed the Congressional Accountability Act that got Congress under all of the laws that it had exempted itself from for more than 30 years. We did this on a bipartisan basis, I might add. I am proud of the fact that the last Congress banned gifts to Members of Congress on a bipartisan basis. I am proud of the fact that the last Congress on a bipartisan basis passed lobbying disclosure. We had not amended that law since 1946.

The gifts to Members of Congress had become corrupting. The lack of disclosure of lobbying had become corrupting. It had become corrupting that Congress thought it did not have to abide by the laws that it imposed on the rest of the Nation.

Sure, I am proud to be a Member of Congress. I am proud to be an American citizen. But when we see things wrong, we fix them. If we do not, we should not be very proud of our work in Congress.

I've come to the conclusion that soft money makes PAC contributions look saintly. The $262 million that the political parties raised in the last cycle will probably be doubled this year. It is a shakedown of business. I think most people know it. And if anyone wants access to either side of the aisle, they need to contribute or else they do not have access. That fits my definition of corruption.

We want to change the system. We simply want to ban soft money. We want to go back to the way it was after the law of 1974. Ban soft money. Ban the unlimited sums that individuals, corporations, labor unions and other interest groups can give to the political parties that is not being used the way it was supposed to be, for party building and registration. It went right back to candidates. Recently, $800,000 of soft money was spent in the special election in Staten Island. That wasn't party building.

Now, what we seek to do in the Meehan-Shays legislation, is ban soft money on the Federal level and on the State level for Federal elections. We also want to call the sham issue ads, that are clearly campaign ads, campaign ads. We do not limit people's voice. They speak through the campaign process.

We do not say 60 days to an election people do not have a voice. They have a voice. Candidates can raise PAC contributions and they can spend whatever they raise. Groups can run ads for candidates who are right-to-life, right-to-choice, anti-labor, pro-labor. But they cannot use union dues or corporate treasury money, because it is a campaign ad. We cannot do it under current law, and we want to strengthen the definition of campaign ads to make sure people do not use the union dues for campaign ads 60 days to an election, and do not use corporate money 60 days to an election. But union members can speak out through their PAC contributions spent on ads. Members who work in corporations and stockholders can influence the process through a PAC contribution spent on campaign ads.

We codify Beck. We improve the FEC disclosure and enforcement. We ban franking 6 months to an election. And we make it very clear that foreign money and fund-raising on government property is illegal. It is not illegal now. Hello. It is not illegal. It is soft money. Soft money is not campaign money. We had better fix it.

Now, some on my side of the aisle say, no, we are just going to hold President Clinton accountable for everything he has done, but we do not need campaign finance reform. Unfortunately, some on the other side of the aisle say we need campaign finance reform, but we are not going to hold our President and others accountable. We need to do both.

Democrats did it in 1974. They held President Nixon accountable for what he did. And they reformed the system as well. Believe it or not, the Vice President was right. There is no controlling authority. Soft money is not viewed as campaign money. We need to fix that.

Mr. DELAY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think we have had a pretty good start on a debate tonight. I wish some on the other side really wanted to debate this rather than just take cheap shots at people, because I think this is a very, very serious debate. We are talking about the most fundamental of freedoms that the American people have when we talk about limiting someone's right to speech and freedom of the press.

Let me try to put it in perspective. I think we are drawing to a close. But just let me try to put in perspective what I saw here tonight.

Where are we today? We found that in the campaigns of 1996, the Clinton administration, some unions, we are investigating the Teamsters right now, others may have violated the law in the ways that they collected campaign contributions, even from foreigners. To cover that up, the President's party and the leadership of his party in the House and the Senate decided that their biggest issue this Congress was going to be campaign reform and that they were serious about it.

In fact, the gentleman from Missouri (Mr. GEPHARDT) the minority leader, wrote a constitutional amendment splitting the first amendment, splitting away free speech so that he could control through government bureaucracies and Washington bureaucracies freedom of people's right to free speech through the campaign process.

I thought it was important and serious to bring the gentleman's constitutional amendment to the floor for serious scrutiny because the gentleman and the Democrat party of this House have been beating their chests for 2 years talking about campaign reform. They were serious, they said. They want an open and fair debate. They wanted to bring it down here and show the abuses and the corruptions of this House.

Mr. Chairman, I am here to tell my colleagues I know most of the Members of this House, Democrat and Republican, and I do not know of one of them that is corrupt. Not one. And I am going to warn the Members of this House, when anyone talks about corruption, I am going to ask the question throughout this debate for that person to name the Member of the House that is corrupt. If they claim corruption and campaigns are corrupt, then they should be able to stand here in this House and have the courage to name the person that they feel is corrupted by campaign contributions. That is serious.

I think it is very serious when some are so arrogant to come to this floor and propose legislation that says that they know better than my constituents about my fund-raising habits, my ability to raise campaigns.

Now, the gentleman who brought the amendment, the gentleman from Missouri (Mr. GEPHARDT), came to the floor of the House, raises more money than me. So anybody that starts attacking me about raising money, I hope that they will look at the gentleman from Missouri. In the last election he raised $3.2 million and spent $3 million.

□ 2230

I salute him. I think that is wonderful that he has been able to raise that kind of money. No telling how much expenditures, independent expenditures were spent on his behalf. Most people think that the unions spent in the 1996 election $35 million. That was what they assessed their members to spend extra.

We have estimated and we continue to estimate that the unions alone have spent over $350 million in independent expenditures across this Nation. So be it. They have every right to do so. They should be able to express themselves as to who should control this

body and who should be elected and who should be unelected.

Most of the Members that have stood up here and complained about this process are the beneficiaries of that money, and yet they have the audacity to come down to the floor of the House and claim that the monies spent in their behalf by independent expenditures are corrupting. I have more confidence in my character than obviously they do, because I do not feel corrupted by participating in the process. We do not spend enough money in the process.

We spend less than $5 a person that votes in this country to try to convince them to be part of this political process and participate in the process, less than $5 per person. That is amazing to me. Yet we call it corrupting to try to convince people to be part of the process and participate in the process.

The CHAIRMAN pro tempore (Mr. WATTS of Oklahoma). The time of the gentleman from Texas (Mr. DELAY) has expired.

(By unanimous consent, Mr. DELAY was allowed to proceed for 2 additional minutes.)

Mr. DELAY. Mr. Chairman, the gentleman from Connecticut was talking about how great it was in 1974 that we had all this campaign reform. The gentleman ought to look at his history: 1974 is after Watergate. We had a huge infusion of Democrats elected after the Watergate election.

The reason that most of the laws that were passed in 1974, I tell the gentleman, was to make sure that challengers could not raise as much money as the incumbents were spending on their franking privileges. My point is, my point is that what this debate is becoming is who wins and who loses. Who are we going to say gets to raise money and who does not?

Why are we doing that? Most Members on my side of the aisle are here because they want to limit government. They want to get government out of our lives. They hate regulation. They want to reform the regulatory process of this government. And yet they turn right around and, in a most fundamental freedom of this country, the freedom to speech, they want to use regulation of campaigns to limit the American people's right to participate in campaigns openly and honestly.

I think full disclosure does that. I do not think limiting people's freedom of speech by more bureaucracy, more laws, more opportunities to get one another, more opportunities to stop one group from being able to raise enough money for the other group, let the people decide. They are incredible when you allow the people the freedom to look at these elections, participate in them and openly and freely decide who they want to represent them.

Mr. SHAYS. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Connecticut.

The CHAIRMAN pro tempore. The time of the gentleman from Texas (Mr. DELAY) has again expired.

(By unanimous consent, Mr. DELAY was allowed to proceed for 2 additional minutes.)

Mr. SHAYS. Mr. Chairman, what I said to this Chamber was that the campaign finance laws in 1974 were designed to cut the unlimited sums that in particular the CREEP organization of the Nixon administration raised and to stop the shakedown of businesses that took place. And that shakedown stopped for a number of years until both parties designed a new system called soft money that just brought us back to the Nixon era.

Mr. DELAY. Mr. Chairman, I appreciate the gentleman's assessment of history, but I remember a different history.

I remember a history that they used that as a great argument, and many are using the same kinds of arguments for the gentleman's bill, have used that for a great argument. But the result, and we all know why they did it, the reason they wanted to ban PACs to begin with is to stop Republicans from raising money and limiting their ability to raise money through PACs. Then they did not like that, because we were pretty good at it. And so they figured, the majority, then the Democrats, figured out another way to keep challengers, Republican challengers from challenging the Democrat incumbents serving in the House, from raising more money than these incumbents could use in free postage called the franking privilege.

Mr. SHAYS. Mr. Chairman, if the gentleman will continue to yield, the bottom line is that the corporations that were being shaken down by the Nixon administration are telling me now that they are being shaken down by both political parties in soft money.

Mr. DELAY. Mr. Chairman, would the gentleman define ''shaking down'' for me?

The CHAIRMAN pro tempore. The time of the gentleman from Texas (Mr. DELAY) has again expired.

(By unanimous consent, Mr. DeLay was allowed to proceed for 2 additional minutes.)

Mr. SHAYS. Mr. Chairman, shakedown is when leaders from both parties will call up a corporation president, and say we would like $100,000 or $200,000 or $300,000 or a half a million, and make it very clear to those leaders that they can expect no action on their legislation unless they get it. That is a shakedown.

Mr. DELAY. Would the gentleman like to name Members that do that?

Mr. SHAYS. Mr. Chairman, I think during the course of debate, there are going to be a lot of issues that come out.

Mr. DELAY. Mr. Chairman, the gentleman has just made an accusation that leaders of both sides of the aisle shake down corporations. Would the gentleman like to name——

Mr. SHAYS. Mr. Chairman, do not even wonder for a minute about whether I will be able to document that information.

Mr. DELAY. Reclaiming my time, Mr. Chairman, I think it is just outrageous. It is incredible that the gentleman thinks that when you call someone up to raise money for a campaign, that is a shakedown.

Mr. SHAYS. $100,000, $200,000, half a million dollars.

Mr. DELAY. Mr. Chairman, I think it is just incredible.

Mr. SHAYS. But it is true.

Mr. DELAY. Mr. Chairman, I ask for regular order. The gentleman does not even pay me the courtesy. I have yielded to him. I am trying to close the debate. I do not yield to him again.

The CHAIRMAN pro tempore. The gentleman from Texas (Mr. DELAY) controls the time and should not be interrupted.

Mr. DELAY. I think it is just outrageous that the gentleman would accuse leaders of both sides of the aisle of being able to raise money to participate in the campaign and call that a shakedown. It is not a shakedown to get out and actively participate in the process and ask people to participate in the process, whether it to be ask them for $1 or $100,000.

It is an outrage that someone would come down to the floor and offer a constitutional amendment or write one or offer a piece of legislation that would stymie the freedom of the American people to decide to participate in the process and participate in free speech and free press. I think that is the outrage. That is the shakedown. That is the coverup. That is the thing that the American people ought to be outraged over. That is the thing we are going to stop because we are going to have this debate, and the American people are going to understand both sides.

Mr. MCINTOSH. Mr. Chairman, I stand in oppostion to the Gephardt amendment.

Last Thursday, a very interesting debate took place on this floor. I am speaking of the debate surrounding the Religious Freedom Amendment.

At one point, the gentleman from Texas, Mr. EDWARDS, submitted a motion to recommit the Amendment. He stated that we ''do not have the right to change the Bill of Rights every time we disagree with a court decision.''

Mr. EDWARDS' argument was while we claim to believe in the First Amendment, supporters of the Religious Freedom Amendment were voting against the Bill of Rights, because we want to get back to the original meaning of the First Amendment.

Well, I hope that Mr. EDWARDS will come to the floor today—perhaps with a motion to recommit—because if he thinks allowing prayer in school is dangerous, this Gephardt Amendment is a frontal assault on the First Amendment—and does much more to undermine Freedom of Speech.

What this Gephardt amendment demonstrates is something which has been clear to me for some time—that campaign finance reform is really all about free speech and the First Amendment.

You see, freedom of speech—the right to say what you want, how you want, when you want, about political opponents, is our most fundamental freedom. Without freedom of

speech, there is no integrity to the Bill of Rights, and all our freedoms are on shaky ground.

Mr. GEPHARDT's attempt to redefine the Bill of Rights amounts to an admission that attempts to limit campaign money like the Shays-Meehan bill are indeed efforts to limit free speech.

He even stats that we cannot have freedom of speech and healthy campaigns in a healthy democracy—that we must choose between one or the other.

Mr. Chairman, I disagree with that assertion.

When the Founders said that Congress shall make no law abridging the freedom of speech, they left no room for ambiguity.

If Congress grants itself the authority to abridge the freedom of speech, it will amount to a crushing of the Constitution's guarantee of free speech.

Consider the words of the Supreme Court's ruling in Buckley v. Valeo:

> In the free society ordained by our Constitution, it is not the government, but the people—individually as citizens and candidates and collectively as associations and political committees—who must retain control over the quantity and range of debate on public issues in a political campaign.

There is a key difference between the vote today and our vote on Thursday. The Religious Freedom Amendment would have strengthened the First Amendment by returning to the intentions of the Founding Fathers. The vote on Thursday was compatible with the Bill of Rights.

Our vote tomorrow is not. Instead, it is an effort to severely restrict our freedom, and to violate the spirit of the First Amendment.

I would ask all of you, not only today, but through the rest of our careers in public service, to judge all legislation by what it does to our freedom.

Mr. GEPHARDT. Mr. Chairman, I rise to speak in strong support of reforming our Nation's campaign finance laws. After months of obstruction and delay, after the steady stream of efforts by the Republican leadership to squelch this debate, the House is finally discussing campaign reform.

I support the constitutional amendment which has been brought to the floor today. In my opinion, it is the only comprehensive solution for fixing our campaign finance system. But now is not the right time for a vote on it. This amendment, like all campaign reform bills other than Meehan-Shays, must be put on hold.

There is a crisis of confidence in our system of campaign financing. It is imperative that we pass reform this year—and it is urgent that we take the first step now. But the best way to clean up the system is by voting for the bipartisan Meehan-Shays bill, not through any other campaign reform measure, including this one.

I do, however, believe that the Congress should vote some day—not today—on this amendment. When I introduced it last year, I did so because I believe it is the best way to shut down the sewer pipe of big money which is polluting our political process.

Over the last two decades, Congress and State and local governments have tried to enact limits on the role of money in politics. We have tried to pass legislation that would help put a bigger premium on the quality of a candidate's ideas, not the quantity of contributions to his or her campaign. But we are hamstrung by a Supreme Court which has equated spending money with political speech.

The Founding Fathers did not envision a political system where candidates for Congress routinely raise and spend millions of dollars. They could not have foreseen candidates spending tens of millions of dollars of their own funds to get elected. And they certainly could not have imagined the non-stop fundraising carousel that candidates must ride in order to run for office.

This Amendment would clarify that campaign spending is not an absolute; that we could enact modest restrictions on spending to reduce the dominance of fundraising and campaign dollars in our political process. Some day, I hope Congress will pass this constitutional amendment and fix our broken campaign finance system once and for all. But I will not vote for it today.

The opponents of campaign reform want to kill the process—the only thing that has changed is their tactics. First they tried delay and obstruction, now it's endless debate and amendment. The only way proponents of reform can prevail is through a single-minded focus on Meehan-Shays.

Meehan-Shays is our last, best chance for campaign reform this year. Friends of reform—the majority of House members, I believe—must band together behind the Meehan-Shays bill. It may not suit everyone's taste—campaign reform comes in 435 flavors, after all. But we cannot afford to dilute our strength by supporting every alternative.

The Republican leaders of this House are satisfied with the current system. They stand for the power of big money and against change. They don't want Meehan-Shays or any other effective reform bill to pass.

The Republican leadership brought up this bill and many others as a roadblock to reform. They aren't interested in a debate; they are interested in deadlock. They want to run down the shot clock so that Congress will be unable to deliver the slam-dunk of campaign reform for the American people.

The majority of Democrats, and I believe, the majority of Congress, rejects the status quo. We understand we have reached a critical point in the history of our democracy. We need to take the first serious step to clean up our politics. If we fail to take this first step, our democracy will drown in the fast-rising tide of campaign cash. Campaign reform is the art of the possible—and Meehan-Shays is the best possible bill.

We must keep our single-minded focus. We must reject any alternative to Meehan-Shays, no matter how much we agree with it. I urge the supporters of this Amendment to vote ''present,'' and to redouble our efforts to pass Meehan-Shays.

Mr. BAESLER. Mr. Chairman, I don't know why we are debating this Constitutional Amendment. It was not made in order by the Blue Dog discharge petition, which led to this debate in the first place.

I think what's really going on is the Leadership is not dealing in good faith.

If that continues, I would suggest the discharge petition may have to be resurrected.

Whatever the case, I believe a Constitutional Amendment is unnecessary to get good campaign reform, especially a soft money ban and campaign disclosure.

Congress has plenty of room under the case Colorado Republican Party versus FEC to ban soft money. In the case, the Supreme Court said:

> Reasonable contribution limits advance the government's interests in preventing corruption. Congress might decide to change the campaign laws limitations on contributions to political parties if it decided it needed to.

And in Buckley versus Valeo the Court said:

> Limiting corruption and the appearance of corruption is a constitutionally sufficient justification for campaign contribution limitations. Political quid pro quos or apparent quid pro quos undermine the integrity of our system of representative democracy.

But even if I do not think an Amendment is necessary, I don't question the original sponsors' motives. In fact, a number of Democrats and Republicans have cosponsored such amendments.

Now, the Kentucky anti-reformers condemn the Amendment. But it's worth pointing out that some of the Kentucky anti-reformers have been on the other side of the campaign spending Constitutional Amendment issue before.

I enter into the RECORD an Amendment offered in a previous Congress, championed by the anti-reform brain trust that today denounces such Amendments as being almost un-American.

The anti-reformers' inconsistency doesn't need to be beaten like a dead horse, but it should be noted that it was the anti-reformers themselves who offered more severe Constitutional Amendments limiting campaign speech in the past than one being discussed here today.

So in the future, when the Kentucky anti-reformers give their opinion on the First Amendment and campaign reform, and they say they're taking a rock solid position, I urge everyone to consider that they have changed their position in the past—and weigh the force of their arguments accordingly.

EXCERPTS FROM THE RECORD OF JUNE 19, 1987

S.J. RES. 166

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution, when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

''ARTICLE—

SECTION 1. The Congress may enact laws regulating the amounts of expenditures a candidate may make from his personal funds or the personal funds of his immediate family or may incur with personal loans, and Congress may enact laws regulating the amounts of independent expenditures by any person, other than by a political committee of a political party, which can be made to expressly advocate the election or defeat of a clearly identified candidate for Federal office.

SECTION 2. The several States may enact laws regulating the amounts of expenditures a candidate may make from his personal funds or the personal funds of his immediate family or may incur with personal loans, and such States may enact laws regulating the amounts of independent expenditures by any person, other than by a political committee of a political party, which can be made to expressly advocate the election or defeat of a clearly identified candidate for State and local offices.''

* * * * *

Mr. MCCONNELL. Mr. President, we have been on S. 2 for 2 weeks and 2 days.

Clearly, it is possible for the Senate to pass a meaningful campaign finance reform bill. The distinguished majority leader has indicated that his side is willing to talk, and I reiterate the observations of the Republican leader yesterday, that the leadership group on this side consisting of Senator STEVENS, Senator BOSCHWITZ, Senator PACKWOOD, and myself, has been saying for some 2 weeks and 2 days that we would like to sit down with those on the other side of the aisle and have a discussion on formulating a truly meaningful campaign finance reform bill.

There are a number of areas upon which we can agree. The Senator from Oklahoma and I yesterday discussed ''soft money.'' We discussed independent expenditures. We discussed the need for effective controls on PAC's. We have discussed over the weeks the problem of the millionaire's loophole. These are the real problems that our constituents have spoken against, in letters, in calls, and even in editorials supplied by Common Cause. As I mentioned yesterday, only a very small percentage of these editorials that pile up on our desks advocate public financing and spending limits to bring down overall spending. Most just want to control the PAC's.

But today, I'm going to talk about the millionaires' loophole and independent expenditures, under current law, under S. 2, and under McConnell-Packwood. I am proposing today a constitutional amendment to deal with these campaign finance abuses, and I might add that we usually think that constitutional amendments take a long time to pass.

The constitutional amendment that I will be introducing is simple, direct, and strongly supported in this body. It would grant to this body and to the various State legislatures the authority to regulate what an individual could put into his own campaign from personal funds, just as we have the constitutional authority to regulate what any of us can put into somebody else's campaign from personal funds. It would also grant to the Congress and to the various State legislatures the authority to regulate the independent expenditures.

In the course of the debate on campaign finance reform, Members on both sides of the aisle have decried the ease with which wealthy candidates can virtually purchase congressional seats, and the surge of independent expenditures in campaigns.

Both of these campaign abuses are the result of loopholes in the Federal election law, carved out by the Supreme Court decision in Buckley v. Valeo, 424 U.S. 1 (1976). In that decision, the Supreme Court held that restrictions on campaign expenditures from personal funds and on independent political expenditures are violations of the first amendment guarantee of freedom of speech. Thus, the ''millionaires' loophole'' and the independent expenditure loophole are constitutional problems, and will not be corrected by any clever statutory incentive or spending of public moneys.

That is why I introduce today a joint resolution to amend the Constitution, to allow Federal, State, and local governments to restrict the spending of personal funds in campaigns, and the amount of independent expenditures in election cycles. Unlike a broad amendment to limit all campaign spending, this amendment would quickly pass through the Senate and be ratified by the State legislatures. It is a measure for which I have heard nothing but unqualified support.

I do not dispute that my earlier campaign finance reform bill, S. 1308, offers only imperfect solutions to the millionaires' loophole and independent expenditure problems. It is true, for example, that wealthy candidates could spend up to $250,000 in personal funds before S. 1308 would provide relief to opponents. And although my earlier bill incorporates the same restrictions and reporting requirements that S. 2 applies to independent expenditures, it is unlikely that any of these administrative constraints will curb the negative practices of independent expenditures.

S. 2, the taxpayer campaign finance bill now before the Senate, tries to address these two problems by spending the taxpayers' money. Candidates, facing wealthy opponents or negative ads financed by independent expenditures, would be armed with additional public funds—funds that would be diverted from farm programs, Social Security, education, and our antidrug war. Yet, S. 2 would probably not discourage wealthy candidates from sinking their personal fortunes into campaigns, particularly since S. 2 doesn't give the opponent much to compete with. Under S. 2, a candidate from the State of Arkansas would get a maximum of $1,727,200 to do battle with a millionaire. An Oklahoman would get $1,989,500, and a Coloradan would get $1,998,000. This is a lot of money to our taxpayers, but not much at all to a millionaire, unless he's a rather poor millionaire.

Further S. 2 hopes to limit independent expenditures by compensating each attacked candidate for the full amount spent against him or her. This candidate compensation fund again comes from the American taxpayer. Last year, independent expenditures totaled nearly $5 million in Senate races; thus, we can safely tack another $5 million onto S. 2's $100 million price tag, and another $5 million onto the overall amount of campaign spending allowed under S.2.

Will those who now spend hundreds of thousands of dollars to express their political views independently be deterred simply by the spending of taxpayers' money against them? Mr. President, I think not. Will candidates be compelled to tap the public till every time they believe they are being unfairly treated in an independent ad? Mr. President, I hope not. It is apparent that S. 2's independent expenditure provision is just another loophole to funnel more of the taxpayer's money into our reelection campaigns.

Another $5 million every election year is obviously not very much to those who seek to dominate the political debate with independent expenditures—but it is a lot of money to the American taxpayer, and we shouldn't be throwing it away on a proposal that won't benefit anyone except broadcasters.

Neither administrative constraints nor government entitlements will prevent well-heeled individuals and groups from independently trying to influence elections. Nor will wealthy candidates be deterred from trying to purchase congressional seats merely by S. 2's costly but ineffective millionaires' loophole provision.

There are constitutional problems, demanding constitutional answers. This Congress should not hesitate, nor do I believe that it would hesitate, nor do I believe that it would hesitate, to directly address these imbalances in our campaign finance laws. I offer this constitutional amendment in the sincere hope that the Senate will begin to turn its attention to the real abuses in campaign finance—the millionaires' loophole, independent expenditures, political action committee contributions, and ''soft money''—and develop simple, straightforward solutions, rather than strangle the election process with overall spending limits and a larger political bureaucracy.

* * * * *

Mr, MCCONNELL. Mr. President, these two areas have repeatedly been agreed by both sides to be at the crux of the problem. What distorts the process, of course, is the ability of an individual of unlimited wealth to put literally everything he has into his own campaign; whereas, if he were contributing to anyone else's campaign, he would be limited to $1,000 in the primary and $1,000 in the general election. That is clearly unfair, and we ought to cure it. We can cure it, however, only with a constitutional amendment.

Another unfairness that we all agree on is the independent expenditure, again a constitutionally protected area of expression, according to the Supreme Court decision in Buckley versus Valeo.

This constitutional amendment that I propose would grant to the Congress and to the various State legislatures the right to deal with that problem.

Mr. President, if we dealt with three areas of great concern: The closing of the millionaires' loophole, the ability to regulate independent expenditures, and the cost of broadcast time, which we can address simply by statute, we would have passed in this body the most meaningful campaign finance reform since Watergate.

The third area I just referred to, Mr. President, is the cost of television. What has driven up the cost of campaigns in the last several years has been the cost of television advertising. Candidates have to use television because it is the most effective day to reach our people and communicate ideas. That is particularly true in the large States. My colleagues from New York, California, Texas, and Florida could shake hands all day, every day, for the rest of their lives, and never make a dent in the huge populations in their States, let alone discuss the issues that concern the citizens of those States. Clearly, both incumbents and challengers should be able to use television to reach our people.

What has happened, Mr. President, is that the broadcast stations in America have raised the rates they charge during key times in political campaigns, and have made handsome profits on the candidates, in terms of the cost of advertising.

We could in this body pass legislation that would, for example, require television stations to grant to candidates television time at the lowest unit rate of the previous year, for the class of time purchased. This would dramatically lower the cost of campaigns, and give us all an ability to afford the broadcast time which is absolutely essential to modern political communication.

What happened in Kentucky last May, just last month, is typical of what goes on all over America. The lowest unit rate skyrocketed just prior to the election, such that the ''discount'' given to candidates amounted to nothing—it was like offering a 25-percent-off sale after a 100-percent price increase. That problem, Mr. President, could be solved by legislation.

These are the kinds of agreements that we can reach together. I hope we can work together on direct, simple solutions to the real problems that plague our campaign finance system.

The ACTING PRESIDENT pro tempore. The time of the Senator from Kentucky has expired.

Mr. MCCONNELL. Mr. President, I ask unanimous consent for 1 more minute.

Mr. BYRD. Mr. President, I yield to the distinguished Senator from Kentucky 1 minute from our side.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia has yielded 1 minute to the Senator from Kentucky.

Mr. MCCONNELL. I thank the distinguished majority leader.

The Senate could solve these key problems by the passage of the kind of constitutional

amendment I outlined earlier. I believe that this resolution, unlike most constitutional amendments, would zip through this body and zip through the State legislatures; I believe that, by passing a statute that did something meaningful about the cost of television, we would bring down the cost of campaigns without deterring public participation through contributions.

Those accomplishments would be real reform, Mr. President, and we stand ready on this side to sit down with the leaders on the other side at any time, to work out the kind of bipartisan reform package that we all know will have to be reached, in order to pass any meaningful campaign reform legislation in 1987.

Ms. KILPATRICK. Mr. Chairman, I rise today in strong and stringent opposition to the amendment offered by Congressman TOM DELAY of Texas. This amendment would modify our beloved Constitution to make it allow for the future enactment of mandatory spending limits in campaigns. The Supreme Court has found such limits unconstitutional. It would also give Congress and the state authority to define those expenditures deemed to influence elections, and to prohibit any regulation of the content of elections.

As a member of the House Oversight Committee, I have heard the testimony of over 40 of our colleagues on the issue of campaign finance reform. The issue of a Constitutional Amendment regarding spending limits was not considered during these hearings. As a new Member of Congress, it is no wonder why the taxpayers of our country view us with such cynicism and spite when my colleagues offer amendments that they cannot or will not support themselves. This amendment is exhibit number one of such an example.

It is time for Congress to stop wasting the people's money. It is time for us to get campaign finance reform under control. As I said in remarks that I made on the floor just last week, real campaign finance reform does three things: it bans soft money; it requires full disclosure of contributors, and it cleans up expenditures from special interest groups. We need to restore the faith of the American people in our system of government. We need to ensure the accountability of those who participate in and contribute to candidates. The Shays/Meehan bill does just that.

In closing, I implore my colleagues to stop wasting time and the people's money. It is time for us to bring to a clean, up-or-down vote, the Shays/Meehan bill.

The CHAIRMAN pro tempore. Are there any amendments to the joint resolution?

If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BARRETT of Nebraska) having assumed the chair, Mr. WATTS of Oklahoma, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the joint resolution (H. J. Res. 119) proposing an amendment to the Constitution of the United States to limit campaign spending, pursuant to House Resolution 442, he reported the joint resolution back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HASTINGS of Washington. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, further proceedings on the question of the passage of the joint resolution are postponed until tomorrow.

The point of no quorum is considered withdrawn.

REPORT ON RESOLUTION PROVIDING FOR THE CONSIDERATION OF H.R. 3494, CHILD PROTECTION AND SEXUAL PREDATOR PUNISHMENT ACT

Mr. HASTINGS of Washington, from the Committee on Rules, submitted a privileged report (Rept. No. 105–576) on the resolution (H. Res. 465) providing for consideration of the bill (H.R. 3494) to amend title 18, United States Code, with respect to violent sex crimes against children, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF H.R. 2888, SALES INCENTIVE COMPENSATION ACT

Mr. HASTINGS of Washington. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 461 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 461

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2888) to amend the Fair Labor Standards Act of 1938 to exempt from the minimum wage recordkeeping and overtime compensation requirements certain specialized employees. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Education and the Workforce. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Education and the Workforce now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. The Chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Washington (Mr. HASTINGS) is recognized for 1 hour.

Mr. HASTINGS of Washington. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MOAKLEY), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

(Mr. HASTINGS of Washington asked and was given permission to revise and extend his remarks.)

Mr. HASTINGS of Washington. Mr. Speaker, House Resolution 411 is an open rule providing one hour of general debate to be equally divided between the chairman and ranking minority member of the Committee on Education and the Workforce.

The rule makes in order the Committee on Education and the Workforce amendment in the nature of a substitute as an original bill for the purpose of amendment which shall be considered as read. The rule allows the Chairman of the Committee of the Whole to postpone votes during consideration of the bill and to reduce voting time to 5 minutes on a postponed question, if the vote follows a 15-minute vote.

Mr. Speaker, the rule authorizes the Chair to accord priority in recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD.

Finally, the rule provides one motion to recommit with or without instructions.

□ 2245

Mr. Speaker, H.R. 2888 would amend the overtime and minimum wage provisions of the Fair Labor Standards Act as they apply to certain private sector employees.

Presently so-called inside sales employees, that is, those who sell from inside an employer's premises using telephones, faxes and computers, are subject to the overtime requirements of the Fair Labor Standards Act while outside sales employees are exempt. As nonexempt, inside sales employees often suffer from reduced earning opportunities because they are limited to a 40-hour workweek. Outside employees, on the other hand, can choose for themselves whether to work additional hours and thus receive incentive pay for additional sales made. This distinction, written into law in 1938, no longer makes sense in 1998. While inside sales employees are often as skilled and productive as outside sales employees, they are discriminated against under this act.

Mr. Speaker, in order to minimize the potential for abuse, the exemption authorized under H.R. 2888 is narrowly drawn to cover only inside sales employees who meet a number of specific criteria. For example, such individuals must receive specialized training and develop technical knowledge. They must sell predominantly to regular customers and must receive incentive compensation based on their own selling efforts.

Finally, Mr. Speaker, I am pleased that CBO reports the bill would have no significant impact on the budget and contains no unfunded mandates on local governments or private employers. I commend the gentleman from Illinois (Mr. FAWELL) and the gentleman from New Jersey (Mr. ANDREWS) for their efforts to correct this clear inequity in the law and urge my colleagues to support H.R. 2888.

Recognizing that certain Members have expressed reservations about this legislation, the Committee on Rules has reported an open rule in order to provide Members wishing to perfect this bill the freedom to offer their amendments on the floor. Accordingly, I urge my colleagues to support not only the rule but H.R. 2888, the Sales Incentive Compensation Act.

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

Mr. MOAKLEY. Mr. Speaker, I thank the gentleman from Washington (Mr. HASTINGS) for yielding me the customary half-hour, and I yield myself such time as I may consume.

Mr. Speaker, I am not opposed to this open rule, but I am very concerned about the bill that it makes in order. This bill says that employers can require people to work overtime but they no longer have to pay them time and a half. In other words, sales employees who are forced to work long hours could end up with no additional pay at all.

Mr. Speaker, this means that enormous numbers of already low-paid workers would be denied the protections of the Fair Labor Standards Act. My Republican colleagues may argue that the low salary guarantees in this bill takes care of the workers, but, Mr. Speaker, it does not.

According to the Bureau of Labor Statistics, this bill will deny 1.5 million sales employees overtime pay. I for one think that 1.5 million American workers should be paid for the time that they spend at work.

Like many other bills my Republican colleagues have drafted, this bill helps employers at the expense of workers. It is a win-win situation, Mr. Speaker, for the employers and it is a gamble for the workers. If the worker makes big sales, the employer does well. If the worker does not make big sales, the employer still does well because he does not have to pay his worker overtime. Employees who must work long hours but do not make significant sales will be working virtually for nothing.

Anyone with any complaints, anyone who is confused about exactly who is covered under this very complicated, multi-test exemption, please do not look to this bill for clarification.

These confusing standards will create a lot of misunderstandings, a lot of fights, a lot of litigation. Just what we need, Mr. Speaker, more litigation.

My Republican colleagues may argue that the people are begging for overtime in order to make bigger commissions. Mr. Speaker, if that is the case, if so many workers want to work overtime for commission instead of time and a half, then they should be allowed to do so. But as I understand it, the amendment to make this provision voluntary was rejected. So whether you want to work overtime for little pay or you want to go home and see your family, you are really stuck working at the whim of an employer who has little to lose by chaining you in the office. This bill will force people to work longer hours, it will cut employees' incomes, it will promote lawsuits, and it will mean workers are hurt, not helped, by advances in technology.

What we really need, Mr. Speaker, if you really want to help the American worker, is to raise the minimum wage. Let us allow American workers to earn a living wage. Let us enable hard-working full-time employees the chance to take care of their families. I have no opposition to the rule, but I do oppose the bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

LIMITATION ON FURTHER AMENDMENTS AND DEBATE ON H.R. 2888, SALES INCENTIVE COMPENSATION ACT

Mr. GOODLING. Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 2888 in the Committee of the Whole pursuant to House Resolution 461 after the legislative day of today, no further debate or amendments to the committee amendment in the nature of a substitute shall be in order.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

SALES INCENTIVE COMPENSATION ACT

The SPEAKER pro tempore. Pursuant to House Resolution 461 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2888.

□ 2251

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2888) to amend the Fair Labor Standards Act of 1938 to exempt from the minimum wage recordkeeping and overtime compensation requirements certain specialized employees, with Mr. Watts of Oklahoma in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Pennsylvania (Mr. GOODLING) and the gentleman from New York (Mr. OWENS) each will control 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to express my strong support for H.R. 2888 and urge my colleagues to support the legislation. I also want to urge my colleagues to reject any amendments that may be offered to weaken or to undercut the bill.

It is not often that we can come to the floor with a bipartisan labor bill. We did it a couple of weeks ago. We are back again with another. I know that the gentleman from Illinois (Mr. FAWELL) has worked very long and hard with the gentleman from New Jersey (Mr. ANDREWS) and others on the Democrat side to put this bill together. That is why particularly I hope that the House will reject any amendments that would undercut the bill that has been so painstakingly negotiated and crafted on a bipartisan basis in our committee.

Mr. Chairman, the reason for this bill was better stated by former Secretary of Labor Robert Reich a few weeks ago than I could when he was describing the changed nature of, quote, sales persons in modern business. Certainly no one can deny the fact that Robert Reich is a strong, strong supporter of the employee. Let me quote just a couple of lines from Mr. Reich's speech to

the American Compensation Association:

A lot of people who are called sales reps are no longer really sales reps. In the best companies they are helping customers define what the customers need, and it's true of business customers as well as individuals. They are not just selling a mass production product or service. They are not just persuading someone to take something. They are actually advising somebody about a package of goods and services that meets the needs of that individual and those sales people are therefore more like management consultants.

I continue quoting from Robert Reich:

Those sales people are the key glue, the human capital, that advises the company about new and evolving needs among customers, and also advises the people who are developing the goods, and developing the services, and developing the technologies about what the market needs. Those sales people are at the center of this new competitive strategy which relies on customization and value.

The problem that we are addressing with H.R. 2888 is the problem of fitting these 21st century sales persons into a 60-year-old law. The Fair Labor Standards Act already addresses the situations of sales employees who travel from customer to customer, the outside sales person. And it already addresses the situation of sales persons who work in retail stores. But it does not address the situation of these modern inside sales persons who often sell very sophisticated and complex products and services and who do so by using the tools of modern commerce, telephone, fax, computer, and the Internet.

As a result, a law meant to protect workers ends up denying these professional sales employees the flexibility and opportunity to maximize their sales and income. As Mr. Anthony Williams, one of the employees who testified in support of H.R. 2888 before our committee said,

I consider myself a professional salesman and would like to be treated as such. The inside sales force is certainly every bit as professional, knowledgeable and well trained as the outside sales force. We deserve to be seen as such by the wage and hour laws.

Another employee who testified in support of H.R. 2888, Ms. Leronda Lucky, put it this way:

I am in this business because I am a sales person. My motivation to sell is the earning potential that I have. I would like to be able to earn as much money as possible. My clients do not necessarily have 9-to-5 work hours. Many start their day early in the morning and work until late in the evening. I need the flexibility to determine when I need to meet with the customers on their hours. Being an exempt employee would provide for that flexibility.

Mr. Chairman, H.R. 2888 is a very carefully negotiated and crafted bill. It does not exempt all sales persons from the Fair Labor Standards Act. It reaches only those who by reason of their specialized and technical knowledge, and their relationship with their customers, meet the conditions laid out in the bill. Those employees must receive a substantial share of income based on commissions from sales. So H.R. 2888 is a narrow bill, and reflects the specific needs and responsibilities of many sales employees in 1998.

It is time to update the 60-year-old law, when the tools that today's sales people use, like faxes and computers, were not even imagined 60 years ago.

Again I urge my colleagues to support this bipartisan legislation.

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

Mr. OWENS. Mr. Chairman, I yield myself such time as I may consume. I am strongly opposed to H.R. 2888.

Mr. Chairman, why are we here at 11 o'clock tonight? Why is this bill on the floor as an open rule tonight or any other time? This is a very trivial piece of legislation in one sense. By itself it does not have much meaning. But if you look at it in the context of a whole series of small, seemingly trivial bills which harass American working families, then this is a very important bill. It is probably not important to many people because it has an open rule. Nothing comes to this floor with an open rule that is really important. When bills related to budgets and taxes and really important things come to the floor, they do not have an open rule. So it is really being treated in a very trivial way and by itself it would be, but it is part of a bigger guerilla campaign, a guerilla warfare campaign of the Republican majority against the American working families.

At a time like this in America when the stock market is booming, unprecedented prosperity, why are we chipping away at the wages and income of the people at the very bottom? We are talking about sales people and calling them managing consultants. What managing consultant do you know that makes $22,000 a year? That is what we are talking about. When you take the wages plus the commissions, the cutoff point for this is $22,000 a year. At that point, the Fair Labor Standards Act ceases to apply and these people are left out there on their own. If they can sell and make commissions, then good. But since they are inside salesmen and since they are helping customers with the product, giving advice, they are doing a number of things which do not bring a commission. You only get a commission when you sell. If you do not sell, you do not get a commission. But they are doing lots of other work.

□ 2300

So why are we here chipping away at the income of people at that level? As my colleagues know, this is a part of a campaign that I find baffling, the majority party continues. Today we had a series of bills on OSHA where they were chipping away at the safety and health standards for American workers. Now we are going to the heart of the matter, and we are going after their cash. We are taking away the cash.

Now this bill is like a landmine on the way to a bigger objective. As my colleagues know, the bigger objective is to take away overtime cash payment for overtime completely. I think many of us still remember that the 105th Congress opened up with a bill which was a comp time bill, a bill which said that an employer could give comp time instead of cash to employees. I think my colleagues may remember that that bill passed the House of Representatives. It is still out there. The Senate has not acted upon it yet, we have not had a conference, but there is still a danger in this year, and I call this to the attention of all the working families out there. As my colleagues know, I hope they are still awake, I hope they are here. We can take advantage of this maneuver that they are pulling to alert people that the comp time bill is out there still. It passed the House of Representatives, it is waiting, they are waiting to take away overtime, they are going to take away cash for their overtime.

This is part of the whole plot, and if our colleagues pass this, we are one step further along the road to taking cash payment for overtime.

Now at that time when we had that bill on the floor, I proposed a compromise. I proposed that, all right, there is a lot of talk about middle-class families, people who are making $100,000 or more. They want comp time, and they do not want to be bound by having to take their overtime only in cash payments. They want to be able to take time off. So I had a simple proposal, a simple amendment, put it on the floor. I said that all those people who are making minimum wage, and if they are making minimum wage, it meant their salary, their total earnings for the year, assuming they worked every hour of a 40-hour week for the whole year, was less than $12,000 a year. Anybody earning minimum wage, less than $12,000 a year, let them remain under the Fair Labor Standards Act and receive cash payment. They need cash to put food on the table. They need cash for clothing, for shelter. They do not need comp time. That is what they need.

That bill was voted down here. It did get 170-some votes, but it was voted down. As my colleagues know, how can we keep saying with an honest and with a straight face that this prosperous economy cannot afford to have people receive overtime payment when they are making less than $12,000 a year? And here we have another situation, another standard of $22,000 a year.

Now unless somebody complains that I am not germane, let me proceed to say that this piece of legislation, the effect of this legislation is to permit employers to either require workers to work longer hours, how to pay workers less for each hour's work. Far from enhancing the earning opportunity of workers, the primary effect of this legislation is to increase the income of the employers at the expense of the

workers. H.R. 2888 exempts an undetermined number of nonretail inside sales personnel from the requirement that employers pay time and a half for hours worked in excess 40 hours a week. Based on data from the Bureau of Labor Statistics, as many as 1.5 million workers may lose overtime protection if this legislation is enacted.

Unlike outside sales people, an inside sales person is directly employed in making and processing sales for their entire time at work, and I want to emphasize again Secretary Reich was right. They are engaged in a large number of activities that do not necessarily end up in sales. They do provide advice, they do explain things. There are a number of ways in which inside sales persons are working all the time and there is no commission attached to their labor.

I agree with the chairman of the committee. As my colleagues know, managing consultants is what we could describe them as in terms of the duties that they perform. They do not get a managing consultant's pay, and that is what we should focus on. We are not talking about people who get paid at the level of managing consultants or any other kind of consultant.

Since the employer is receiving a direct benefit from the employee's labors, from the employee's entire work period, employers should be required to pay overtime when the employee is required to work more than 40 hours in a week as the law currently provides. There is no justification for denying overtime pay to these workers.

There is some confusion. I do not know why there is such confusion. It is a simple matter. They are forcing people to work, and they are not paying them in accordance with the overtime regulations of the Fair Labor Standards Act if they exempt them, force them into an exempt status.

Under this legislation, employees are exempted if they earn wages or salary of $16,000 a year and if they earn an additional $6,500 a year in commissions. In other words, the $16,000 an employee must earn in wages or salary is regardless of the number of hours that he works, that is worked by this employee. An employee, by being required to work more than 40 hours a week may be paid well below the time and a half standards, well below 1.5 times the minimum wage, and still qualify for the exemption so long as the annual wage exceeds $16,068.40. A minimum wage worker who is required to work 60 hours a week without a sufficient base salary, to be exempted from overtime by this legislation.

This legislation further provides that an employer need not pay anything in wages or salary to covered workers for hours worked beyond 40 hours a week. In other words, an employee who earns $7.73 an hour and earns the equivalent of another $3.09 an hour in commissions may be required to work overtime without earning a penny more in wages and salaries.

This bill does not simply repeal the requirement that employees be paid 1.5 times their regular rate of pay for overtime work, it repeals a requirement that an employer provide any wage or salary for hours worked in excess of 40 hours a week. Employers may still require employees to work overtime. If during the overtime period the employee earns no commissions, then the employee would be paid nothing, nothing at all, for the additional hours worked.

Exempting workers who make no more than $22,600 a year from overtime protection is a horrific policy, and that is what it all boils down to. If at this hour of the night I am certain that anybody listening is confused, and there are a lot of folks who seem permanently confused, it all boils down to taking a person who is in combination salary plus commissions at the level of $22,600 a year and saying to them, ''You are no longer going to get paid cash for your overtime, you are not going to get anything for your overtime, and your employer can work you as many hours as he wants to because there's no reason why they couldn't schedule you to work. It doesn't cost them anything. It costs you your hours, time away from your family, but at 22,600 you're in another zone.''

$22,600 happens to be 12 percent below the average annual income earned for all workers. Let me repeat. $22,600 is 12 percent below the average annual income for all workers. The median income for nonretail sales representatives is $40,000. Under the current law, employees in the computer programing industry must make $57,000 a year before they are exempted from overtime. And I want to repeat that again. The computer programing industry has a unique exemption, and I was a part of the legislation which gave that exemption. Some of us are accused sometimes of not being willing to compromise, of not being willing to change anything that has been in the law for 30 years or being dogmatic, et cetera.

No. We have a clear situation with the computer programing industry. It was clear that they needed some relief from the Fair Labor Standards Act, and we gave it to them, but it was reasonable. The threshold number was $57,000 a year. Employees in the computer programing industry must make $57,000 a year before they are exempted from overtime.

Now considering all the other reasons why they needed to be exempted, and they gave good reasons, if it had not been at a level of $57,000 a year, I would have never agreed to it.

□ 2310

Many others would not have agreed to it. That is the crux of the matter tonight. What is your breaking level, where do you start shutting off cash payments on overtime for the people that the law is designed to protect?

Notwithstanding the unprecedented prosperity the economy has enjoyed over the past 5 years, income disparity between the very wealthy and everyone else is increasing. The drop in overall unemployment rates has not significantly diminished the fact that more and more Americans must work longer hours just to make ends meet. Rather than addressing these matters, H.R. 2888 exacerbates them. The majority party continues to exacerbate the problems faced by working families in America.

Working families in America should know that we are not here to discuss tonight the important issues like a raise in the minimum wage. If we just raise the minimum wage in a very conservative way, 50 cents a year for the next 2 years, by the year 2000 we would have a minimum wage of $6.15 an hour. We would still be behind in terms of not being able to keep up with inflation, but that is not even being entertained. We cannot even talk about that. It is not put on the floor for discussion.

We have something called the American Competitiveness Act, which goes after people who are computer programming specialists and information technology workers. Instead of training more workers and discussing how we can train more workers and have the workers in this country, people who are now being laid off and downsized from other jobs, trained to take these jobs, we just passed something in the other body which is called the American Competitiveness Act, a real outrageous name for such an act.

The American Competitiveness Act will soon be on the floor of this House, and it was not even sent to our committee. It is handled by another committee. But it deals with taking jobs away from workers.

It is going to raise the quota for the admission of professionals into this country and allow more people with computer programming knowledge to come in. Thirty thousand more will be allowed in per year for the first year, and 20,000 a year for the next 3 or 4 years.

That needs to be discussed. We are taking jobs and total income, total salary, away from large numbers of American workers. They are striking, I understand, now in Flint, Michigan, because workers are concerned about their jobs being taken overseas. We are not discussing that in the Committee of Education and Workforce. We do not protect the work force in this committee. The majority makes certain that the work force is harassed and that we are constantly finding ways to downsize the income and downsize the health and safety standards for working people.

This is a serious flawed piece of legislation, and although it looks small, it is a land mine on the way to another catastrophe. The big catastrophe is waiting. We already passed it out of the House, it is waiting out there, and it is called comp time. They are going to take away the protections of the

Fair Labor Standards Act from everybody and have comp time replace cash time for overtime, cash payment for overtime.

This is an important bill. Keep your eyes on the guerrilla war being raged by the Republican majority. This is a seriously flawed piece of legislation. I urge its defeat.

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

Mr. GOODLING. Mr. Chairman, I yield 6 minutes to the gentleman from Illinois (Mr. FAWELL), the subcommittee chairman, the engine that is trying to drive labor and management into the 21st Century before it is too late.

Mr. FAWELL. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, it all depends on how we look at legislation like this, whether we see opportunities, as I see, or whether we see a lot of limitations, as I gather the gentleman from New York (Mr. OWENS) does see.

But this legislation, I do not think, is difficult to understand. It amends Section 13.1 of the Fair Labor Standards Act to simply allow a defined group of people called inside sales people to be exempt from the overtime provisions of the Fair Labor Standards Act.

The reason for that is so that a lot of these people, especially young people in the sales business, they are pretty well prepared professionals, they would like to be able to work on a commission basis. They really prefer that. They really prefer the opportunity that would be afforded to them. Right now they do not have that opportunity, because employers are not wild about going into overtime and all that is involved with that.

These rights, by the way, of working on a commission basis have long been enjoyed by sales people who work outside the office under the title of outside salesmen exemption. That has been granted by the Fair Labor Standards Act ever since it was created.

Nobody has, I think, felt there is a white flag we had to fly for the outside salesmen of America, who have done a pretty good job. These are people who customarily and regularly work away from the employer's place of business for the purpose of selling tangible and intangible items of property.

Now, what we did here, though, was something special. We sat down, and we had the gentleman from New Jersey (Mr. ANDREWS) and I and others on both sides of the aisle thinking, well, how can we do this and settle the fears of those in dealing with labor law about maybe that somehow would be taking advantage of workers? What we tried to do, in a bipartisan effort, and I think we accomplished that, was to specially define those who are in inside sales work who could take advantage of this.

We set forth what is called a duties test, and made clear that only those who have specialized and technical knowledge of the product and detailed knowledge of the customer's needs could take advantage of this, and they are people who are in sales and predominantly serving regular customers, positions that require a detailed understanding of the needs of those to whom the employee is selling.

Then we went a bit further and said that we are going to guarantee, in effect, that, come heck or high water, no matter what happens, if they fail in their commissions earnings, these young people that talked before said nothing about opportunities. They said they really wanted to have these opportunities. But we would require that the employers would guarantee in effect around $22,500. Maybe that is not a good living wage; nobody is necessarily saying that. It is not a cap, it is a floor.

We are simply saying if some catastrophe were to occur here and you did not make as much, these young people are thinking of making $50,000, $60,000, $70,000, if they just had the opportunity to go at it and do it their way with commissions and not be on an hourly wage.

They explain that, look, you know, we have clients to serve, and we can better serve them on the weekends, we can better serve them on Saturday evening, early in the morning when these customers are going to work. We would like to have the opportunities, the very same opportunities that outside salesmen have had for years.

The times have changed. This is now 1998. It was 1938 when that law was drafted. In those days the traveling salesman would kiss the good wife good-bye and go out into the country in a car and rumble around for a couple of weeks before he came back in order to be able to communicate. They did not even have the telephone in very good shape in those days.

Today we have the fax, we have computers, the Internet, and types and kinds of ways of being able to communicate. You do not have to go into the old car and rumble out into Iowa and the Midwest and so forth to do that.

Then we said also before you can qualify here, you have to be on the commission basis, which is pretty vital.

Now, that does not seem to me to be any furtive effort by those of us, both Republicans and Democrats alike here, of trying to do harm and do something bad for the working people of America. Again, I say these were young people who are asking for these advantages.

□ 2320

I simply want to say this is a bipartisan bill. I want to laud the gentleman from New Jersey (Mr. ANDREWS) who has diligently sat down and tried to painstakingly set up these standards so that we would not have people fearing the ways in which I think the very fine gentleman from New York has expressed his fears about this bill.

I think it is an excellent piece of legislation, and I hope people will receive it in the manner in which it should be received.

Mr. OWENS. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California (Ms. WOOLSEY), an expert management personnel consultant, a real consultant.

(Ms. WOOLSEY asked and was given permission to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Chairman, before coming to Congress, I spent over 20 years as a human resources professional; 10 years as an H.R. manager of a high-tech manufacturing company, and 11 years as a human resources consultant. Did I earn more than $22,000 a year? Yes, I did. That is because I know something about the Fair Labor Standards Act.

The Fair Labor Standards Act allows employers to exempt employees from overtime if the employee has specialized skills, a high level of education, advanced training, and/or a minimum level, a professional level of compensation.

This bill would allow an employer to exempt certain jobs from overtime regardless of the credentials of the person filling that job. The job title in H.R. 2888 becomes more important than the person.

Some time ago, as my colleague, the gentleman from New York (Mr. OWENS) mentioned, Congress passed legislation to exempt certain computer industry jobs. They exempted them from overtime. That was if that job paid $57,000 or more a year.

I voted for this. I voted for it because a salary in the $50,000 range does not need overtime nearly as much as the jobs we are talking about tonight. This bill exempts employees who make less than half that amount.

The Bureau of Labor Statistics shows that the median income for nonretail positions is $40,000 a year. At the very least, the income limitation on this bill should be $40,000 to ensure that overtime taken from workers would be a much less significant loss, to ensure that these positions are truly considered professional.

This bill would be acceptable, perhaps, if the decision to work overtime was left to the employee, if it were totally voluntary, but this is not how H.R. 2888 works.

This bill takes away overtime, gives the employer the right to insist on overtime work and insist that the employee work at their straight rate of pay, really, within that week's salary. If they are paid for a 40-hour week, they get paid for 40 hours. Whether or not they work 42, 44, 46, 48, they get paid for 40.

No wonder, Mr. Chairman, we have heard from employers all over the country telling us how employees benefit from this bill, while, I want my colleagues to know, I have not heard yet from one worker that this is what they would prefer.

I ask my colleagues, unless we make overtime voluntary, unless we raise the salary floor to at least $40,000, which is the average for nonretail sales jobs, that we vote against 2888.

Mr. GOODLING. Mr. Chairman, I yield 6 minutes to the gentleman from New Jersey (Mr. ANDREWS), the coauthor of the bill.

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

Mr. ANDREWS. Mr. Chairman, I thank the gentleman from Pennsylvania for yielding, and I thank the ranking member for his cooperation in this matter.

Mr. Chairman, I rise in support of the bill, and I would like to thank my coauthor, the gentleman from Illinois (Mr. FAWELL) for his diligence in preparing this piece of legislation.

I share with my ranking member opposition to a plan that would replace cash with comp time. I share his sympathies for an increase in the minimum wage. I would oppose a bill that would divest 1.5 million American workers from the right to receive overtime. That is not the bill before us tonight.

The bill before us tonight is not a bill that divests people of overtime. I believe it is a bill that appropriately invests a carefully selected number of people with an opportunity to better themselves.

It is not a partisan bill. Five Democratic members of this committee, including myself, are sponsors of this bill. We believe that this is a bill that opens up opportunity for people.

It is important, first, to talk about what the bill is not and whom it does not cover. If you drive a truck and deliver goods along a route, this bill does not cover you because you are not an inside sales person. If you are a phone solicitor, someone that makes cold calls to people you have never spoken to before and tries to sell them a credit card or a magazine subscription or some other good, this does not apply to you because you are not dealing with an established customer base.

If you stand on your feet in an appliance store or a department store or furniture store and wait for the customers to come in, this does not apply to you because you are not dealing with a sophisticated product and existing customer base; and the law, simply by its terms, does not apply. This bill applies to a carefully selected group of people who are engaged in the process of doing better by working more.

Tomorrow morning, one of the beneficiaries of this bill is going to go to work, and she is going to go to work at a food distribution company. Her assigned clientele will be a group of restaurants or food stores. Her job will be to work with that existing customer base to try to make the best deals and the best connections she can with that existing customer base.

She has the opportunity, provided that she is primarily engaged in sales, provided that she needs specialized consultive knowledge, provided that she can exercise discretion in the relationship with the client or customer, and provided that she is dealing with primarily an existing customer base, she has the opportunity to move ahead and make more and increase her income.

This is not a situation where people who are involved in a cold call selling situation can be compelled to work more hours. This is a situation where people who are engaged in what former Secretary of Labor Reich has described as the new sales force in the economy will be given an opportunity to advance the cause in the income of that particular individual.

It is very important to understand that this is a carefully tailored piece of legislation, designed not to cover people who could be easily exploited by an unscrupulous employer, but rather to open the doors of opportunity for an employee who wishes to improve her situation or his situation by working at hours and times where the customer base and the clientele is more likely to respond.

To understand why this law is needed, my colleagues need to understand how it would be different if my hypothetical individual who is a food sales person were working as an outside sales person. If this same sales person got in her car or her van and drove from customer to customer instead of sitting at her desk and communicating with those customers on the telephone or via the fax machine or via the computer or the Internet, under the present law, if she sits behind the wheel of a car or a van and drives from place to place, she is not subject to the provisions of the 40-hour workweek. But if she sits behind a desk under what I would assume would be more productive and beneficial circumstances and works her customer relations with a phone and a fax machine and a computer, she is covered by the law.

This proposal, with bipartisan support, carefully drawn after due consideration of objections, and made in good faith by both sides of the aisle, this plan is resolved to address that anomaly and treat that person the same if she is sitting in the office making the sales as she would be if she is driving out on the road and making the sales.

In support of H.R. 2888, the "Sales Incentive Compensation Act," I believe the following points should be made.

The bill sets out important criteria for those employees to be exempted. First, employees must be highly skilled. The exemption is directed at professional employees functioning in a similar capacity as "outside sales" employees. In this regard, these employees must have highly specialized and technical knowledge about both the products or services they offer as well as the clients with whom they deal. These "highly specialized" professionals typically receive extensive training to prepare them to sell a variety of products and/or services and they receive frequent follow-up training or related educational instruction.

Second, employees must exercise independent judgment and discretion. It is fundamental that these employees are required, by the nature of their work, to exercise independent judgment and discretion in making these sales. These are not telemarketers or semi-skilled sales staff. Rather, the bill is designed to identify salespeople who act in a professional capacity utilizing substantial discretion in their work.

Third, employees must have continuing and regular contact with customers. These employees can only gain the extensive knowledge of their clients needs envisioned by the law through regular and repeated contact with these customers. One-time calls, whether made by the sales person or the customer, cannot serve as the basis for the type of specialized knowledge of the customers' needs which would permit the employee to act in the consultative or advisory capacity necessitated by the bill. This means in practical terms that the employee must have a continuing relationship with a vast majority of customers to whom he or she makes sales.

In addition to the duties criteria, there are several requirements related to compensation. First, the employee must receive a guaranteed salary. The bill requires receipt of compensation which is not affected by the actual number of hours the employee may work in a given period. As a result, the employee cannot earn an hourly wage, but must be given a predetermined and guaranteed salary regardless of the number of hours actually worked. This is reflective of the professional status the employee must possess.

The second major component is that the compensation earned as incentive pay must serve as an inducement and reward for individual effort. In this regard, the incentive pay should be in the form of individual commissions based on each sale generated by the employee. Such a requirement does not prohibit incentives based on reaching individual or group sales quotas, etc., but these methods must be constructed in such a way as to make individual sale commissions readily identifiable.

Third, employees must be rewarded with at least as high a level of incentive compensation (formula or rate) in hours above forty per week as they received in hours below forty per week. As a result, if quotas or other incentive plans are used which do not explicitly reward employees for each sale generated, the manner and rate of incentive pays must make it perfectly clear that the employee is earning at least as much for sales generated in overtime hours as he or she would earn for same sales in non-overtime hours.

□ 2330

This is carefully drawn. It is narrowly tailored. I very much appreciate the support of my four Democrat colleagues on the committee for this bill, and I appreciate the diligence and persistence of my coauthor, the gentleman from Illinois (Mr. FAWELL).

Mr. Chairman, I too would urge the adoption of the bill and the defeat of amendments that have been proposed.

Mr. OWENS. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Chairman, I want to say with all due respect to the gentleman from New Jersey (Mr. ANDREWS) my good friend, and the gentleman from Illinois (Mr. FAWELL), that I have to take exception with the import of this bill, no matter how well-

crafted it may seem or well-intentioned it may be.

Mr. Chairman, for 60 years the Fair Labor Standards Act has operated to protect workers from excessive hours on the job by requiring employers to pay time-and-a-half for overtime. Most Americans except this and expect it. Work overtime, expect to be paid for it.

This measure before us, the Sales Incentive Compensation Act, would undermine the Fair Labor Standards Act and open up an enormous loophole. It would allow employers to avoid paying overtime to certain categories of employees.

This bill would enable companies to declare that certain workers are in sales positions and then deny them a salary or an hourly wage for the time they work over 40 hours per week. For these specialized employees, companies would only have the obligation to pay them commissions as a substitute for the time-and-a-half pay.

About 1.5 million workers would be affected by this loophole. This bill would provide a powerful incentive for employers to push their employees to work as many hours as possible. It would lead to endless litigation as the courts battle over who does and does not qualify under the vague and broad provisions in this bill. In addition, the Department of Labor has concluded that this bill would impose new paperwork and recordkeeping requirements on businesses. So there are unintended consequences.

Mr. Chairman, I would agree with my colleague that many of the same arguments put forth here parallel the discussion we had on comp time. The reason people work overtime is to get paid for overtime. They do not work overtime to give the money to their employer. They work overtime to give the money to their family. I believe that the argument that people who work overtime ought to get time off in the case of comp time, or a commission or not at the election of their employers, is a misplaced argument.

Now, there are some proponents of this bill who would say that they just want people to make more money, not less, and to do that they are going to cut out time-and-a-half for overtime and replace it with a sales commission. I think that assertion challenges common sense notions of why people work overtime. The harder people work, the more they should get paid from their employer.

This legislation affects employees. So if employees work more than their full-time allotment, they should be paid for it. And if their diligence, their labor produces a higher benefit, then let the employer take the benefit. But let the employee be able to get at least time-and-a-half. In a sense, we are asking the employees to take the risk when it is the employer who gets the benefit.

I say let the employee get the benefit and the employer take the risk. Let the employee get paid time-and-a-half for overtime.

This bill benefits employers at the expense of employees. It is going to result in workers being required to work more hours. The simple fact is, and every American worker knows this, it is the employer who controls the hours that people work, not the employee. The employer controls how long the employee is going to work.

This bill unfortunately discourages employees and it encourages employers to require workers to work overtime. It exempts employers from the requirement that they pay an employee any wage at all for overtime hours. How many people out there would want to work overtime and not get paid anything? Who would take that deal in this country?

Years ago there was an American humorist who said, ''Never give a sucker an even break.'' Working people in this country deserve to be paid time-and-a-half for overtime and employers ought to be challenged to do that.

Mr. GOODLING. Mr. Chairman, I yield 2½ minutes to the gentleman from Nebraska (Mr. BARRETT), an important member of our committee.

Mr. BARRETT of Nebraska. Mr. Chairman, I thank the gentleman from Pennsylvania (Chairman GOODLING) for yielding me this time.

Mr. Chairman, if we mentioned comp time or flex time or telecommuting or inside sales personnel to people back 20 or 30 years ago, we probably would have gotten a very, very strange look. But these terms today, they are a reality. This is today's workplace. And they have gone largely unrecognized in today's antiquated labor laws.

Today we take a small step forward to recognize what is already occurring in the labor force, but the Federal Government has been very, very slow to respond.

H.R. 2888 allows professional sales people working regularly with established clients to be exempt from minimum wage and overtime requirements. The bill permits some inside sales workers to earn a salary and be treated like a professional along with their outside sales counterparts.

In this era of family-friendly workplaces, Congress should embrace a bill giving the people the flexibility to use technological advances and changes in our economy to work near their home in jobs that they enjoy or need and be closer to their families.

This bill enjoys bipartisan support. It lets a fresh breeze into the stale and outdated Federal laws that have restricted the economic liberty of an entire class of professional working people. When the House does pass H.R. 2888, we should be proud of our actions to allow people to again capture the American dream of being rewarded for their hard work.

I also want to take a moment to thank the gentleman from Illinois (Mr. FAWELL) my friend and colleague, for authoring this legislation and for all of his years of hard work to improve the working conditions and benefits of millions and millions of Americans. I am sure that he will take to his retirement the same zeal and determination that has marked has career as a very distinguished public servant and lawyer.

With that, Mr. Chairman, I encourage my colleagues to support H.R. 2888.

Mr. OWENS. Mr. Chairman, may I inquire as to how much time is remaining on both sides?

The CHAIRMAN. The gentleman from New York (Mr. OWENS) has 6 minutes remaining, and the gentleman from Pennsylvania (Mr. GOODLING) has 10½ minutes remaining.

□ 2340

Mr. GOODLING. Mr. Chairman, I yield 2½ minutes to the gentleman from Michigan (Mr. HOEKSTRA), another member of our committee.

Mr. HOEKSTRA. Mr. Chairman, I thank the gentleman for yielding time to me.

I also congratulate my colleagues for putting this bill together. I hope that in the coming months and the coming years we can build on this bipartisanship and seriously take a look at America's labor laws, labor laws that were developed in the 1930s and the 1940s.

And now, as we take a look at entering a new millennium, we recognize that the workplace has changed. We have moved into a global economy. The types of products and services that we are excelling in and producing in this country have evolved and changed.

In the last 8, 9 months, we have gone around the country, we have had roundtables. We have had hearings. We are learning that for us to be globally competitive, we need to restructure and reevaluate the legal framework within which we compete. And as we change this framework and as we evolve it, it is going to create more opportunities for American workers. It is going to enable American workers to be more competitive, to be more productive.

And when they are more productive, they can earn a higher standard of living. We want to eliminate bureaucracy. We want to eliminate rules and regulations, rules and regulations that do not fit the 1990s.

One of the facilities that we had the opportunity to visit was an IBM facility in Atlanta. What we saw in Atlanta was a telemarketing center, actually a sales consultant center where people over the phone were selling multimillion dollar computer systems. Ten years ago these would have had to have been sold face to face. Now they can be sold over the telephone.

The nature of the product has changed; the nature of the customer has changed. And the nature of the way that you service these clients has changed.

This bill recognizes the changes that are taking place. It says that we can service these customers in a new and in a better way and in a more productive way.

Again, I applaud my colleagues on this effort and urge my colleagues to support this bill tomorrow.

Mr. OWENS. Mr. Chairman, I yield myself such time as I may consume.

We could have total bipartisan cooperation if we really recognized what is at the heart of this controversy at this point. It is money. It is only money; $22,600 a year is not a proper cutoff point.

I recognize that the Fair Labor Standards Act is 60 years old. We have made some adjustments in situations where adjustments made sense, but here we are proposing to make an adjustment on the backs of the working families. We are proposing an adjustment which has no logical rationale. Common sense has been thrown out the window. We have a cutoff point of $22,600 a year.

We did this same thing for the computer programming industry. They had certain circumstances which made it evident that large amounts of hours were required, and they could not keep paying more and more overtime, but they had a staff of specialized people. They could not go out and get more people because they did not have the skills. We took that into consideration and we amended the 60-year-old Fair Labor Standards Act. And certainly we could work out an amendment now, a bipartisan amendment, if we would just admit the fact that $22,600 a year is not a proper cutoff point.

My colleague from California, an expert in human resources, said that the average is $40,000 a year for retail salespeople, it is $40,000 a year, not $57,000 like the computer programming people.

Well, this particular industry has a set of facts which we should all look at, and maybe she is right, $40,000 is the figure, not $57,000. We cannot just be arbitrary and say $57,000, that is a pretty good living even now. We did that a few years ago. But even now $57,000 looks pretty good compared to $22,600.

So if we are not interested in robbing the working families to make the rich richer, which is what most of the amendments that are brought to the committee by the Republican majority do, if we are not interested in exploiting working families, if we really care about working people, if we are a committee that is concerned with work force protections and not work force harassment, then we could work out a compromise.

We should withdraw this bill now, work out a compromise, and let us arrive at a figure between $40,000 and $57,000, and we can accept a lot of other rather vague things that are here that may make for difficulties in the future.

The whole definition of what a specialist is and who is selling a specialized product. I know people who are in the grocery business, and they insist that they are specialists, they are professionals. Not everybody can come in and sell groceries.

It used to be there was a sitcom at one time where the guy was a hardware store owner and used to get all riled up about what it took to sell hardware. And he would always end his statements by saying, this is not just some little common thing in the street; hardware is something special.

So everybody can make the argument that they are a specialist. Certainly employers who want to make people work more hours without overtime could always say, you are really a specialist. You are selling eggs and milk, but you are a specialist and you do not get any overtime.

There are a lot of pitfalls here. We can settle it all and reach agreement, if we would just talk about a reasonable, common sense figure that does not exploit working families. Do not put people in a bind where they cannot get any more cash for overtime at the level of $22,600 a year. Let us go on and take a hard look at all the factors and come back and offer the working families something which comes off the table.

The table is full now of goodies. It is a very prosperous time. Wall Street is making more money than they ever made before. The Dow Jones average hovers between 8000 and 9000 on a daily basis. It is just amazing that the energy of the Republican majority is all concentrated at taking things away from working families at a time like this.

We have a window of opportunity. Let us share the prosperity. If we have to set some figures for exemption in the Fair Labor Standards Act, let us raise them high enough to be meaningful for working families.

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

Mr. GOODLING. Mr. Chairman, I yield 2½ minutes to the gentleman from Pennsylvania (Mr. PETERSON).

Mr. PETERSON of Pennsylvania. Mr. Chairman, I rise to support H.R. 2888.

It is obvious to me that those that oppose this bill do not understand the dynamics of sales in this country.

I would ask everybody here tonight, would you like to go back to the rotary telephone, get rid of the systems in your offices that have the rotary phone that you dial by hand that are not connected to each other? No, you would not. It would not make any sense to you. Would you like to go back to the mechanical typewriter and do away with the computer systems that are all networked and go back?

The law that is in place is holding us back in this country from allowing salespeople to do what they do best.

Salespeople are undervalued in your view. The salespeople are the oil and gas of the American economic engine. They are what drives it. As salespeople are successful and they earn a commission, they make more money. And they put their friends and neighbors to work because they sell more goods that make a company go.

Technology today allows companies to do more sales inside instead of wasting travel time. And this bill is narrowly drafted, probably a little more narrowly drafted than I would have agreed to, it is narrowly drafted. You do not have to worry about a $20,000 person. You give them a sales commission, and they are going to make 30, 40, the sky is the limit.

Flexibility of time in the sales force is a benefit to the customer and a benefit to the employee. He or she may want to go home and fix dinner and then make some calls after dinner. They may want to pick up their children at day care and go home and then make some sales calls. It is not a one-way street.

Commission is a huge incentive and do not ever undervalue it. If you are selling by the hour and you are selling by commission and you both have equal sales ability, the commission person will always sell more goods and put more people to work in the overall company.

It is time to unleash the salespersons and stop limiting their ability to incentive sale. They will earn more and you will increase employment in manufacturing, and you will increase employment in the service industry. You will increase employment in wholesale. I want to tell my colleagues, it will increase the economic drive in this country.

Mr. OWENS. Mr. Chairman, will the gentleman yield?

Mr. PETERSON of Pennsylvania. I yield to the gentleman from New York.

Mr. OWENS. Mr. Chairman, does the gentleman realize this is about inside sales, which means people cannot go home and make phone calls from home. They have to be on the job. That is the whole thing. They are bound to the job. They are bound at the spot.

□ 2350

They are bound at the spot. They are inside.

Mr. PETERSON of Pennsylvania. It should not be that narrow. Because sales can be made on the telephone at home just as easily as they can be made in the office.

Mr. GOODLING. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Chairman, I thank the gentleman for yielding me this time. I want to engage my colleague in a colloquy.

The Sales Incentive Compensation Act does not change the law of impasse in any way. The bill does not create a new right or authority for an employer to implement unilaterally the exemption provided by the legislation in a circumstance where an employer is engaged in collective bargaining negotiations with a labor organization and the negotiating parties have reached an impasse.

As a coauthor of H.R. 2888, I want to make it clear that the bill may not be used as an instrument, if an impasse occurs, to secure an outcome that would never result from the normal ebb and flow of the free collective bargaining process.

Am I correct that it is the understanding of my coauthor of the bill

that it does not create a new right to impose unilaterally a settlement during an impasse?

Mr. FAWELL. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS. I yield to the gentleman from Illinois.

Mr. FAWELL. It is my understanding that the legislation does not change the laws regarding an employer's rights to unilaterally impose conditions in the face of an impasse in collective bargaining.

Mr. ANDREWS. Under current law, when collective bargaining reaches an impasse, employers have a perverse incentive to bargain to impasse and then compel a union to acquiesce in conditions mandated by the employer.

From a related point of view, it is not the intent of the Sales Incentive Compensation Act to create a new defense for an unfair labor practice perpetrated by an employer or to create an exemption excusing what would otherwise be an unfair labor practice.

The Sales Incentive Compensation Act does not create a right or authority for an employer to implement unilaterally the exemption provided by the legislation in a circumstance where an employer is engaged in collective bargaining negotiations with a labor organization and the negotiating parties have reached an impasse.

As an author of H.R. 2888, I want to make clear that the bill should not be used as an instrument, if an impasse occurs, to secure an outcome that would never result from the normal ebb and flow of the free collective bargaining process. Under current law, when collective bargaining reaches an impasse, employers have a perverse incentive to bargain to impasse and then compel a union to acquiesce in conditions mandated by the employer.

From a related standpoint, it is not the intent of the Sales Incentive Compensation Act to create a new defense for an unfair labor practice perpetrated by an employer.

Mr. GOODLING. Mr. Chairman, I yield the balance of my time to the gentleman from Illinois (Mr. FAWELL).

Mr. FAWELL. Mr. Chairman, it seems to me that in the comments, the gentleman from New Jersey (Mr. ANDREWS) made the statement that this bill does not divest people from overtime, rather it gives opportunities. I think that is the key distinction perhaps between the two sides here.

We on this side and a number of my colleagues on the other side of the aisle see that there are all kinds of opportunities, especially young people who are only making $20,000 or less than that. When Leronda Lucky testified before the subcommittee of the gentleman from North Carolina (Mr. BALLENGER), she made this statement:

> There is also a very important customer service component to my job. My clients do not necessarily have to have 9-to-5 work hours. Many start their days early in the morning and work until late in the evening. I need the flexibility to determine when I need to meet with customers on their hours. Being an exempt employee would provide that flexibility.

The gentleman from Pennsylvania (Mr. GOODLING) previously referred to Robert Reich's statement, and I quote:

> A lot of people who are called sales reps are no longer really sales reps. They are actually advising somebody about a package of goods and services that meets the needs of that individual, and those sales people are therefore more like management consultants.

So it is different. Times have changed. We have to recognize that that is so. That is what I think this legislation does. I believe it is going to be very beneficial for a lot of people who see a great deal of opportunity.

Mrs. MCCARTHY of New York. Mr. Chairman, I rise in strong support of H.R. 2888, the Sales Incentive Compensation Act. I want to commend my colleagues, Mr. ANDREWS and Mr. FAWELL, for their hard work in developing this bipartisan bill.

I am cosponsor of H.R. 2888 because I believe that it will open up opportunities for inside salespeople to earn more and succeed in the workforce. This bill recognizes that the workforce has changed in the sixty years since the Fair Labor Standards Act was passed. Today, salespeople can be more productive than every by using computers, faxes and E-mail to reach their clients, instead of travelling door-to-door.

But while outside salespeople are exempt from the FLSA, inside salespeople are not. Many inside salespeople are told to go home after 40 hours because their employers do not want to pay them overtime. This limits their chance to earn big commissions.

H.R. 2888 is sensible, balanced legislation. It will give professional, expert salespeople the chance to maximize their sales, while protecting millions of workers who depend upon the FLSA to guarantee their hard-earned benefits.

During Committee mark-up, I offered an amendment to H.R. 2888 to clarify even further that route sales drivers, a class of workers that deserves FLSA protection, would not be affected by this bill. My amendment was accepted.

I am pleased to support this bill not only on its merits, but because of the process that has led to its consideration. This bill is the product of good-faith discussions between members on both sides of the aisle.

It has been developed in an atmosphere of trust and mutual respect, and I would hope that this bill can be a model for other legislation that this body debates. It shows that when we put partisanship aside, everyone wins.

I urge my colleagues to support this bill.

Mr. CLAY. Mr. Chairman, I oppose this bill because it shortchanges some 1.5 million sales employees by denying them overtime pay. Although the bill guarantees that workers will receive the low salary of $22,000 annually, this hardly compensates for the loss of the overtime pay.

The overtime laws, like the minimum wage, were designed to protect working families from exploitation. Employers should not be permitted to make employees work excessive hours away from their families without fair and decent compensation.

It is shameful that we should act to diminish the prosperity of working families at the same time that corporate profits and stock market prices are off the charts.

This assault on working families also makes a mockery of those hollow assertions Republicans made on this floor months ago in support of flex time. Make no mistake, this bill means working families who work in the sales occupation will be required to work more hours for less pay. This bill does not permit employees to refuse overtime work.

This Congress should not support any legislation that benefits special interests at the expense of working families.

I urge all Members to preserve the historic protections of the Fair Labor Standards Act, and reject this mean-spirited attack on workers.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment under the 5-minute rule and is considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 2888

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 ''Sales Incentive Compensation Act''.

SEC. 2. EXEMPTION.

Section 13(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)) is amended by striking the period at the end of paragraph (17) and inserting a semicolon and by adding at the end the following:

''(18) any employee employed in a sales position if—

''(A) the employee has specialized or technical knowledge related to products or services being sold;

''(B) the employee's—

''(i) sales are predominantly to persons who are entities to whom the employee's position has made previous sales; or

''(ii) position does not involve making sales contacts;

''(C) the employee's position requires a detailed understanding of the needs of those to whom the employee is selling;

''(D) the employee's position requires the employee to exercise discretion in offering a variety of products and services;

''(E) the employee receives—

''(i) base compensation, determined without regard to the number of hours worked by the employee, of not less than an amount equal to one and one-half times the minimum wage in effect under section 6(a)(1) multiplied by 2,080; and

''(ii) in addition to the employee's base compensation, compensation based upon each sale attributable to the employee;

''(F) the employee's aggregate compensation based upon sales attributable to the employee is not less than 40 percent of one and one-half times the minimum wage multiplied by 2,080;

''(G) the employee receives a rate of compensation based upon each sale attributable to the employee which is beyond sales required to reach the compensation required by subparagraph (F) which rate is not less than the rate on which the compensation required by subparagraph (F) is determined; and

''(H) the rate of annual compensation or base compensation for any employee who did not work for an employer for an entire calendar year is prorated to reflect annual compensation which would have been earned if the employee had been compensated at the same rate for the entire calendar year.''.

SEC. 3. CONSTRUCTION.

The amendment made by section 2 may not be construed to apply to individuals who are employed as route sales drivers.

The CHAIRMAN. During consideration of the bill for amendment, the

Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

Are there any amendments to the bill?

AMENDMENT NO. 1 OFFERED BY MR. FAWELL

Mr. FAWELL. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. FAWELL:

Page 4, strike lines 8 through 13 and insert the following:

''(B) the employee's—

''(i) sales are predominantly to persons or entities to whom the employee's position has made previous sales; or

''(ii) the position does not involve initiating sales contacts;

Mr. FAWELL. Mr. Chairman, this amendment is noncontroversial. It would make two technical changes in the bill for the purpose of correcting a provision adopted during the committee markup which inadvertently substituted the words ''who are'' for the word ''are''; and the word ''making'' for the word ''initiating.''

It is my understanding that the amendment will not be opposed by the gentleman from New York (Mr. OWENS). I would urge my colleagues to support this technical change.

Mr. OWENS. Mr. Chairman, we accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. FAWELL).

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MR. OWENS

Mr. OWENS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. OWENS:

Page 6, line 9, strike the period, quotation marks, and the period following and insert a semicolon and insert after line 9 the following:

except that an employer may not require an employee who is exempt from overtime payment under this paragraph to work any hours in excess of 40 in any workweek or 8 in any day unless the employee gives the employee's consent, voluntarily and not as a condition of employment, to perform such work.''.

Mr. OWENS. Mr. Chairman, this amendment provides that employees who lose their overtime protection as a result of this legislation will have a right to choose whether or not they will work overtime. They will have the right and not the employer. Employers would be prohibited from requiring those sales people to work in excess of 40 hours a week, or 8 hours a day.

The proponents of H.R. 2888 as we have heard tonight contend that workers want to work overtime without overtime pay. For 60 years Americans have had this protection in place for inside sales people and sales have gone very well. The economy has boomed. Why fix it if it is not broken already? We have a working situation here. But they say that workers want to work overtime without overtime pay. They have overtime pay now. Workers are dying to give it up. They have stated repeatedly that this legislation is intended to help workers. I have said that is not the case. I submit that claims that this legislation will help workers are wholly false. This legislation will help employers, but it will harm workers.

Under current law, the only legal restriction on the number of hours an employee may be required to work is a requirement that employers pay time and a half for hours worked in excess of 40 hours a week. This puts a brake on exploitation. This puts a brake on employers who want to drive their workers in order to make greater profits without also compensating the workers.

Under H.R. 2888, an employer would no longer be required to pay a worker anything for overtime work except for such commissions as the employee may earn during that period. Indeed if an employee earns no commission during the overtime period, the employer is not required to pay the employee anything at all for that work. This legislation shifts business risks from the employer to the employee.

H.R. 2888 also creates a powerful incentive for employers to require employees to work overtime by permitting employers to pay a worker less for overtime work than for regular work. In my view, this consequence is obvious and intentional. However, if this legislation is truly intended to benefit employees, then clearly the worker and not the employer should exercise control over how much overtime will be worked. That is all that my amendment would accomplish. Employers may continue to require employees to work 8 hours a day and 40 hours a week. Employers may continue to specify when those hours will be worked. However, if the employee is going to undertake the risk of working additional hours beyond 40 hours, with no guarantee of being paid for those hours, it would be at the employee's own choosing and not the employer.

Even if my amendment is adopted, many workers will not have a true choice. $22,600 is not a living wage for most families. Many workers would be financially compelled to work overtime. However, my amendment ensures that all employees who would otherwise lose overtime protection would at least have some voice as to how much overtime they will work and when they will work it.

□ 2400

If those who support H.R. 2888 are serious about their desire to help workers, they will support my amendment.

Mr. Chairman, I urge the adoption of this amendment.

Mr. FAWELL. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from New York (Mr. OWENS).

Mr. Chairman, we still have the same dichotomy here in operation. The gentleman from New York again has his eye upon what he sees as a tremendous loss; that is, of the overtime provisions.

The employees who came into our committee and asked for the right to be able to assume commissions as a base of being able to work more and make more look at the opportunities coming from the fact that they now are going to have a commission's basis of earning. Not only are they going to have that commission basis of earning, but they are going to have a foundation of a guarantee of $22,500 a year that the employer is going to have to pay.

Now there are various classifications of employees who are exempt from the Fair Labor Standards Act provisions. We have made reference to some of them: professional, executive, administrative, outdoor salesman, for instance. I do not think that of all of the many examples of exemptions that are in the statute right now, and this is the 18th one that we have put here, that there ever has been a provision that would give to the employee the right to issue some kind of a consent. What is always set forth is not always because with the outside salesmen they did not even get any kind of a guarantee of any kind of a salary. It is zilcho, nothing. They are just out there and working on commissions, but take administrative positions where an exemption from overtime is granted.

The only other, the only other thing that is granted to an administrative employee is, believe it or not, a guarantee of $250 a week. That is all. There is nothing in any those instances where exemptions are granted, and exemptions from overtime have always been a part of the Fair Labor Standards Act.

And there is good reason for that, very good reason for that. Once we start doing that, then, well, what should it be? Oral consent or written consent? When must they set forth this consent? How often can it be? Must it be renewed? We can go on and on with a lot of other provisions, and if the employer should suggest that one ought to be able to go on commissions and give consent here.

Mr. ANDREWS. Mr. Chairman, would the gentleman yield?

Mr. FAWELL. I yield to the gentleman from New Jersey.

Mr. ANDREWS. Mr. Chairman, I want to join the gentleman in respectful opposition to this amendment. I

think the point he is making is very important, that the amendment opens an awful lot of questions about how the consent would be expressed, to whom, whether it could be altered, whether someone could be exempt for a week and then go back to nonexempt the next week, whether or not the requests would have to be oral or in writing. And I believe what it would do would be to unduly complicate matters, and for that reason I would join the gentleman in his opposition to the amendment.

Mr. FAWELL. This is precisely why in all of those instances where exemptions are granted, nothing like this has ever been put into the Fair Labor Standards Act.

I want to add also that the gentleman from New York (Mr. OWENS) actually is extending the overtime provisions to now include the 8-hour day as well as the 40-hour work week. The Fair Labor Standards Act has always applied only to a 40-hour work week, not to an 8-hour day, too. So he is bringing in something completely new to the Federal law, the Fair Labor Standards Act.

Mr. OWENS. Mr. Chairman, will the gentleman yield?

Mr. FAWELL. I yield to the gentleman from New York.

Mr. OWENS. In the list of extensions, are there other situations which involve part of the income being derived from commissions?

Part of this 22,000 is commissions. It is only 16,000 that is really salary, and part is commission. Is there any other situation where an exemption is given to some position which makes up commissions, is made up partially with commissions?

Mr. FAWELL. There is, insofar as retail service positions are concerned.

Mr. OWENS. Mr. Chairman, I thank the gentleman..

Mr. FAWELL. Mr. Chairman, that is all that I have to say.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. OWENS).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. OWENS. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to House Resolution 461, further proceedings on the amendment offered by the gentleman from New York (Mr. OWENS) will be postponed.

The point of no quorum is considered withdrawn.

AMENDMENT OFFERED BY MR. ANDREWS

Mr. ANDREWS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ANDREWS:

Page 5, line 1, strike ''the employee's position requires'' and insert ''the employee has''.

Page 5, beginning in line 4, strike ''the employee's position requires the employee to exercise'' and insert ''the employee exercises''.

Mr. ANDREWS (during the reading). Mr. Chairman, I ask unanimous consent the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. ANDREWS. Mr. Chairman, I offer this amendment to conform the bill to a provision that was proposed by the gentleman from New York (Mr. OWENS) in committee so that the rest of the bill can conform to that so that the reference would be to the employee's position and the employee. This makes it very clear that the position and the employer are both covered. This conforms the bill that we adopted in committee to the suggestion of Mr. OWENS that was adopted in committee. I would urge its adoption.

Mr. FAWELL. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS. I yield to the gentleman from Illinois, my coauthor.

Mr. FAWELL. Mr. Chairman, we have no objection to this amendment.

Mr. OWENS. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS. I yield to the gentleman from New York.

Mr. OWENS. Mr. Chairman, no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. ANDREWS).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments?

Mr. GOODLING. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. PETERSON of Pennsylvania) having assumed the Chair, Mr. WATTS of Oklahoma, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2888) to amend the Fair Labor Standards Act of 1938 to exempt from the minimum wage recordkeeping and overtime compensation requirements certain specialized employees, had come to no resolution thereon.

UNFAIRNESS IN TAX CODE: MARRIAGE TAX PENALTY

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

Mr. WELLER. Mr. Speaker, last week was a big week because this House of Representatives made a commitment to address the marriage tax penalty. Let me explain why this is so important.

Do Americans feel that it is fair that our Tax Code imposes a higher tax penalty on marriage? Do Americans feel that it is fair that 21 million married working couples pay on the average $1,400 more in higher taxes just because they are married?

$1,400 in the south side of Chicago in the south suburbs is real money for real people. $1,400 is one year's tuition at Joliet Junior College and 3 months' day care at a local child care center.

This past week the House of Representatives went on record making a commitment to work towards elimination of the marriage tax penalty with the passage of the Kasich budget, a budget that spends less and taxes less. Let us make elimination of the marriage tax penalty our number one priority this year. Let us eliminate the marriage tax penalty. Let us eliminate it now.

Mr. Speaker, I rise today to highlight what is arguably the most unfair provision in the U.S. Tax code: the marriage tax penalty. I want to thank you for your long term interest in bringing parity to the tax burden imposed on working married couples compared to a couple living together outside of marriage.

In January, President Clinton gave his State of the Union Address outlining many of the things he wants to do with the budget surplus.

A surplus provided by the bipartisan budget agreement which: cut waste, put America's fiscal house in order, and held Washington's feet to the fire to balance the budget.

While President Clinton paraded a long list of new spending totaling at least $46–$48 billion in new programs—we believe that a top priority should be returning the budget surplus to America's families as additional middle-class tax relief.

This Congress has given more tax relief to the middle class and working poor than any Congress of the last half century.

I think the issue of the marriage penalty can best be framed by asking these questions: Do Americans feel its fair that our tax code imposes a higher tax penalty on marriage? Do Americans feel its fair that the average married working couple pays almost $1,400 more in taxes than a couple with almost identical income living together outside of marriage? Is it right that our tax code provides an incentive to get divorced?

In fact, today the only form one can file to avoid the marriage tax penalty is paperwork for divorce. And that is just wrong!

Since 1969, our tax laws have punished married couples when both spouses work. For no other reason than the decision to be joined in holy matrimony, more than 21 million couples a year are penalized. They pay more in taxes than they would if they were single. Not only is the marriage penalty unfair, it's wrong that our tax code punishes society's most basic institution. The marriage tax penalty exacts a disproportionate toll on working women and lower income couples with children. In many cases it is a working women's issue.

Let me give you an example of how the marriage tax penalty unfairly affects middle class married working couples.

For example, a machinist, at a Caterpillar manufacturing plant in my home district of Joliet, makes $30,500 a year in salary. His wife is a tenured elementary school teacher, also bringing home $30,500 a year in salary. If they would both file their taxes as singles, as individuals, they would pay 15%.

MARRIAGE PENALTY EXAMPLE IN THE SOUTH SUBURBS

	Machinist	School teacher	Couple	Weller/McIntosh II
Adjusted Gross Income	$30,500	$30,500	$61,000	$61,000
Less Personal Exemption and Standard Deduction	6,550	6,550	11,800	13,100 (Singles X2)
Taxable Income	23,950 (x .15)	23,950 (x .15)	49,200 (Partial x .28)	47,900 (x .15)
Tax Liability	3,592.5	3,592.5	8,563	7,185

Marriage Penalty: $1,378; Relief: $1,378.

Weller-McIntosh II Eliminates the Marriage Tax Penalty.

But if they chose to live their lives in holy matrimony, and now file jointly, their combined income of $61,000 pushes them into a higher tax bracket of 28 percent, producing a tax penalty of $1,400 in higher taxes.

On average, America's married working couples pay $1,400 more a year in taxes than individuals with the same incomes. That's serious money. Millions of married couples are still stinging from April 15th's tax bite and more married couples are realizing that they are suffering the marriage tax penalty.

Particularly if you think of it in terms of: a down payment on a house or a car, one year tuition at a local community college, or several months worth of quality child care at a local day care center.

To that end, Congressman DAVID MCINTOSH and I have authored the Marriage Tax Penalty Elimination Act.

The Marriage Tax Penalty Elimination Act will increase the tax brackets (currently at 15% for the first $24,650 for singles, whereas married couples filing jointly pay 15% on the first $41,200 of their taxable income) to twice that enjoyed by singles; the Weller-McIntosh proposal would extend a married couple's 15% tax bracket to $49,300. Thus, married couples would enjoy an additional $8,100 in taxable income subject to the low 15% tax rate as opposed to the current 28% tax rate and would result in up to $1,053 in tax relief.

Additionally the bill will increase the standard deduction for married couples (currently $6,900) to twice that of singles (currently at $4,150). Under the Weller-McIntosh legislation the standard deduction for married couples filing jointly would be increased to $8,300.

Our new legislation builds on the momentum of their popular H.R. 2456 which enjoyed the support of 238 cosponsors and numerous family, women and tax advocacy organizations. Current law punishes many married couples who file jointly by pushing them into higher tax brackets. It taxes the income of the families' second wage earner—often the woman's salary—at a much higher rate than if that salary was taxed only as an individual. Our bill already has broad bipartisan cosponsorship by Members of the House and a similar bill in the Senate also enjoys widespread support.

It isn't enough for President Clinton to suggest tax breaks for child care. The President's child care proposal would help a working couple afford, on average, three weeks of day care. Elimination of the marriage tax penalty would give the same couple the choice of paying for three months of child care—or addressing other family priorities. After all, parents know better than Washington what their family needs.

We fondly remember the 1996 State of the Union address when the President declared emphatically that, quote ''the era of big government is over.''

We must stick to our guns, and stay the course.

There never was an American appetite for big government.

But there certainly is for reforming the existing way government does business.

And what better way to show the American people that our government will continue along the path to reform and prosperity than by eliminating the marriage tax penalty.

Ladies and Gentlemen, we are on the verge of running a surplus. It's basic math.

It means Americans are already paying more than is needed for government to do the job we expect of it.

What better way to give back than to begin with mom and dad and the American family—the backbone of our society.

We ask that President Clinton join with Congress and make elimination of the marriage tax penalty . . . a bipartisan priority.

Of all the challenges married couples face in providing home and hearth to America's children, the U.S. tax code should not be one of them.

Let's eliminate the Marriage Tax Penalty and do it now!

WHICH IS BETTER?

Note: The President's Proposal to expand the child care tax credit will pay for only 2 to 3 weeks of child care. The Weller-McIntosh Marriage Tax Elimination Act H.R. 2456, will allow married couples to pay for 3 months of child care.

WHICH IS BETTER, 3 WEEKS OR 3 MONTHS?

CHILD CARE OPTIONS UNDER THE MARRIAGE TAX ELIMINATION ACT

	Average tax relief	Average weekly day care cost	Weeks day care
Marriage Tax Elimination Act	$1,400	127	11
President's Child Care Tax Credit	358	127	2.8

Do Americans feel that it's right to tax a working couple more just because they live in holy matrimony?

Is it fair that the American tax code punishes marriage, our society's most basic institution?

WELLER-MCINTOSH II MARRIAGE TAX COMPROMISE

Weller-McIntosh II, H.R. 3734, the Marriage Tax Penalty Elimination Act presents a new, innovative marriage penalty elimination package which pulls together all the principle sponsors of various legislative proposals with legislation. Weller-McIntosh II will provide equal and significant relief to both single and dual earning married couples and can be implemented immediately.

The Marriage Tax Penalty Elimination Act will increase the tax brackets (currently at 15% for the first $24,650 for singles, whereas married couples filing jointly pay 15% on the first $41,200 of their taxable income) to twice that enjoyed by singles; the Weller-McIntosh proposal would extend a married couple's 15% tax bracket to $49,300. Thus, married couples would enjoy an additional $8,100 in taxable income subject to the low 15% tax rate as opposed to the current 28% tax rate and would result in up to $1,215 in tax relief.

Additionally the bill will increase the standard deduction for married couples (currently $6,900) to twice that of singles (currently at $4,150). Under the Weller-McIntosh legislation the standard deduction for married couples filing jointly would be increased to $8,300.

Weller and McIntosh's new legislation builds on the momentum of their popular H.R. 2456 which enjoyed the support of 238 cosponsors and numerous family, women and tax advocacy organizations. Current law punishes many married couples who file jointly by pushing them into higher tax brackets. It taxes the income of the families' second wage earner—often the women's salary—at a much higher rate than if that salary was taxed only as an individual.

MARRIAGE PENALTY EXAMPLE IN THE SOUTH SUBURBS

	Machinist	School Teacher	Couple	Weller/McIntosh II
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Tax Liability	3,592.5	3,592.5	8,563	7,185

Marriage Penalty: $1,378; Relief: $1,378.

Weller-McIntosh II Eliminates the Marriage Tax Penalty.

The repeal of the Marriage tax was part of the Republican's 1994 'Contract with America,' but the legislation was vetoed by President Clinton.

RECOGNIZING THE 100TH ANNIVERSARY OF THE U.S. NAVY HOSPITAL CORPS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. STUMP) is recognized for 5 minutes.

Mr. STUMP. Mr. Speaker, I rise today to bring to the attention of my colleagues the 100th anniversary this week of the United States Navy Hospital Corps, and to thank all of those who have served in the Corps.

As a fellow Naval Hospital Corpsman from World War II, I had the distinct pleasure this morning to join our own House Attending Physician, Admiral John Eisold, to participate in a ceremony marking the 100th anniversary of the Navy Hospital Corps. It was not only a moving ceremony, but served as a worthwhile reminder of the care,

the compassion and the dedication of a group of men and women who serve and have served in a unique but often overlooked role in our military.

Force Master Chief Mark T. Hacala has written an eloquent history of the Navy Hospital Corps, which I commend to you as not only an important part of naval history, but also a well-earned public recognition for all of those who have been proud to call themselves a U.S. Naval Corpsman.

Tradition. Valor. Sacrifice. For 100 years, these ideals have marked the history of the U.S. Navy Hospital Corps. Since 1898, hospital corpsmen have cared for wounded and sick of the Navy and Marine Corps. Their continuous dedication to saving the lives of their patients, frequently at the risk of their own, has earned them accolades at sea and on land.

Prior to the establishment of the Hospital Corps, there was a role for enlisted personnel to care for the sick. Junior and senior medical department Sailors changed rating names through the 18th and 19th centuries, using colorful titles at each phase. The nickname ''loblolly boy,'' one who carried loblolly or porridge to the sick, was used until the Civil War when it was replaced by ''nurse.'' In the 1870s nurse was retitled ''bayman,'' the Sailor who worked in sick bay. Senior personnel were known as surgeon's stewards and later as apothecaries.

By the late 1800s, the Surgeon General of the Navy advocated a new system of employing medical department Sailors. Rather than assigning one of the crew out of necessity and teaching him on the job, a trained group of volunteers was advocated. Based on the model of the Army's Hospital Corps, the Navy would seek recruits, pay them better, and train them uniformly. This plan was adopted in the midst of the Spanish American War when President William McKinley signed the law which established the Navy Hospital Corps on 17 June 1898.

Early history of the corps set a pace of conspicuous service that would continue to the present. During the Boxer Rebellion in Peking in 1900, Hospital Apprentice Robert Stanley volunteered for the dangerous mission of running message dispatches under fire. For his bravery, Stanley became the first in a long line of hospital corpsmen to receive the Medal of Honor. Five years later, when the U.S.S. *Bennington's* boiler exploded in San Diego harbor on July 21, 1905, Hospital Steward William Shacklette burned along with almost half the crew. Although seriously hurt, he rescued and treated many of his shipmates. He, too, was given the Medal of Honor.

Within a few short years, the Hospital Corps would face the rigors of combat with the Marines in World War I. Through machine gun fire and mustard gas, hospital corpsmen treated over 13,000 casualties in France. This group of 300 Sailors would earn 2 Medals of Honor, 55 Navy Crosses, 31 Army Distinguished Service Crosses, and 237 Silver Stars. Their 684 personal awards would make them the most decorated American unit in World War I. A Marine regimental commander noted of their performance at Belleau Wood, ''there were many heroes who wore the insignia of the Navy Hospital Corps.''

Hospital corpsmen set an exceptional record of valor in World War II. From Pearl Harbor to Okinawa, they worked in hospitals and hospital ships, set up beach aid stations in Italy and Normandy, bandaged kamikaze survivors at sea, and dodged bullets and shells during the bloody island campaigns in the Pacific. Their initiative and skill was noteworthy. Pharmacist's Mates First Class Wheeler Lipes, Harry Roby, and Thomas Moore each performed a successful appendectomy, without the aid of a physician, while submerged in submarines in enemy waters.

Pharmacist's Mate Second Class John H. Bradley's heroism with the 28th Marines on Iwo Jima is typical of acts repeated by hospital corpsmen throughout the war. Bradley rushed through a mortar barrage and heavy machine gun fire to aid a wounded Marine. Although other men from his unit were willing to help, Bradley motioned them to stay back. Shielding the Marine from fire with his own body, the hospital corpsman administered a unit of plasma and bandaged his wounds. He then pulled the casualty through the gunfire 30 yards to safety.

PhM2c Bradley was awarded the Navy Cross for his valor, but he is not usually remembered for this act. Days later, he and five Marines were captured in Joe Rosenthal's photograph of the second flag raising on Iwo Jima's Mt. Suribachi. The image was reproduced more than perhaps any photo in history. It was the theme for the Marine Corps War Memorial in Arlington, VA and made Bradley the first U.S. Navy Sailor to appear on a postage stamp. But Bradley's heroism was not an isolated act. In World War II, the Hospital Corps would earn 7 Medals of Honor, 66 Navy Crosses, 465 Silver Star Medals, and 982 Bronze Star Medals, as well as countless other commendations and debts of gratitude.

Although the U.S. commitment to the Korean War was limited, a staggering number of Marines and Sailors, 30,064, were killed or wounded. Here, as in its previous conflicts, hospital corpsmen distinguished themselves. All five enlisted Navy Medals of Honor for Korea were awarded to members of the Hospital Corps. One of those awardees, retired Master Chief Hospital Corpsman (SS) William Charette, reflected years later on his pride in being a hospital corpsman in Korea. ''It's amazing that somewhere there are some people walking around that wouldn't be here unless we had been there.''

In Vietnam, hospital corpsmen played a critical role in aiding the 70,000 Navy and Marine Corps casualties. At station hospitals in Saigon and Da Nang, aboard hospital ships offshore, with medical battalions, and in the field with Marines, they ensured the best possible care for the wounded, often at the risk of their own lives. When an enemy grenade landed near HM3 Donald Ballard and several casualties, he covered the grenade with his body to save his Marines' lives, earning him the Medal of Honor. ''My job was needed,'' Ballard said recently. ''I felt good about it.'' Bravery earned hospital corpsmen 450 combat decorations in Vietnam, but the war cost them 638 lives.

Hospital corpsmen continued to serve in peace, in war, and in situations which straddled that line during the 1980s. They treated gunshot and shrapnel wounds once again in Beirut in 1983, as a peacekeeping presence escalated into a shooting war. Of the 18 hospital corpsmen in the Marine Battalion Landing Team Headquarters building on 23 October, only 3 survived the truck bombing which killed a total of 241 Americans. Days later, other hospital corpsmen would participate in the invasion of Grenada. In the Persian Gulf, independent duty hospital corpsmen would care for casualties aboard the U.S.S. *Stark* in 1987 and the U.S.S. *Samuel B. Roberts* 1988, and in Panama in 1989.

Iraq's 1990–91 invasion of Kuwait once again provided challenges for the Hospital Corps. Hospital corpsmen around the globe reacted, as their ships, stations, and Marines deployed or prepared to receive casualties. Their numbers were augmented by Naval Reserve hospital corpsmen, 6,739 of whom were recalled to active duty. The first Purple Heart awarded to a Sailor in the Persian Gulf War was given to a hospital corpsman.

While technology and equipment have changed through the years, hospital corpsmen's dedication to duty and devotion to their patients have remained their greatest asset.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. SENSENBRENNER (at the request of Mr. ARMEY) for today until 2 p.m. on account of attending his son's graduation.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GOODLING) to revise and extend their remarks and include extraneous material:)

Mr. HUTCHINSON, for 5 minutes, today.

Mr. PAPPAS, for 5 minutes, today.

Mr. KINGSTON, for 5 minutes, today.

Mr. LARGENT, for 5 minutes, today.

Mr. STUMP, for 5 minutes, today.

Mr. THUNE, for 5 minutes, today.

Mr. MCHUGH, for 5 minutes each day, on June 16 and 17.

Mr. SOLOMON, for 5 minutes each day, on June 16 and 17.

Mr. BOEHLERT, for 5 minutes each day, on June 16 and 17.

Mr. WALSH, for 5 minutes each day, on June 16 and 17.

(The following Members (at the request of Mr. OWENS) to revise and extend their remarks and include extraneous material:)

Mr. CONYERS, for 5 minutes, today.

Mr. KLINK, for 5 minutes, today.

Mr. SANDERS, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. OWENS) and to include extraneous matter:)

Mr. PAYNE.

Mr. PASCRELL.

Mr. KIND.

Mr. HAMILTON.

Mr. CARDIN.

Mr. GUTIERREZ.

Mr. TRAFICANT.

Mr. KUCINICH.

Mr. WEXLER.

Mr. MENENDEZ.

Mr. GEJDENSON.

Mr. SCHUMER.

Mr. BRADY of Pennsylvania.

Mr. LANTOS.

Mr. VISCLOSKY.

Mr. WYNN.

Mr. TIERNEY.

Mr. BAESLER.

Mr. ACKERMAN.

Ms. JACKSON-LEE of Texas.
Ms. KILPATRICK.
Mr. CONYERS.
Mr. BROWN of California.

(The following Members (at the request of Mr. GOODLING) and to include extraneous matter:)

Mr. CHRISTENSEN.
Mr. DUNCAN.
Mr. STEARNS.
Mr. ROGAN.
Mr. SHAW.
Mr. CALVERT.
Mr. WOLF.
Ms. ROS-LEHTINEN.
Mr. GINGRICH.
Mr. CUNNINGHAM.
Mrs. NORTHUP.
Mr. BEREUTER.
Mr. BASS.
Mr. RILEY.
Mr. FOX of Pennsylvania.
Mr. PAPPAS.
Mr. PACKARD.
Mr. BALLENGER.
Mr. LATOURETTE.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1531. An act to deauthorize certain portions of the project for navigation, Bass Harbor, Maine; to the Committee on Transportation and Infrastructure.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2709. An act to improve certain sanctions on foreign persons who transfer items contributing to Iran's efforts to acquire, develop, or produce ballistic missiles, and to implement the obligations of the United States under the Chemical Weapons Convention.

H.R. 3811. An act to establish felony violations for the failure to pay legal child support obligations, and for other purposes.

□ 0010

ADJOURNMENT

Mr. GOODLING. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 12 minutes a.m.), the House adjourned until today, Thursday, June 11, 1998, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

9563. A letter from the Congressional Review Coordinator, Animal and Health Inspection Service, transmitting the Service's final rule—Witchweed; Regulated Areas [Docket No. 98–040–1] received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9564. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—Karnal Bunt Status of the Mexicali Valley of Mexico [Docket No. 97–060–2] (RIN: 0579–AA88) received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9565. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—Karnal Bunt; Compensation for the 1996–1997 Crop Season [Docket No. 96–016–29] (RIN: 0579–AA83) received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9566. A letter from the Administrator, Grain Inspection, Packers and Stockyards Administration, Department of Agriculture, transmitting the Department's final rule—Fees for Official Inspection and Official Weighing Services (RIN: 0580–AA59) received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9567. A letter from the Secretary of the Navy, Department of Defense, transmitting a copy of the Department's determination that it is in the public interest to use other than competitive procedures for the procurement of the supplies described therein, pursuant to 10 U.S.C. 2304(c)(7); to the Committee on National Security.

9568. A letter from the Secretary of Education, transmitting the semiannual report to Congress on Audit Follow-Up for the period October 1, 1997 through March 31, 1998, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9569. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12–355, ''National Capital Revitalization Corporation Act of 1998'' received June 8, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

9570. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12–356, ''Access to Emergency Medical Services Act of 1998'' received June 8, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

9571. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12–354, ''Tax Increment Financing Authorization Act of 1998'' received June 9, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

9572. A letter from the Acting Comptroller General, Comptroller General of the United States, transmitting a list of all reports issued or released in April 1998, pursuant to 31 U.S.C. 719(h); to the Committee on Government Reform and Oversight.

9573. A letter from the Acting Chairman, National Railroad Passenger Corporation, transmitting the semiannual report of the National Railroad Passenger Corporation for the period October 1, 1997 through March 31, 1998, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9574. A letter from the Chief Operating Officer/President, Resolution Funding Corporation, transmitting a copy of the Resolution Funding Corporation's Statement on Internal Controls and the 1997 Audited Financial Statements, pursuant to Public Law 101—73, section 511(a) (103 Stat. 404); to the Committee on Government Reform and Oversight.

9575. A letter from the Deputy Associate Director for Royalty Management, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Resources.

9576. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Determination of Interest Rate [Revenue Ruling 98–32] received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Resources. H.R. 2742. A bill to provide for the transfer of public lands to certain California Indian Tribes; with an amendment (Rept. 105–575). Referred to the Committee of the Whole House on the State of the Union.

Ms. PRYCE of Ohio: Committee on Rules. House Resolution 465. Resolution providing for consideration of the bill (H.R. 3949) to amend title 18, United States Code, with respect to violent sex crimes against children, and for other purposes (Rept. 105–576). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. CHRISTENSEN:

H.R. 4025. A bill to amend the Internal Revenue Code of 1986 to allow employers a credit against income tax for information technology training expenses paid or incurred by the employer, and for other purposes; to the Committee on Ways and Means.

By Mr. BASS:

H.R. 4026. A bill to provide grants to states to offset costs associated with the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act; to the Committee on the Judiciary.

By Mr. CRAMER:

H.R. 4027. A bill to amend title 38, United States Code, to lengthen the accrual period prior to the death of an individual who is owed certain veterans' benefits, for the purpose of determining the amount of payment upon such death; to the Committee on Veterans' Affairs.

By Mr. GREEN:

H.R. 4028. A bill to promote research to identify and evaluate the health effects of silicone breast implants, and to ensure that women and their doctors receive accurate information about such implants; to the Committee on Commerce.

By Mr. JOHN:

H.R. 4029. A bill to clarify the applicability of authority to release restrictions and encumbrances on certain property located in Calcasieu Parish, Louisiana; to the Committee on Transportation and Infrastructure.

By Mrs. KENNELLY of Connecticut (for herself, Mrs. TAUSCHER, Mr. FAZIO of California, Mr. GEPHARDT, Ms. DELAURO, Mr. LEVIN, Mr. WEYGAND, Ms. LOFGREN, Mr. DOGGETT, Mrs. CLAYTON, Mr. MCDERMOTT, Mr. ABERCROMBIE, Ms. SLAUGHTER, Ms. WOOLSEY, Mr. HOYER, Mrs. MALONEY of New York, Mrs. LOWEY, Mr. ALLEN, Ms. CARSON, Ms. STABENOW, Mr. MANTON, Mr. MORAN of Virginia, Ms. JACKSON-LEE, Mr. ACKERMAN, Mr. ANDREWS, Mr.

BALDACCI, Mr. BARRETT of Wisconsin, Mr. BECERRA, Mr. BENTSEN, Mr. BLUMENAUER, Mr. BONIOR, Mr. BORSKI, Mr. BOSWELL, Mr. BOUCHER, Mr. BRADY of Pennsylvania, Ms. BROWN of Florida, Mr. BROWN of California, Mr. BROWN of Ohio, Mrs. CAPPS, Ms. CHRISTIAN-GREEN, Mr. CLAY, Mr. CLEMENT, Mr. CONYERS, Mr. COSTELLO, Mr. CUMMINGS, Mr. DAVIS of Illinois, Ms. DEGETTE, Mr. DELAHUNT, Mr. DICKS, Mr. DINGELL, Mr. ENGEL, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. FARR of California, Mr. FATTAH, Mr. FILNER, Mr. FORD, Mr. FROST, Ms. FURSE, Mr. GEJDENSON, Mr. GORDON, Ms. HARMAN, Mr. HASTINGS of Florida, Mr. HEFNER, Mr. HINCHEY, Mr. HINOJOSA, Mr. HOLDEN, Ms. HOOLEY of Oregon, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KANJORSKI, Ms. KAPTUR, Mr. KENNEDY of Massachusetts, Mr. KENNEDY of Rhode Island, Ms. KILPATRICK, Mr. LAMPSON, Mr. LANTOS, Ms. LEE, Mr. LEWIS of Georgia, Mr. MARTINEZ, Mr. MATSUI, Mrs. MCCARTHY of New York, Ms. MCCARTHY of Missouri, Mr. MCGOVERN, Mr. MCNULTY, Mrs. MEEK of Florida, Mr. MEEKS of New York, Ms. MILLENDER-MCDONALD, Mr. MILLER of California, Mrs. MINK of Hawaii, Mr. MOAKLEY, Mr. NADLER, Mr. NEAL of Massachusetts, Ms. NORTON, Mr. OBERSTAR, Mr. OLVER, Mr. PALLONE, Mr. PAYNE, Ms. PELOSI, Mr. POSHARD, Mr. PRICE of North Carolina, Mr. RAHALL, Mr. RODRIGUEZ, Mr. ROMERO-BARCELO, Mr. SABO, Ms. SANCHEZ, Mr. SANDLIN, Mr. SAWYER, Mr. SCHUMER, Mr. SCOTT, Mr. SERRANO, Mr. SHERMAN, Mr. SNYDER, Mr. STARK, Mr. STOKES, Mrs. THURMAN, Mr. TORRES, Mr. UNDERWOOD, Ms. VELAZQUEZ, Mr. VENTO, Ms. WATERS, Mr. WAXMAN, Mr. WEXLER, Mr. WYNN, and Mr. YATES):

H.R. 4030. A bill to make child care more affordable for working families and for stay-at-home parents with children under the age of 4, to double the number of children receiving child care assistance, to provide for after-school care, and to improve child care safety and quality and enhance early childhood development; to the Committee on Ways and Means, and in addition to the Committees on Education and the Workforce, Banking and Financial Services, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RANGEL:

H.R. 4031. A bill to amend the Internal Revenue Code of 1986 to restore and make permanent the exclusion from gross income for amounts received under qualified group legal services plans; to the Committee on Ways and Means.

By Mr. SENSENBRENNER:

H.R. 4032. A bill to repeal the authority of the Federal Communications Commission to require contributions from telephone carriers for the connection of schools, health care providers, and libraries to the Internet; to the Committee on Commerce.

By Mr. SMITH of Michigan (for himself, Mr. MINGE, Mr. NEUMANN, and Mr. PAUL):

H.R. 4033. A bill to amend title II of the Social Security Act to require investment of the Social Security trust funds in marketable securities, and for other purposes; to the Committee on Ways and Means.

By Mr. TRAFICANT:

H.R. 4034. A bill to amend the Act of June 1, 1948, to provide for reform of the Federal Protective Service; to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 59: Mr. SKEEN.
H.R. 339: Mr. TALENT.
H.R. 588: Mr. MCHALE.
H.R. 1126: Ms. MCCARTHY of Missouri, Mr. HEFNER, and Mr. TANNER.
H.R. 1215: Mrs. THURMAN.
H.R. 1285: Mr. COLLINS.
H.R. 1375: Mr. ROTHMAN.
H.R. 1401: Mr. DIAZ-BALART and Mr. BONILLA.
H.R. 1453: Mr. WAXMAN.
H.R. 1531: Mr. MCINTOSH.
H.R. 1549: Mrs. THURMAN.
H.R. 1773: Ms. MCKINNEY.
H.R. 1865: Ms. DEGETTE.
H.R. 1985: Mr. PICKERING.
H.R. 2023: Mr. PAYNE.
H.R. 2094: Mr. WAXMAN.
H.R. 2130: Mr. FOLEY.
H.R. 2257: Mr. PICKERING.
H.R. 2409: Ms. CARSON and Mr. PASTOR.
H.R. 2504: Mr. CALVERT.
H.R. 2509: Mr. CANADY of Florida.
H.R. 2609: Mr. EVERETT.
H.R. 2661: Mr. MILLER of Florida, Mr. TIAHRT, Mr. MCINTOSH, Mr. HAYWORTH, Mr. HEFLEY, Mr. HOEKSTRA, Mr. GOODLING, Mr. DELAY, Mrs. CHENOWETH, Mr. DOOLITTLE, Mrs. CUBIN, Mr. SESSIONS, and Mr. JONES.
H.R. 2721: Mr. PEASE.
H.R. 2733: Mr. THUNE, Mr. CRAPO, Mr. RAHALL, Mr. WELDON of Pennsylvania, Mr. BLUNT, and Mr. JOHNSON of Connecticut.
H.R. 2800: Mr. JENKINS, Mr. CUNNINGHAM, Mr. PETRI, Mr. SKEEN, Mr. FOSSELLA, Ms. GRANGER, and Mr. MCNULTY.
H.R. 2850: Mrs. MYRICK and Mr. KING of New York.
H.R. 2908: Mr. RILEY, Mrs. EMERSON, Mr. SERRANO, Mr. GRAHAM, Mr. CONDIT, and Mr. GEKAS.
H.R. 2923: Mr. FRELINGHUYSEN and Mr. YATES.
H.R. 2942: Mr. GOODLATTE, Mr. BLAGOJEVICH, and Mr. PAUL.
H.R. 2990: Mr. HUTCHINSON, Mr. PALLONE, Mr. ROTHMAN, and Mr. HAMILTON.
H.R. 3008: Mr. ROTHMAN and Mr. FOX of Pennsylvania.
H.R. 3050: Ms. DELAURO.
H.R. 3067: Mr. MARTINEZ.
H.R. 3126: Ms. WOOLSEY, Mr. TOWNS, Mr. KENNEDY of Massachusetts, and Mr. FILNER.
H.R. 3181: Mr. SANDLIN.
H.R. 3243: Mr. BERRY.
H.R. 3259: Mr. MASCARA, Mr. SHAYS, Mr. KENNEDY of Massachusetts, and Mr. LANTOS.
H.R. 3290: Mr. SHAYS.
H.R. 3376: Mr. LEWIS of Georgia and Mr. BARTON of Texas.
H.R. 3382: Mr. TALENT.
H.R. 3396: Mr. HILL, Mr. ADAM SMITH of Washington, Mr. GILCHREST, and Mr. HOSTETTLER.
H.R. 3435: Mr. DEFAZIO, Mr. SANDLIN, Mr. BUNNING of Kentucky, and Ms. HOOLEY of Oregon.
H.R. 3445: Mr. CUNNINGHAM.
H.R. 3514: Mr. GILMAN and Mr. ADAM SMITH of Washington.
H.R. 3523: Mr. HERGER, Mr. DUNCAN, Mr. BONIOR, Mrs. MYRICK, Mr. WALSH, Mr. GIBBONS, Mr. SISISKY, Mr. LEWIS of California, Mrs. LINDA SMITH of Washington, Mr. GOODLATTE, and Mr. SMITH of Oregon.
H.R. 3535: Mr. LATHAM.
H.R. 3547: Mr. SANDERS.
H.R. 3551: Mr. ALLEN and Ms. HOOLEY of Oregon.
H.R. 3559: Mr. PORTER.
H.R. 3566: Mr. GILCHREST.
H.R. 3567: Mr. ENGLISH of Pennsylvania, Mrs. CAPPS, Mr. UPTON, Mr. HULSHOF, and Mr. KENNEDY of Massachusetts.
H.R. 3601: Mr. BLUNT.
H.R. 3605: Mr. DIXON, Mrs. MINK of Hawaii, Mr. REYES, Mr. CRAMER, Mr. HOLDEN, Ms. WATERS, Mr. GUTIERREZ, Mr. HINOJOSA, and Mr. JOHN.
H.R. 3610: Mr. HULSHOF, Mr. GIBBONS, Mr. UPTON, Mr. ALLEN, and Mr. PAYNE.
H.R. 3615: Mr. MCGOVERN and Mr. BONIOR.
H.R. 3636: Mr. YATES and Mr. SCHUMER.
H.R. 3637: Mr. TORRES, Mr. BENTSEN, Ms. CARSON, and Ms. LEE.
H.R. 3654: Mr. CANADY of Florida and Mr. COSTELLO.
H.R. 3682: Mr. REDMOND, Mr. WOLF, Mr. ROGAN, Mr. HILLEARY, Mr. CRAPO, Mr. BOB SCHAFFER, and Mr. BRADY of Texas.
H.R. 3698: Ms. LOFGREN.
H.R. 3774: Mr. YOUNG of Alaska and Mr. PASTOR.
H.R. 3799: Mr. HILLIARD.
H.R. 3835: Mr. FOLEY, Mr. POMEROY, Mr. NEY, Mr. PALLONE, Mr. WEYGAND, Mr. TOWNS, Mr. BAESLER, Mr. HASTINGS of Florida, Mr. WEXLER, and Mr. MINGE.
H.R. 3844: Mr. ENGEL, Mr. BROWN of Ohio, and Mr. BARRETT of Wisconsin.
H.R. 3858: Mr. CALVERT.
H.R. 3862: Mr. NEAL of Massachusetts.
H.R. 3875: Ms. CHRISTIAN-GREEN, Mr. MCDERMOTT, Mr. FAZIO of California, and Mr. WAXMAN.
H.R. 3877: Mr. BOEHLERT.
H.R. 3879: Mr. SENSENBRENNER, Mr. NEUMANN, Mr. WAMP, and Mr. CHRISTENSEN.
H.R. 3888: Ms. CARSON, Mr. MCINNIS, Mr. LIVINGSTON, Mr. COOKSEY, Mr. FRANK of Massachusetts, and Mr. SHIMKUS.
H.R. 3893: Mr. CALVERT.
H.R. 3898: Mr. BUYER and Mr. COMBEST.
H.R. 3915: Mr. WEYGAND.
H.R. 3919: Mr. PAPPAS, Mrs. KELLY, Mr. WATTS of Oklahoma, and Mr. ENGLISH of Pennsylvania.
H.R. 3937: Mr. FROST and Mr. FILNER.
H.R. 3946: Mr. BROWN of Ohio, Mr. SANDERS, Ms. LEE, and Mr. HORN.
H.R. 3976: Mr. MURTHA and Mr. TOWNS.
H.R. 4007: Mr. YATES, Mr. ACKERMAN, Mr. SCHUMER, Mr. TRAFICANT, Mr. TOWNS, Mr. BENTSEN, Ms. NORTON, Mr. MCGOVERN, Mr. WEXLER, Mr. MCDERMOTT, Mr. FOSSELLA, Mr. FROST, Mr. BEREUTER, and Ms. ROS-LEHTINEN.
H. Con. Res. 27: Mr. ROMERO-BARCELO, Ms. MCCARTHY of Missouri, and Mr. PETERSON of Minnesota.
H. Con. Res. 47: Mr. DAVIS of Illinois and Mr. VENTO.
H. Con. Res. 125: Mr. HINCHEY.
H. Con. Res. 188: Mr. BLUMENAUER.
H. Con. Res. 210: Mr. FAWELL.
H. Con. Res. 281: Mr. LIPINSKI.
H. Con. Res. 286: Ms. CARSON, Mr. ROTHMAN, and Ms. PELOSI.

AMENDMENTS

H.R. 2183

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2183

OFFERED BY: MRS. FOWLER

AMENDMENT NO. 70: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—REDUCTION IN CONTRIBUTION LIMITS FOR CERTAIN PACS

SECTION 401. REDUCTION IN AMOUNT THAT A NONPARTY MULTICANDIDATE POLITICAL COMMITTEE MAY CONTRIBUTE TO A CANDIDATE IN A CONGRESSIONAL ELECTION.

Section 315(a)(2)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)(A))

is amended by inserting after ''$5,000'' the following: '', except that, with respect to an election for the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress, the limitation applicable to a nonparty multicandidate political committee under this subparagraph shall be $1,000''.

H.R. 2183

OFFERED BY: MRS. FOWLER

(To the Amendment Offered By Mr. Hutchinson or Mr. Allen)

AMENDMENT NO. 74: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—CONTRIBUTIONS FROM OUT-OF-STATE SOURCES

SECTION 401. CONGRESSIONAL ELECTION LIMITATION ON CONTRIBUTIONS FROM PERSONS OTHER THAN IN-STATE INDIVIDUAL RESIDENTS.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

''(i)(1) A candidate for the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress may not, with respect to a reporting period for an election, accept contributions from persons other than in-State individual residents that, in total, are equal to or greater than the total of contributions accepted from in-State individual residents.

''(2) The exceptions relating to the name and address of a person making a contribution of $50 or less and the date of such contribution, as contained in subsection (b)(1), subsection (b)(2)(A), and subsection (c)(2) of section 302, shall not apply to contributions with respect to elections for the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress.

''(3) As used in this subsection, the term 'in-State individual resident' means an individual who resides in the State in which the election involved is held.''.

SEC. 402. REPORTING REQUIREMENT FOR OUT-OF-STATE CONTRIBUTIONS IN HOUSE OF REPRESENTATIVES ELECTIONS.

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

''(d) Any report of contributions with respect to an election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, shall segregate and itemize all out-of-State contributions.''.

H.R. 2183

OFFERED BY: MRS. FOWLER

(To the Amendment Offered By Mr. Hutchinson or Mr. Allen)

AMENDMENT NO. 75: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—PROHIBITING CONTRIBUTIONS BETWEEN PACS

SECTION 401. PROHIBITING CONTRIBUTIONS BETWEEN MULTICANDIDATE POLITICAL COMMITTEES.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

''(i) Notwithstanding any other provision of this Act, a multicandidate political committee may not make a contribution to another multicandidate political committee.''.

H.R. 2183

OFFERED BY: MRS. GILCHREST

AMENDMENT NO. 76: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—PROHIBITING CONTRIBUTIONS BY PACS AND NONRESIDENTS

SEC. 401. PROHIBITION OF CONTRIBUTIONS BY NONPARTY MULTICANDIDATE POLITICAL COMMITTEES IN ELECTIONS FOR FEDERAL OFFICE.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

''(i)(1) Notwithstanding any other provision of this Act, no nonparty multicandidate political committee may make any contribution to a candidate for Federal office.

''(2) As used in this subsection, the term 'multicandidate political committee' has the meaning given that term in subsection (a)(4).''.

SEC. 402. HOUSE OF REPRESENTATIVES ELECTION PROHIBITION OF CONTRIBUTIONS FROM INDIVIDUAL NONRESIDENTS OF THE CONGRESSIONAL DISTRICT.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by section 401, is further amended by adding at the end the following new subsection:

''(j) A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress may not accept contributions from an individual who is not a resident of the congressional district involved.''.

H.R. 2183

OFFERED BY: MR. GILCHREST

(To the Amendment Offered By: Mr. Hutchinson or Mr. Allen)

AMENDMENT NO. 77: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—PROHIBITING CONTRIBUTIONS BY PACS AND NONRESIDENTS

SEC. 401. PROHIBITION OF CONTRIBUTIONS BY NONPARTY MULTICANDIDATE POLITICAL COMMITTEES IN ELECTIONS FOR FEDERAL OFFICE.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

''(i)(1) Notwithstanding any other provision of this Act, no nonparty multicandidate political committee may make any contribution to a candidate for Federal office.

''(2) As used in this subsection, the term 'multicandidate political committee' has the meaning given that term in subsection (a)(4).''.

SEC. 402. HOUSE OF REPRESENTATIVES ELECTION PROHIBITION OF CONTRIBUTIONS FROM INDIVIDUAL NONRESIDENTS OF THE CONGRESSIONAL DISTRICT.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by section 401, is further amended by adding at the end the following new subsection:

''(j) A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress may not accept contributions from an individual who is not a resident of the congressional district involved.''.

H.R. 2183

OFFERED BY: MRS. FOWLER

AMENDMENT NO. 71: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—CONTRIBUTIONS FROM OUT-OF-STATE SOURCES

SEC. 401. CONGRESSIONAL ELECTION LIMITATION ON CONTRIBUTIONS FROM PERSONS OTHER THAN IN-STATE INDIVIDUAL RESIDENTS.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

''(i)(1) A candidate for the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress may not, with respect to a reporting period for an election, accept contributions from persons other than in-State individual residents that, in total, are equal to or greater than the total of contributions accepted from in-State individual residents.

''(2) The exceptions relating to the name and address of a person making a contribution of $50 or less and the date of such contribution, as contained in subsection (b)(1), subsection (b)(2)(A), and subsection (c)(2) of section 302, shall not apply to contributions with respect to elections for the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress.

''(3) As used in this subsection, the term 'in-State individual resident' means an individual who resides in the State in which the election involved is held.''.

SEC. 402. REPORTING REQUIREMENT FOR OUT-OF-STATE CONTRIBUTIONS IN HOUSE OF REPRESENTATIVES ELECTIONS.

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

''(d) Any report of contributions with respect to an election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, shall segregate and itemize all out-of-State contributions.''.

H.R. 2183

OFFERED BY: MRS. FOWLER

AMENDMENT NO. 72: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—PROHIBITING CONTRIBUTIONS BETWEEN PACS

SEC. 401. PROHIBITING CONTRIBUTIONS BETWEEN MULTICANDIDATE POLITICAL COMMITTEES.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

''(i) Notwithstanding any other provision of this Act, a multicandidate political committee may not make a contribution to another multicandidate political committee.''.

H.R. 2183

OFFERED BY: MRS. FOWLER

(To the Amendment Offered By Mr. Hutchinson or Mr. Allen)

AMENDMENT NO. 73: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—REDUCTION IN CONTRIBUTION LIMITS FOR CERTAIN PACS

SECTION 401. REDUCTION IN AMOUNT THAT A NONPARTY MULTICANDIDATE POLITICAL COMMITTEE MAY CONTRIBUTE TO A CANDIDATE IN A CONGRESSIONAL ELECTION.

Section 315(a)(2)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)(A)) is amended by inserting after ''$5,000'' the following: '', except that, with respect to an election for the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress, the limitation applicable to a nonparty multicandidate political committee under this subparagraph shall be $1,000''.