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Senate

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

PRAYER

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

Dear God, take hold of us in this time of prayer. Force us to open the icy grip that we have on our problems so that we may with open hands receive Your plans. Help us to be willing to receive Your guidance. Shake any complacency, disturb any pride, and give us Your peace that passes understanding.

Reign as Sovereign Lord in this Chamber. Guide the deliberations, debates, and decisions of this day. Help the Senators to listen to You before they speak so that Your truth and justice may refine all that is spoken. In it all, may they consider You first, the good of the Nation second, party third, and personal success last of all. You grant Your power to leaders with Your priorities so, dear Lord, confront, challenge, and change us all so that we may know and do Your will. You are our Lord and Savior. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MIKE CRAPO, a Senator from the State of Idaho, led the Pledge of Allegiance as follows:

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

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. CRAPO. Mr. President, today the Senate will resume consideration of the conference report to accompany the financial services modernization bill. There are approximately 6 hours of debate remaining under the order. Therefore, Senators can expect a vote on adoption of the conference report this afternoon.

As a reminder, the newest Member of the Senate, LINCOLN CHAFEE, will be sworn in today at 11:30 a.m. in the Senate Chamber. The majority leader encourages all of his colleagues to come to the floor to extend a warm welcome to our new colleague from Rhode Island.

For the remainder of the week, the Senate will consider appropriations bills as they become available and may also consider the bankruptcy reform bill if an agreement can be reached.

I thank my colleagues for their attention.

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

Mr. WELLSTONE. I thank the Chair.

WELCOME TO LINCOLN CHAFEE

Mr. WELLSTONE. Mr. President, first of all, I join the Senator from Idaho in welcoming Senator CHAFEE to the Senate. His father was a very special Senator, and I don't think any of us will ever forget him. I hope that we will always honor his memory.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. CRAPO). Under the previous order, leadership time is reserved.

FINANCIAL SERVICES MODERNIZATION ACT OF 1999—CONFERENCE REPORT

The PRESIDING OFFICER. The Senate will now resume consideration of the conference report to accompany S. 900 which the clerk will report.

The bill clerk read as follows:

Conference report to accompany S. 900, the Financial Services Modernization Act of 1990.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. I thank the Chair.

Mr. President, before I start, since my remarks will be critical and hard hitting, and, I believe, will marshal considerable evidence for my point of view about this financial modernization act—and I rise to speak in strong opposition to S. 900—I congratulate Senator GRAMM for his political skill. I do not mean this in a cynical way. Cynicism is not my style; it is not the way I approach public service. He has been very skillful in his work, and as a Senator, I pay my respects to his considerable ability.

I rise in strong opposition to S. 900, the Financial Services Modernization Act of 1999. S. 900 would aggravate a trend towards economic concentration that endangers not only our economy, but also our democracy.

S. 900 would make it easier for banks, securities firms, and insurance companies to merge into gigantic new conglomerates that would dominate the U.S. financial industry and the U.S. economy.

Mr. President, this is the wrong kind of modernization at the wrong time. Modernization of the existing confusing patchwork of laws, regulations, and regulatory authorities would be a good thing, but that's not what this legislation is about. S. 900 is really about accelerating the trend towards massive consolidation of the financial sector.

This is the wrong kind of modernization because it fails to put in place adequate regulatory safeguards for these new financial giants the failure of which could jeopardize the entire economy. It's the wrong kind of modernization because taxpayers could be stuck with the bill if these conglomerates become ''too big to fail.''

This is the wrong kind of modernization because it fails to protect consumers. It allows banks, insurance companies and brokerage houses to

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

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share personal information about consumers' credit history, investments, health treatments, and buying habits. It weakens requirements for banks to invest in their own communities. It will result in higher fees for many customers and price gouging of the unwary. And it will squeeze credit for small businesses and rural America.

Most importantly, this is the wrong kind of modernization because it encourages the concentration of more and more economic power in the hands of fewer and fewer people. This concentration will wall off enormous areas of economic decision-making from any kind of democratic input or accountability.

I don't think there's any doubt that S. 900 will set in motion a tidal wave of big-money mergers. That's the whole point of the bill, really. The Washington Post quotes industry officials as saying that ''the point of reform is to make it as easy as possible for financial services companies to merge with one another and share customer names, addresses, and account data.''

S. 900 will prompt other banks to start courting insurance and securities firms, and it will put increasing pressure on banks of every size to find new partners. According to the Post, ''Analysts say it's likely to set off a spate of mergers over the next few years . . . and will cause consolidation of much of the industry into a handful of financial conglomerates.''

Fed Chairman Alan Greenspan has acknowledged that this kind of consolidation poses dangers for the stability of our financial system. In a speech on October 11, 1999, Mr. Greenspan said, ''We face the reality that the megabanks being formed by growth and consolidation are increasingly complex entities that create the potential for unusually large systemic risks in the national and international economy should they fail.''

Last week Jeffrey Garten, an investment banker who served as Under Secretary of Commerce in the Clinton administration, issued a similar warning on the opinion page of the New York Times. ''Megabanks like Citigroup or the new Bank of America have become too big to fail. Were they to falter, they could take the entire global financial system down with them.''

The question we have to ask, then, is whether there's any danger that these financial goliaths could actually falter. Well, if we listen to Alan Greenspan, maybe there is. In an October 14 speech, the Fed Chairman warned that financial institutions may be underestimating the risk of a ''sharp reversal of confidence'' in the stock market. Mr. Greenspan was talking about not just a ''correction'' or a ''bubble'' in the market, but a much deeper loss of confidence like the one that occurred last year after Russia defaulted on part of its debt. The result could be ''panic reactions'' that cause financial markets to ''seize up.''

Something doesn't add up here. If Alan Greenspan is right that we need to be on guard against a ''sharp reversal of confidence'' that could cause financial markets to ''seize up''; and if the Fed Chairman is right that financial consolidation creates the potential for unusually large ''systemic risks'' should these conglomerates fail; and if Jeffrey Garten is right that their failure could bring the entire global financial system tumbling down; then it doesn't seem to make a whole lot of sense to increase those systemic risks by fostering even more concentration. Yet that is precisely what S. 900 does.

The problem with S. 900 is that its regulatory reach does not match the size of the new conglomerates. S. 900 does set up firewalls to protect banks from failures of their insurance and securities affiliates. But even Alan Greenspan has admitted that these firewalls would be weak. Earlier this year, economists Robert Auerbach and James Galbraith warned that ''the firewalls may be little more than placing potted plants between the desks of huge holding companies.''

And as the Chairwoman of the FDIC has testified, ''In times of stress, firewalls tend to weaken.'' Regulators will have little desire to stop violations of these firewalls if they think a holding company is ''too big to fail.'' In his New York Times article, former Under Secretary of Commerce Jeffrey Garten concluded, ''The seesaw of private and public power is seriously unbalanced.''

We seem determined to unlearn the lessons from our past mistakes. Scores of banks failed in the Great Depression as a result of unsound banking practices, and their failure only deepened the crisis. Glass-Steagall was intended to protect our financial system by insulating commercial banking from other forms of risk. It was one of several stabilizers designed to keep a similar tragedy from recurring. Now Congress is about to repeal that stabilizer without putting any comparable safeguard in its place.

In a stinging attack on S. 900, conservative columnist William Safire wrote earlier this week,

> Global financiers are given the green light for ever-greater concentration of power. Few remember the reason for those firewalls: to curtail the spread of the sort of panic from one financial segment to another that helped lead to the Great Depression. But today's lust for global giantism has swept aside the voices of prudence.

And what about the lessons of the Savings and Loan Crisis? The Garn-St Germain Act of 1982 allowed thrifts to expand their services beyond basic home loans. Only seven years later taxpayers were tapped for a multibillion dollar bailout.

I'm afraid we're running the same kind of risks with S. 900. These financial conglomerates may well be tempted to run greater risks, knowing that taxpayers will come to their rescue if things go bad. In a letter to me earlier this week, Professor Bob Auerbach of the LBJ School wrote, ''Taxpayers should be notified that [S. 900] substantially increases their risk on the $2.8 trillion in federally insured deposits for which they are liable.''

And what about the lessons of the Asian crisis? Just recently, the financial press was crowing about the inadequacies of Asian banking systems. Now we're considering a bill that would make our banking system more like theirs. The much-maligned cozy relationships between Asian banks, brokers, insurance companies and commercial firms are precisely the kind of ''crony capitalism'' that S. 900 would promote.

If we want to locate the causes of the Asian crisis, I think we have to look at the reckless liberalization of capital markets that led to unbalanced development and made these economies so vulnerable to investor panic in the first place. The IMF and other multilateral financial institutions failed to understand how dangerous and destabilizing financial deregulation can be without first putting appropriate safeguards in place.

World Bank Chief Economist Joseph Stiglitz wrote last year about the Asian crisis: ''The rapid growth and large influx of foreign investment created economic strain. In addition, heavy foreign investment combined with weak financial regulation to allow lenders in many Southeast Asian countries to rapidly expand credit, often to risky borrowers, making the financial system more vulnerable. Inadequate oversight, not over-regulation, caused these problems. Consequently, our emphasis should not be on deregulation, but on finding the right regulatory regime to reestablish stability and confidence.'' We claim to have learned our lessons from the crisis in Asia, but I'm not so sure we have.

So why on Earth are we doing this? And why now? For whose benefit is this legislation being passed? Financial services firms argue that consolidation is necessary for their survival. They claim they need to be as large and diversified as foreign firms in order to compete in the global marketplace. But the U.S. financial industry is already dominant across the globe, and in recent years has been quite profitable. I see no crisis of competitiveness.

Financial firms also argue that consolidation will produce efficiencies that can be passed on to consumers. But there is little evidence that big mergers translate into more efficiency or better service. In fact, studies by the Federal Reserve indicate just the opposite: there's no convincing evidence that mergers produce greater economic efficiencies. On the contrary, they often lead to higher banking fees and charges for small businesses, farmers, and other customers.

A recent Fed study showed that bigger banks tend to charge higher fees for ATM machines and other services. Bigger banks offer fewer loans for small businesses, and other Fed studies have shown that the concentration of banking squeezes out community banking.

In the long debate over passage of this legislation, there has been a lot of talk about the conflicting interests of bankers, insurance companies, and brokers. There has been a lot of talk about the jurisdictional battles between the Federal Reserve and the Office of the Comptroller of the Currency, the OCC. But there has been precious little discussion in this debate of the public interest.

What about the interests of ordinary consumers? An earlier version of this legislation contained a provision to ensure that people with lower incomes have access to basic banking services. The problem is that banking services are increasingly beyond the reach of millions of Americans. According to U.S. PIRG, the average cost of a checking account is $217 per year, a major obstacle for opening up a bank account for lower-income families. These families have to rely, instead, on usurious check cashing operations and money order services. Nevertheless, this ''basic banking'' provision was stripped out of the bill.

I don't see very much protection for consumers in S. 900, either. Banks that have always offered safe, federally insured deposits will have every incentive to lure their customers into riskier investments. Last year, for example, NationsBank paid $7 million to settle charges that it misled bank customers into investing in risky bonds through a securities affiliate that it set up with Morgan Stanley Dean Witter. S. 900 makes nominal attempts to address these problems, but in the end I am afraid this legislation is an invitation to fraud and abuse.

One of the most objectionable aspects of S. 900 is the absence of protection for consumer privacy. The conference report will allow the various affiliates of a financial conglomerate to share sensitive confidential information about their customers.

William Safire writes:

> As for financial privacy, [S. 900] makes your bank account everyone's business. Without your consent, the private information you write on your mortgage application, with your tax return attached, goes to your insurance company, which already has your health information, and its snoops can also see your investment behavior and what you have been buying with your credit card. Under [S. 900], giant financial conglomerates, using other surveillance to protect against fraud, will know more about your money, your habits, your assets, your disease, and your genetic makeup than your spouse does, and probably more than you do.

I will tell you something. It is a little disconcerting to read columns such as this about the real potential for abuse and serious invasion of citizens' privacy. We need to have much, much more discussion about the implications of this bill for citizens' privacy in Minnesota and all across the country.

I am going to repeat the last part of this quote:

> Under S. 900, giant financial conglomerates, using other surveillance to protect against fraud, will know more about your money, your habits, your assets, your diseases, and your genetic makeup than your spouse does, and probably more than you do.

Law Professor Joel Reidenberg of Fordham University concludes:

> This is an astounding loss of privacy for the American citizens.

I want to shout from the floor of the Senate that this is an astounding loss of privacy for American citizens.

The impact of S. 900 on the Community Reinvestment Act, CRA, is another cause for real concern. When the Senate considered S. 900 earlier this year, I argued that if we were serious about modernizing the financial sector of our country, we should be serious about modernizing CRA along with it. There have been few financial tools available to families and communities that have been as effective and have had as great an impact—positive impact—as CRA. An estimated $1 trillion has been reinvested in our towns and cities, thanks to this CRA legislation.

Under the S. 900 conference report, communities, consumers, and public interest organizations will see their opportunities for public comment limited. They will not have a chance to comment on mergers when banks that have received a satisfactory CRA rating are applying to become financial holding companies. To me, this looks more like a rollback than it does modernization.

Finally, under the S. 900 conference report, smaller banks that receive a satisfactory CRA rating will be reviewed every 4 years instead of every 2. Smaller banks that receive an excellent CRA rating will be reviewed every 5 years. Since an estimated 97 percent of all small banks currently receive a satisfactory or better CRA rating, S. 900 will essentially remove the majority of banks from the regular CRA review process. There are a number of reasons why banks must be reviewed by regulators, but it is only with regard to CRA that we are cutting back on the requirements for review.

In reality, S. 900 reflects the same priority of interests as financial consolidation itself. It offers a little something for everybody in the financial services industry. It is a Santa's wish list for the big banks. It gives enough to securities firms and the insurance industry to keep them on board. But it basically has nothing to offer for low-income families, nothing for rural and minority communities, and very little for consumers.

This should not be surprising. I don't think it is a mere coincidence that finance, insurance, and real estate spend more than any other industries on congressional campaigns and lobbying on Capitol Hill. This is a reformer's dream issue. There is no one-to-one correlation, of course; their influence is felt at a systemic level. And I have congratulated some of my colleagues on their political skill. But I do not think it is a coincidence that the finance, insurance, and real estate interests spend more than any other industries on congressional campaigns and on lobbying Capitol Hill. Last year, they shelled out more than $200 million on lobbying activities, according to the Center for Responsive Politics, and they have made more than $150 million in campaign contributions since 1996.

As William Safire wrote on November 1:

> Generous financial lobbies have persuaded our leaders that in enormous size there is strength.

Generous lobbies have been making the same case in other industries as well, with equal success. Similar consolidation is occurring in agriculture, the media, entertainment, health care, airlines, telecommunications, you name it. Teddy Roosevelt, where are you when we need you? Who is going to take on these monopolies?

Who is going to call for some serious antitrust action? When are we going to be on the side of people and consumers?

In fact, we are witnessing the biggest wave of mergers and economic concentration since the late 1800s.

There were 4,728 reportable mergers in 1998, compared to 3,087 in 1993, 1,521 in 1991, and a mere 804 in 1980.

As Joel Klein, head of the Justice Department's Antitrust Division, pointed out, the value of last year's mergers equals the combined value of all mergers from 1999 to 1996—put together.

What is in store for us if we allow this trend to continue? Pretty soon we are going to have three financial service firms in this country, four airlines, two media conglomerates, and five energy giants.

Huge financial conglomerates the size of Citigroup will truly be ''too big to fail.'' Government officials and Members of the Congress will be prone to confuse Citigroup's interests with the public interest, if they don't already.

What happens, for example, when one of these colossal conglomerates decides it might like to turn a profit by privatizing Social Security? Who is going to stand in their way? That is a trick question, of course, because we already face that dilemma today. But I contend that the economic concentration resulting from the passage of S. 900 would only make that problem worse.

The bigger these financial conglomerates get, the more influence they have over public policy choices. The bigger they get, the more money they will have to spend on political campaigns. The bigger they get, the more lobbyists they will be able to amass on Capitol Hill. And the bigger they get, the more weight they will carry in the media.

I am going to repeat that.

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they get, the more weight they will carry with the media.

It is a vicious cycle. These financial conglomerates used their political clout to shape public policy that helped them grow so big in the first place. Now their overwhelming size makes it easier for them to dictate policies that will help them get even bigger. It is a vicious cycle.

Jeffrey Garten's remarkable October 26th column in the New York Times called attention to this problem. ''Many megacompanies may be beyond the law,'' Garten said.

Their deep pockets can buy teams of lawyers that can stymie prosecutors for years. And if they lose in court, they can afford to pay huge fines without damaging their operations.

Moreover, no one should be surprised that mega-companies navigate our scandalously porous campaign financing system to influence tax policy, environmental standards, Social Security financing, and other issues of national policy. Yes, companies have always lobbied, but these huge corporations often have more pull. Because there are fewer of them, their influence can be more focused and, in some cases, the country may be highly dependent on their survival.

For example, corporate giants can have enormous leverage when they focus on America's foreign and trade policy. Defense contractors like Lockheed Martin, itself a result of a merger of two big firms, were able to exert extraordinarily powerful force to influence legislation that approved enlarging NATO, a move that opened up new markets for American weapons sales to Poland and the Czech Republic.

Companies like Boeing, which not long ago acquired McDonnell Douglas, have expanded their already formidable influence on trade policy toward countries like China. Boeing is now the only American commercial aircraft manufacturer.

Corporations like Exxon-Mobil will negotiate with oil-producing countries almost as equals, conducting the most powerful private diplomacy since the 19th century, when the British East India Company wielded near-sovereign influence in Asia.

As long as the economy remains strong, the rise of corporate power with inadequate public oversight will not be high on the national agenda. But sooner or later—perhaps starting with the next serious economic downturn—the United States will have to confront one of the great challenges of our times: How does a sovereign nation govern itself effectively when politics are national and business is global?

When the answers start coming, they could be as radical and as prolonged as the backlash against unbridled corporate power that took place during the first 40 years of this century.

Indeed, we've been through this before. At the end of the 19th century, industrial concentration accelerated at an alarming pace. Various observers—including the columnist and author E.J. Dionne, former House Speaker Newt Gingrich, and the philosopher Michael Sandel—have noted the similarities between that era and our own.

In the Gilded Age of the late 1800s and the Progressive Era of the early 1900s, the danger of concentrated economic power was widely recognized and hotly debated. And this speech on the floor of the Senate I give with a sense of history because I believe this will become a front-burner issue in America politics. Many Americans deeply believed that a free and democratic society could not prosper with such concentration of power and inequalities of wealth. As the great Supreme Court Justice Louis Brandeis said, ''We can have democracy in this country, or we can have wealth in the hands of a few. We can't have both.''

The idea that concentrations of wealth, of economic power—which is exactly what S. 900 is all about—and of political power are unhealthy for our democracy is a theme that runs throughout American history, from Thomas Jefferson to Andrew Jackson to the Progressive Era to the New Deal. Thomas Jefferson and Andrew Jackson warned not only against concentration of political power, but also against concentration of economic power.

We should not, Senators, let that debate die out. That is why I come to the floor of the Senate today. That debate is a vital part of our democratic—with a small ''d''—heritage. It is a heritage that teaches us that ordinary people should have more say about the economic decisions that affect their lives.

Weakening CRA isn't going to give them that. No amount of anti-government rhetoric is going to give them that. But enforcing some meaningful consumer protections certainly would. So would protecting the privacy of sensitive personal information. And so would putting a stop to mergers that crowd out community banking, squeeze credit for small businesses, and open the door to higher fees and more gouging of consumers.

A lot of banks don't like the CRA. A lot of financial service firms don't want to be bothered with regulations to protect individual privacy. They denounce them as ''big government'' and ''overregulation.'' But for most people, which is the greater danger in these situations—concentration of political power in the Government, or concentration of economic power? I don't think it is a close call.

When I go to the Town Talk Cafe in Willmar, MN, or any cafe in MN, and I talk and listen to people over a cup of coffee or two, I find people have what I describe as a healthy distrust of big government, a healthy distrust of overly centralized and overly bureaucratized public policy.

I love it when people say, get us some capital, let us make things happen at the neighborhood and community level. I love the idea of homegrown economies. I prefer that small business people living in the community be the ones who make the capital investment decisions that determine whether or not our communities are going to do well, rather than some multinational financial services conglomerate folks halfway across the world or halfway across the country making the capital investment decisions that determine whether our communities live or die. I want the decisionmaking to be in the communities. I appreciate that focus on local development, on more self-reliant, self-sufficient people and more self-reliant, self-sufficient communities.

The people in the Town Talk Cafe in Willmar, or any other cafe I have visited, also have a very healthy skepticism, distrust, and—I don't think this is too strong a term—dislike of the concentration that is taking place in the financial sector and other areas of the economy. They do not like the big insurance companies. They do not like these big telecommunication companies. They are still waiting, since the telecommunications bill passed in 1996 and all of the mergers and acquisitions since then, for cable rates to go down. They are still waiting for more diversity of viewpoints to be offered in the media. Farmers do not like the big meat packers. They don't like the big grain companies. People certainly don't like the big oil companies. With considerable justification, they certainly don't like the big banks. And with considerable justification they have reached the conclusion that too much of the legislation we pass in Congress works to the advantage of folks who have the capital, who have the wealth, who have the access, and who have the influence.

And they've reached the conclusion that, as rural citizens or low-income citizens or minority communities or family farmers or just regular plain ordinary citizens and consumers, they get the short end of the stick.

S. 900 is legislation that goes in the direction of giving more power to the privileged few and giving ordinary citizens less say in the economic decisions that affect their lives. S. 900 is bad for consumers, it is bad for low-income families, it is bad for rural communities, it creates potentially enormous risks for the economy, and it exposes taxpayers—please remember the S&L debacle—to tremendous liability.

I believe S. 900 is bad legislation that as a nation we will soon regret.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

If no time is yielded, the time will be reduced from the time of all Senators proportionately.

Mr. GRAMM. Mr. President, it is my understanding that Senator WELLSTONE has about 15 minutes remaining.

The PRESIDING OFFICER. The Senator from Minnesota has 20 minutes remaining.

Mr. GRAMM. I have spoken to the Senator, and I ask unanimous consent that time be divided between Senator SARBANES and myself.

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

Mr. GRAMM. I yield the floor.

Mr. JOHNSON addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator?

Mr. JOHNSON. Mr. President, I yield myself 15 minutes or as much time as I may consume.

The PRESIDING OFFICER. The Senator is recognized.

PRIVILEGE OF THE FLOOR

Mr. JOHNSON. Mr. President, I ask unanimous consent fellows on my staff, Julie Roling and Erin Barry, be allowed the privilege of the floor during the remainder of this week.

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

Mr. JOHNSON. Mr. President, when I first came to Congress in 1987, efforts at financial services modernization had already been undertaken and failed many times. Last year, we came as close as Congress has ever come to achieving this critical goal. This year, as a member of the conference committee, I am pleased to say, we will finally accomplish this historic goal.

That we are here is a testament to the leadership of many, many participants. Much credit goes to Chairman LEACH, who tirelessly shepared this bill over his five years as chairman of the House Banking Committee and chairman of this conference. Senator GRAMM, chairman of the Senate Banking Committee relentlessly promoted his agenda, yet was willing to compromise on critical issues in a manner that resulted ultimately in bipartisan support of this bill.

My ranking member on the Banking Committee, Senator SARBANES, made invaluable contributions to the process. His tenaciousness, in depth understanding of the many highly complex issues, and ability to work within the caucus made this success possible. Of course, the ranking member on the House Banking Committee, Representative LAFALCE, and our friends from the House Commerce Committee, Chairman BLILEY and Representative DINGELL, made critical contributions to this process as well. Finally, I would note the active involvement of two Secretaries of the Treasury, Bob Rubin and Larry Summers. Bob has moved on to other things, but the role he forged in this process has been seamlessly filled by Secretary Summers.

There are many highlights to this bill. By eliminating the Glass-Steagall restrictions, we free our financial services industry to maintain its place as the world leader. The benefits of one-stop shopping will make financial services more accessible to all Americans. These reasons alone are sufficient to support this legislation. There are several other provisions to this bill that merit discussion, and they strengthen this legislation. First, the unitary thrift loophole is closed. I am pleased to have offered this critical amendment which closes the loophole that permits a dangerous combination of banking and commerce. While we tear down firewalls within financial services, we strengthen them around financial services.

Under current law, commercial firms can own and operate unitary thrifts. That is the only breach of the banking and commerce firewalls currently allowed under our financial services law. Of course, the Glass-Steagall repeal and other components of this legislation will open a range of financial activities to each other. However, the bill is carefully structured to prevent the mixing of banking and commerce. This single loophole remains where banking and commerce can mix. The conference report does not interfere with current ownership of thrifts. Any commercial firms that currently own a unitary thrift charter will be able to continue to own and operate their institutions without restriction. Their current status would be undisturbed.

The only limitation this amendment would impose involves the transferability of that charter. The charter would not be transferable to another commercial entity. Any bank, insurance company or security firm that wanted to acquire the charter could do so. A new entity could be created to operate the thrift. Included in title IV of the bill before us are provisions prohibiting new unitary thrift holding company applications filed after May 4, 1999, and prohibiting transfer of existing unitaries to commercial firms. In the context of comprehensive financial modernization legislation, these provisions achieve the intent of this Congress to block the inappropriate mixing of banking and commerce, even in the limited scope authorized for the thrift industry for the past several decades. The provisions in title IV protect granfathered companies but do not allow existing unitary companies to be acquired by commercial firms. By adopting my amendment in this conference report, it is the intent of Congress that the thrift regulator strictly enforce this provision and related laws which carefully define which companies qualify as unitary holding companies and which companies are grandfathered in this legislation. Only the current, limited universe of legitimate unitaries should be allowed to exercise powers granted them in the Home Owners Loan Act, and transfer of unitaries to commercial firms will no longer threaten American taxpayers.

This provision will further the goals of financial modernization by leveling the playing field between banks and thrifts. It will also remove a dangerous threat to further weakening of the walls between banking and commerce. This bipartisan effort had the support of Secretary Summers and Chairman Greenspan. It overwhelmingly passed the full Senate. Representative LARGENT shepherded it through the House Commerce Subcommittee on Finance and Hazardous Material. Our joint efforts helped make this protection part of the conference report. We also improve the Federal Home Loan Bank System, creating greater access to wholesale capital markets for small banks and their customers. The improvements to the Home Loan Bank System will directly help South Dakota financial institutions and South Dakota consumers by making it easier for our institutions to join the Federal Home Loan Bank System. This portion of the bill recognizes the importance of small community banks and the role they plan in our towns and communities. With the massive shift of savings and investment to Wall Street and other nontraditional vehicles, small community banks are finding it more difficult to attract deposits at reasonable rates, and lack ready access to wholesale capital markets.

This bill will give them that access by making it easier for small banks to join the Federal Home Loan Bank System. That system gives small banks greater access to cheaper funds through wholesale capital rates. That access, in turn, will lead to more loans at lower rates to our small businesses, ranchers and farmers. It makes running a farm or ranch, running a business, expanding a business, buying a car, sending children to college—all of these endeavors more affordable for all South Dakotans, for all Americans. By enabling more affordable loans, this provision will help infuse the rural economy with capital in particular. This section of financial services modernization legislation is critical to keeping our community banks competitive as we move to tear down traditional firewalls and create new financial services giants within the realm of the financial service industries.

I want to briefly address the issue of financial privacy. With the explosive growth of the Internet, we are finding information can be accumulated and acquired with greater ease than previously imaginable. We must address this important consumer protection issue of financial privacy. I joined my colleagues, Senators BRYAN and SHELBY, in supporting an ''opt-out'' provision that would allow customers to prohibit their financial institutions from sharing their personal information. That effort failed and I am disappointed. We do add some new standards, including mandated disclosure of privacy policies and protection of certain critical information in the bill. I believe we can do better. I am pleased that we allow states to enact tougher privacy laws, establishing a minimum federal standard of financial privacy, but we can do better. Despite my disappointment, I am pleased we took the first steps in addressing financial privacy, and I believe Congress will revisit the privacy issue in the future.

It is critical as we move toward repeal of depression-era limitations that we recognize the vital role of community banks in rural areas. This legislation successfully frees our dominant providers to compete globally while strengthening the role of our community banks directly responsive to our small towns. It is that successful balancing that prompted me to sign the conference report, and I urge my colleagues to join us in passing this historic legislation.

I also want to take this opportunity to thank my staff, Paul Nash, for his tireless work on this legislation. His

dedication to this effort helped make the final product the balanced result which we will pass today.

I yield back such time as may remain.

The PRESIDING OFFICER. Who yields time?

The distinguished Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I am very pleased to yield to Senator HAGEL—why don't I yield him 10 minutes. If he needs more time, I will yield more.

The PRESIDING OFFICER. The distinguished Senator from Nebraska is recognized for 10 minutes.

Mr. HAGEL. Mr. President, I thank my colleague, the distinguished chairman of the Senate Banking Committee.

I rise this morning in strong support of the conference report to accompany S. 900. This landmark legislation before the Senate today is especially important for the future, not only of our financial institutions' competitiveness and our consumer-based economy but for many reasons.

I begin my remarks this morning by commending the chairman of the Senate Banking Committee, Senator GRAMM, for his leadership and extraordinary efforts to complete this legislation, as well as our distinguished ranking member, Senator SARBANES from Maryland. Both they and their staffs and all who worked so hard in accomplishing this rather remarkable feat deserve our thanks.

I also recognize, as did my friend and colleague, the distinguished Senator from South Dakota, the House leadership involved in this effort, as well as our current distinguished Secretary of Treasury, Secretary Summers, and the former Secretary of the Treasury, Bob Rubin, for their leadership.

This is truly a historic occasion. In 1933, the United States was mired in the Great Depression. The stock market had collapsed. Populist segments of society blamed that collapse on commercial banks' involvement in securities underwriting. Responding to this sentiment, Senator Carter Glass of Virginia helped push through legislation that created artificial barriers between banking and securities underwriting. Later, amendments included a separation of banking and insurance activities.

One year later, in 1934, Senator Glass realized he had gone too far and tried to repeal parts of the Glass-Steagall Act, his own bill. Since 1934, many attempts have been made in Congress to repeal Glass-Steagall. For a variety of reasons, these attempts have failed.

This Congress is about to send the President a bill that accomplishes what we have failed to achieve over many years. However, it should be noted that we have also built on these many years of efforts.

I am proud to have served on the conference committee for this legislation. This legislation will benefit consumers in two significant ways. First, it will lead to lower costs and higher savings for consumers by allowing competition among banks, securities firms, and insurance companies.

In 1995, the Bureau of Economic Analysis estimated that if financial modernization were to reduce costs to consumers by only 1 percent, that would represent a savings of $3 billion a year to consumers. That is real money to real people.

These savings would come from increased competition which, among others things, would provide incentives for firms to reduce fees.

Second, this competition will strengthen our financial services firms which are integral to the health of the national and international economy.

As is true with manufactured goods and commodities, exports of financial services have become increasingly important to the growth of our Nation's economy. This month, the U.S. and its trading partners will meet in Seattle to begin a new round of WTO negotiations. The financial services sector will again be a major topic of discussion during these talks. In fact, our Trade Representative, Ambassador Barshefsky, appeared before the Senate Banking Committee this week and talked in some detail about the financial services sector being top on the agenda for these WTO talks.

It is important that Congress help tear down barriers to competition within our own domestic financial markets as we work with our allies and other nations to lower trade barriers in the international financial markets.

I will now briefly address how this bill will affect small community banks.

Earlier this year, Senator BAYH and I introduced legislation to modernize the Federal Home Loan Bank System. The major provisions of that legislation were included in this financial modernization conference report. These provisions will strengthen local community banks that are vital to the economic growth and viability of America's communities.

The Federal Home Loan Bank provisions will ensure that in an era of banking megamergers, smaller banks are able to compete effectively and continue to serve their customers' needs.

Community banks are finding that, for a variety of reasons, their funding sources are shrinking. This makes it more difficult to fund the loan demands of their communities. During the 1980s in my State of Nebraska, and especially in the case of the Presiding Officer's State of Kansas, all across America many community banks and thrifts closed. As local credit dried up, local economies stagnated. Small businesses, our greatest engines of job growth and innovation, were the first to feel the crunch.

The Federal Home Loan Bank provisions in this legislation will strengthen community banks to help avoid a repeat of the 1980s. By broadening access to the Federal Home Loan Bank System, we will help ensure the viability of the community bank and thrift.

This legislation will help keep credit flowing to small businesses, farmers, and potential homeowners, and help our local communities prosper as we enter the 21st century. This is especially important to my State of Nebraska where many rural communities depend upon the local bank or thrift for their credit needs.

The conferees worked hard to craft legislation that responds to the needs of all financial institutions, including small financial institutions.

Another topic important to average Americans is financial privacy—how customers control the flow of their private financial information.

For the first time, this bill sets up a framework for protecting the privacy of customers' financial information. Customers will be able to prohibit the sharing of their financial information with outside parties. Financial institutions would be required to disclose their privacy policies to their customers on a timely basis. If customers do not believe adequate protections exist at their institution, they can take their business elsewhere.

Some wanted stronger privacy protections. In my opinion, to have gone further at this time may well have invited the law of unintended consequences. I believe some of the privacy protections that were proposed and rejected during the conference would have been detrimental, not helpful, to financial institutions and their customers. Some of these limitations would have led to fewer products and services being offered to customers.

I want to highlight a particular concern. The legislation contains a prohibition on the sharing of customer account numbers or credit card numbers with third parties for the purposes of marketing. This language could be a disadvantage to small banks and insurance agencies that partner with third parties to market new products to customers.

Equally important, a customer should have the option to decide whether this information can be or should be shared. This legislation should not take away that choice.

The report language clarifies that when regulations are written to implement S. 900, they may exempt the sharing of encrypted credit card numbers and account numbers only where the financial institution has received express permission from the customer.

As vice chairman of the Banking Committee's Financial Institution Subcommittee, I intend to conduct oversight during the rulemaking process implementing this legislation.

The regulators should exercise this exemption authority. The conferees did not intend to hurt legitimate business practices that safeguard customer information.

I end by again expressing my strong support for this conference report. This

legislation, a well-balanced approach to financial services modernization, is long overdue. It does not pick winners and losers. It provides important consumer protections while expanding the choices available to consumers.

The conferees worked hard to craft a bill that will guide our financial services industries into the next century. This is a bill of which we can be proud, and I again congratulate Chairman GRAMM, Senator SARBANES, and all who provided leadership and hard work to accomplish this rather significant effort.

I urge my colleagues to support the financial modernization conference report.

I yield the floor.

Mr. GRAMM. Will the Senator yield to me for just a moment?

Mr. HAGEL. Yes.

Mr. GRAMM. I thank our dear colleague from Nebraska for his leadership on this bill. We have dramatically changed the Federal Home Loan Bank system in this bill, and no one has had more to do with that dramatic change than the Senator from Nebraska. I personally thank him for the leadership he provided on that and many other issues in this bill.

Mr. HAGEL. Mr. President, I am grateful for the chairman's generous comments. After the Texas A&M and Nebraska game on Saturday, I may never hear another generous comment from him.

The PRESIDING OFFICER. Who yields time?

With no Senator yielding time, time will be taken from the time reserved by all Senators who have reserved time on a proportionate basis.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I begin by thanking Senator ALLARD for his leadership on this bill, for his strong support, in committee, on the floor, and in conference. I think we have a good, strong bill that is what it is advertised as being, that is a bill which promotes competition and benefits consumers, in large part because of the support Senator ALLARD provided throughout the process and the leadership he provided.

I yield 10 minutes to him at this time.

The PRESIDING OFFICER. The distinguished Senator from Colorado is recognized for 10 minutes.

Mr. ALLARD. I thank the Chair.

Mr. President, I thank the chairman for his very gracious remarks. It has been a pleasure to work with him on this particular issue. He is extremely knowledgeable, and it is because of his knowledge and persistence on this particular issue that I think we will pass such a good bill. I compliment the chairman in a public manner for the yeoman's work he has done and the great leadership he has shown on this particular issue. It has been a particular pleasure for me to be able to serve with him on the conference committee.

In regard to the conference report that is before the Senate, I think its provisions will be good for consumers and good for businesses. In regard to the consumers, it provides increased competition in financial services. That is good. It will increase choice for consumers. There is more convenience for consumers, and it will lower prices. Specific provisions in the bill also give consumers more information to better enable them to make educated choices.

The conference report, as I mentioned, is also good for business. It rewrites the outdated laws that have governed the financial services industry since the Depression. Gramm-Leach-Bliley eliminates the barriers between banks, insurance companies, security firms, and other financial institutions. This will increase efficiency, reduce costs, and increase innovation. American financial institutions will be better able to compete internationally under the new structures contained in the conference report.

Through the passage of this bill, Congress will rightly reclaim the authority to govern the structure of the financial services industry. For a number of years, various regulators have been easing the statutory restrictions between banking and commerce through regulation. By passing a comprehensive bill addressing the appropriate relationship among banking, insurance, and securities, Congress will ensure that the entire financial services industry is updated in a safe—and I would add that safe is very important to me and other members of the committee—and a consistent manner as compared to a patchwork of regulations.

Congress has struggled for many years with the best way in which to update the laws governing the financial services industry. One reason we are finally poised to modernize the financial services laws is the spirit of compromise and inclusiveness embodied in the conference report. Chairman GRAMM, and others, made a particular effort to listen to the concerns of the many industries involved and worked closely with the administration. The conference report does a good job of balancing the many interests involved.

I will now talk briefly about the structure within the bill.

The structure of the new financial services regime is based on a compromise between the Federal Reserve and Treasury. Bank holding companies will be able to engage in activities that are financial in nature, including insurance and securities underwriting and merchant banking. Well capitalized and well maintained national banks and insured State banks will be able to engage in certain financial activities. Provisions will be enacted to ensure that the new activities are undertaken in a prudent manner.

The Federal Reserve is established as the umbrella regulator with strong functional regulation in all areas. This will allow consistent oversight by the Fed, while also allowing the individual regulators to exercise their expertise in the day-to-day operations of the affiliates that they traditionally regulate. The bill respects the rights of States through strong functional regulation and maintenance of non-discriminatory State laws.

Unitary thrifts prior to May 4, 1999, are grandfathered in under this bill. Existing unitary thrift companies may only be sold to financial companies.

Privacy is important to many consumers, and the conference report takes important steps to protect the privacy of Americans. Financial institutions must disclose to the consumer their privacy policy regarding the sharing of non-public personal information with both affiliates and third parties. The disclosure will take place when a consumer initially opens an account and annually thereafter. This is an important tool for consumers to make an informed decision as to which financial institutions they wish to patronize. Just as some consumers choose a bank based on the hours they are open or the branch locations, those consumers for whom privacy is a key issue can make an informed decision based on a bank's privacy policy.

Financial institutions cannot share account numbers or access numbers, except as required for consumer reporting agencies, for example, credit bureaus. Consumers will receive an opportunity to opt-out of information sharing programs. This means that generally consumers can prohibit a bank from sharing their non-public personal information with non-affiliated third parties. If any State law or regulation provides greater consumer privacy protections, then it shall remain in effect for that state. This is an important provision.

Changes to the Federal Home Loan Bank system will update their capital structure and expand access for small banks. This will be particularly beneficial to the many small banks in Colorado and other States.

One of the most controversial aspects of the bill has been the Community Reinvestment Act, or CRA. The bill clearly does not repeal any part of the existing CRA law, in fact it explicitly states that fact in the conference report.

The sunshine provision will finally bring some oversight to CRA agreements. For the first time ever, CRA agreements will be made public. The parties to the CRA agreement will also have to disclose annually what happened to the cash and other resources that were part of the CRA agreement. Congress decided that community reinvestment was a priority when it passed the initial CRA laws. This provision takes the next logical step and ensures that the cash and resources received by a nongovernmental person or entity are in fact used for community reinvestment.

The Gramm-Leach-Bliley bill makes several modifications to the CRA examination schedule in order to provide

regulatory relief for small banks. It is important to note, though, that the banks must still meet the same CRA standards—this only changes the examination schedule. A small bank that received an outstanding rating in its last CRA exam will not receive another CRA exam for five years. A small bank that received a satisfactory rating will not receive another CRA exam for four years. This relief is important for small banks, as the cost of regulatory compliance is disproportionately high for them. The relatively high cost to small banks for CRA compliance actually leaves them with fewer resources to invest in their communities. The examination schedule also makes sense because it will allow CRA compliance officers to focus time and resources on those banks with compliance problems, rather than the banks that are already doing a good job.

The conference report also contains a provision important for small banks—a GAO study on changes to the S Corporation rules for small banks. Subchapter S corporations do not pay corporate income taxes—earnings are passed through to the shareholders where income taxes are paid, eliminating the double taxation of corporations. Congress previously made small banks eligible for S Corporation status, however, many of the current rules make it difficult for them to qualify. I strongly support efforts to change the laws so that small banks are better able to qualify for S Corporation status. I am hopeful that this GAO study will highlight the need for such changes.

I will continue to push for those changes in future Congresses. I have introduced legislation in that regard. This is not under the jurisdiction of the Banking Committee, but the Finance Committee. I think it will be a key part in allowing small banks to move forward with their modernization efforts, in addition to this particular bill.

I stand in strong support of this conference report. I stand in support of the bill. I think it is going to be a key piece of legislation passed in this particular Congress.

I thank the chairman for allowing me to participate in the process as much as he did. I congratulate him on a job well done and encourage Members of the Senate to vote for this conference report.

The PRESIDING OFFICER. Who yields time?

Mr. GRAMM. Mr. President, I thank Senator ALLARD for his leadership and his kind remarks.

In recognizing Senator BUNNING, let me say that he has played a very big role in this bill. He, in another era and another profession, understood the meaning of hard ball, when it came time to throw the hard ball and to stand fast. We had many of those moments with this bill. As I noted yesterday, when the House, to satisfy almost any constituency, threw an amendment out to us that could have dramatically changed, complicated, or contradicted the basic logic of this bill, Senator BUNNING stood like a rock in opposition to making those changes. With his help and leadership, we were successful. I yield Senator BUNNING 10 minutes.

The PRESIDING OFFICER. The distinguished Senator from Kentucky is recognized for 10 minutes.

Mr. BUNNING. I thank Chairman GRAMM.

Mr. President, this is an historic occasion, and I am very happy to be a part of it. Today we are going to finally, at long last, pass financial modernization legislation that brings the financial industry into the 20th century and prepares it for the 21st century. When I first came to Congress nearly 13 years ago, this was one of the first major issues I worked on. I served on the Banking Committee in the House back then, and in 1988, we passed out of committee a financial modernization bill. But that bill never made it to the House floor. So it has been a long process getting to this point.

There have been many times when I did not believe we would ever make it. But I am very happy to see this day come, and I am very proud to be a part of it. Those of us who served on this Conference Committee have labored to bring a good bill to the floor today— a conference report that knocks down barriers, gives consumers more options and cheaper services, protects the little guys, and provides regulatory relief. We have achieved all these goals in this measure. There has never been a question about the need to modernize our depression-era financial laws. If we expect our financial industries to be able to compete in the world market in the next century, modernization of our laws is essential. I think everyone has recognized that all along. It was simply a question of finding a suitable blueprint for the modernization process that everyone could find acceptable, and I think we accomplished that with this measure. Admittedly, along the way this year, we had some big differences to work out. For instances, I was very happy the Federal Reserve and the Department of Treasury were able to work out a compromise on the Op-sub issue. I believe this compromise was essential to getting an agreement on the final bill and allowing us to finally repeal Glass-Steagall.

We also wrestled long and hard on the Community Reinvestment Act provisions. In this bill today we bring much-needed sunshine to the CRA process and ensure that the money which banks are sending to groups for low-income housing development, goes for just that, low-income housing.

We also give some much-needed regulatory relief to small banks on CRA. These banks are already involved in their communities. If they did not lend in their neighborhoods, they would not survive. With this provision, small bankers will spend less time doing Federal paper work and more time lending in their neighborhoods, both rural and urban. I would have liked to do more to reduce the CRA burden on small banks but we did the best we could. We were also able to ensure that we protected the small-town insurance salesmen and stockbrokers. We make sure that they have a level playing field and will be able to offer their customers more services at better prices. And we also dealt with a new issue that emerged in recent months—the issue of privacy. I know some of my colleagues believe this bill is inadequate as far as the provisions on financial privacy go.

I certainly understand their concerns but this bill does give consumers federal privacy protection that they have not previously enjoyed. Under provisions of this bill, consumers will be able to opt-out of disclosure of their financial information to third parties. This bill does not go as far as some would like,—but it is a start and it does recognize the importance of the privacy issue. Overall, I believe we came to an agreement on a balanced bill that creates a level playing field and enhances competition for the financial industries. It protects the safety and soundness of our financial institutions and gives consumers better products at lower prices.

It is crucial that we do pass this measure as we prepare to enter the new millennium. In this new age of the global marketplace our financial firms must be able to compete. This bill will go a long way toward allowing them to compete, but not at the expense of our local bankers, brokers, agents, and customers. I urge my colleagues to vote for it—it is a good bill.

Finally, I would like to commend Chairman GRAMM and his fine staff for all of their hard work. We certainly would not have this bill without Chairman GRAMM's tireless efforts. He and his staff spent countless hours completing this bill which I believe will be passed with overwhelming bipartisan support and will be signed by the President.

Chairman GRAMM did an outstanding job, and I thank everybody else on the conference committee and in the Senate. I urge support of this bill and its passage today.

I yield the floor.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I thank Senator BUNNING for his kind comments. I will soon yield to Senator ENZI. I thank him for his leadership, for all he did in helping us put together a good bill to begin with, for the work he did in understanding the bill and what we were trying to achieve.

I have always believed that conviction is born of knowledge. It is hard to be committed to something that you don't understand. I think one of the reasons we held together so well in getting this bill through committee and to

the floor—through conference and finally here today, as we reach the goal line—is all of those endless meetings we had in January and February to talk about what it was we wanted to do and why it was important. If there is any person who didn't miss a single one of those meetings, it is MIKE ENZI. MIKE ENZI is a real doer. When you have a hard job to do, you want to give it to him. I like giving him jobs because he always does them.

I yield the Senator from Wyoming 10 minutes.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I thank the chairman for his extra kind comments.

I do rise to speak in favor of the conference report that accompanies S. 900, the Financial Services Modernization Act of 1999, which is also called the Gramm–Leach-Bliley Act. I think there is good reason for it being so titled. Senator GRAMM has certainly taken the lead on this. He is one of the most focused individuals I have ever run into in my lifetime. When it comes to working a problem, he has a tremendous memory of not only the things he has been involved in but the things he has read and studied up on for it, and he can recall those almost instantaneously. He has provided tremendous leadership. I am convinced that without that leadership we would not be at this point on this bill.

The senior Senator from Texas, the chairman of the Banking Committee, certainly deserves that first spot for his name at the successful completion of this bill. Some of that credit, of course, has to go to his very capable staff as well. He did line up some experts who had some tremendous capabilities, knowledge, background, and ability to express themselves, to explain to others, and the ability to sell the program to each of the staffs who were involved in it, too. Without their dedication and involvement, and the hours they spent on it also, we would not be at this point.

Of course, we have been through the conference process. I have been in the Senate 3 years now, and this has been the most complete conference process that I have seen. Part of the reason for that is probably because of the makeup of that conference. The bill on the House side was assigned to two committees, and those committees had a deep desire to be involved in the process. So we went through the House having, first, 42 conferees, plus the entire Senate Banking Committee; and then there was an imbalance that had to be corrected. I thank the House for correcting that. They did that by appointing four more people to the conference. So we wound up with 66 people on the conference. I came from the Wyoming State Legislature, and our whole House in Wyoming doesn't have that many people in it. When they do a conference committee, it is much smaller. Small committees get more done. So it was an incredibly huge, impossible task.

Again, with the leadership of the chairman, Senator GRAMM, there was some definite action taken that broke the deadlock of daily, deadly, external, lengthy comment sessions that didn't resolve anything. After a few days of that, he again took charge of the process and said we were going to get a small working group of three people, and we were going to put together a compromise bill. I particularly congratulate him for the compromise that was put in at that point. There were a lot of people who were nervous and tense about having the three Republican chairmen involved get together and put together a compromise. There was worry about how much compromise there would be. I think everybody was pleasantly surprised at the way it came out of that rewrite, and that rewrite turned out to be a tremendous key to the process. Without that, we would never be at this point.

I have to say this is the first time in over 20 years that the House and the Senate passed a bill in the same session. So it is the first real opportunity that there has been to conference it. Then we had this huge conference committee. The deadlock on that committee was broken by the chairman taking the focus and arranging this group and being extremely careful to include the different views in it, and then having a process where we could debate from that standpoint, taking things out and putting things back in; and, again, there were more committee meetings, more amendments suggested, more decisions made than I have ever seen in a conference committee.

I also have to compliment the chairman because I remember sometimes where he was negotiating some critical additional amendments to this thing, and he would leave the room and go work with people to get some changes or to explain why changes should not be made. That is a very important part of the process, too, because we were still working on a critical amendment in the committee. He would be able to come back in from that external negotiation, step right in, and debate the reasons we needed to deal with or shouldn't deal with the issue that was still on the table. It is an incredible challenge. He did it extremely well. He kept the debate focused and moving forward so that we are at a point where we have this conference report.

I am pleased that the White House made the comments publicly about this bill and where it is because it shows their understanding of the process and the dedication that was put into the bill as well.

I congratulate Senator SARBANES. He has a very quiet negotiating style, a very unique one. It forces people to do maybe a little bit more than what they would have done if they really understood where he was coming from. He has played a critical role in this bill as well. I appreciate all the effort he has put into it.

We are at a point now where we have this conference report. I am convinced that it will be overwhelmingly adopted. I appreciate all the people who have put time and effort into it.

This bill breaks down the barriers between banks, insurance, and securities firms. It allows them to affiliate and engage in each other's activities.

It is fitting that our financial system be allowed to modernize as we enter the next century.

As I mentioned, for over 20 years Congress has attempted to repeal these statutory barriers. These barriers have only limited the ability of financial institutions to offer a variety of services that their customers demand. Financial services modernization will allow one-stop shopping for consumers wanting a variety of financial services—banking, insurance, and securities—a sort of shopping mall for financial needs. This will increase efficiency and increase competition which translates into more choices and lower prices for American consumers.

This isn't a big deregulation. This is an opportunity for people to compete evenly on the playing field.

Some opposed to the bill have said they don't believe it goes far enough to ensure the privacy of a person's individual financial information. I have to say this bill will provide the strongest privacy protection ever for Americans. It requires the financial institution to clearly disclose their privacy policies. The disclosure will guarantee customers the ability to see clearly the privacy policies of the institutions allowing them to take their business to another financial institution if they don't approve of the way that they could be or have been treated. It allows the market to adapt to the demands of the consumers instead of the market adapting to government regulations.

The market allows for changes in consumer preferences and behavior, while rigid government regulations can easily cause unintended consequences.

I have to say that in every committee in the Senate in which we are involved, privacy is the big issue now. We are debating that in every one of them. I am on the health subcommittee of Health, Education, Labor, and Pensions. We have been trying to resolve the privacy issues there.

It is amazing how complicated and difficult that can be. There are things we as consumers anticipate others working in that business or in a business that we think is part of the business will know about us to expedite the work that we are expecting.

Consumer choice is the key. The privacy provisions in this bill also require that any bank that is considering sharing your information with an outside company—a third party—allows you the ability to say no to that activity. This opt-out provision also gives the consumer power and choice.

I want to tell you, this bill benefits the small community financial institutions. Coming from Wyoming, I have a

particular interest in that. We have small community financial institutions that are the heart of our financial industry. It protects them just as it benefits the large financial institutions. It grants small banks the same expanded authority granted to the larger institutions. It requires the Federal banking agencies to use plain language. This will be one of the biggest things in the bill in their rulemaking used to implement the bill.

This plain language provision was included to ensure that small banks will not have to hire several lawyers to interpret the new rules resulting from this legislation.

The Gramm-Leach-Bliley Act allows small banks to access advances from the Federal Home Loan Bank System. These advances could be used for small business and small farm lending, in addition to housing. This will enable small banks to serve their communities comprehensively and provides them the liquidity they need to remain competitive. Another priority of small banks that has been included in the report is the prohibition on the chartering of new unitary thrifts for commercial firms. The bill even prohibits commercial firms that do not currently control a thrift from buying an existing thrift. Additionally, S. 900 provides further regulatory relief of the Community Reinvestment Act of 1977 for small banks. Those small banks under $250 million in assets with an outstanding CRA rating will be examined for compliance only every 5 years, while those with a satisfactory rating will be examined every four years. Most agree that CRA is more of a paperwork burden for small banks than it is for large banks. I believe that small banks and thrifts, by their very nature, must be responsive to the needs of the entire communities they serve or they will not remain in business. That is the sole source of their customers.

I am also pleased that the bill does not dismantle the dual banking system—the Federal system—that has served us so well over the years. This competitive regulatory system has many times created innovations which were later allowed by the national banking regulators. Under the dual banking system, state legislatures determine the powers allowed to their state institutions. These powers are tailored to meet the economic needs of the states. An empowered state banking system is elemental to state economic development. Included in the bill is a clarification that the FDIC's authority and the State bank regulator's authority with respect to operating subsidiary powers is not rolled back.

I recognize that this report is a collection of compromises. These compromises have not been easily achieved. Some of these compromises relate to the Community Reinvestment Act of 1977 (CRA). I do have concerns about this compromise on CRA. However, I am more willing to accept what I consider an expansion of CRA since the sunshine provision has been included. Since some groups are using the name of a federal law, the Community Reinvestment Act, to receive monies from insured financial institutions, it is only appropriate that the Congress is able to see how that law is being used. In sum, I believe this an acceptable compromise at this time.

I am pleased to support this conference report and congratulate all who have participated in it and encourage my other colleagues to do the same.

I yield the floor.

I reserve the remainder of any time.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I thank Chairman GRAMM, Senator SARBANES, Chairman LEACH, Representative BLILEY, and all of my colleagues who have worked so long and hard on this legislation, with particular thanks to Senators DODD and EDWARDS who worked with us in the late night hours to come up with a compromise that eventually helped get this bill passed.

Mr. President, this is a historic moment. We have been working towards it for 18 years. It has taken 18 years for Congress to pass this bill.

When I first came to Congress, the issue was a narrow one: revenue bonds. Could banks underwrite revenue bonds? With technological change and globalization, the issue has expanded far beyond revenue bonds to an issue where the future of America's dominance as the financial center of the world is at stake.

This bill is vital for the future of our country. If we don't pass this bill, we could find London or Frankfurt or, years down the road, Shanghai becoming the financial capital of the world. That has grave implications for all of America where financial services is one of the areas where jobs are growing the most quickly, where our technology is way ahead of everyone else, where our capital dominates the world. It would be a shame if, because Congress had been unable to act, all those advantages were frittered away, as they well could be, in a global world by our failure to realize the problems our existing antiquated laws cause.

There are many reasons for this bill. First and foremost is to ensure that U.S. financial firms remain competitive. As their international competitors, U.S. firms will be able to offer financial services to complement their business models. Had we not done this, 3 years from now, with new technology, we could find major U.S. companies leaving the United States and locating in other countries that had laws allowing these things.

I don't know what the marketplace will yield. Will people want to buy all their financial services from one company? Will it be online or with individuals? We don't know. We do know that to close off one avenue of competition is the death knell for the future of a country in that area—in this case, financial services. It is essential we pass this bill.

The first issue is jobs, plain and simple, hundreds of thousands—yes, millions—of high-paying jobs. I need not tell the Senate how important this bill has been to the financial capital of the world, New York.

Second, it is important to consumers. The years have shown the more competition, the better. This bill allows more competition by allowing many more firms to compete over similar product lines. When a bank decides to go into the securities industry or a securities firm decides to sell insurance, they are looking for a competitive edge. They may well find it, they may not. However, the ability to have more competition—which this bill creates—is vital to consumers. This is a proconsumer bill. It is proconsumer for the same reason our system has predominated over all the others—competition.

Jobs are an important reason for this bill; consumer interests and competition are an important reason for this bill.

Third, we have to keep up with changing markets. When Glass-Steagall was passed, commercial banks dominated the financial landscape with 57 percent of all financial assets. Today they have less than 25 percent. To look at the world through that antiquated spyglass and say we must keep commercial banks from other areas because they may dominate is to look at a world that is 50 years old. Many argue commercial banks are among the weakest competitors when they are put against not only securities firms and electronic firms but mutual funds and pension funds. The third issue: We have to move this bill to keep up with changing markets.

Finally, we had to do it because otherwise the regulators were going topsy-turvy. We all know it does not make good policy to have individual regulatory decisions make policy. That has been what has happened. Because of the necessities of technology and globalization, because of the changes in financial markets, individual companies were going to the regulators and asking for special permission to do A, B, and C, and regulators were granting it. Now we have an overall fabric. We have a law that will treat all companies equally, that will allow businesses, either new or existing, to plan for the future, and will create a level playing field.

There are many reasons to pass this bill. My goal, which I stated at the outset, was to modernize financial services but not take one step backward on CRA. We have done that. The CRA provisions in the bill do not move things forward, but they do not take a single step backward. In fact, as I have argued to the groups in my State, they will benefit from this legislation because their leverage in the CRA process has always been when there are new mergers or new products that a bank

decides to add. This is going to increase 10, 20 times. Every time the groups are interested in CRA—one of the most successful banking laws we have passed—they will have that leverage. Instead of two or three opportunities a year, they will probably have two or three a month. I argue CRA groups are going to be so busy with all the new mergers and all the new services that they may not have time to keep up.

We accomplished a great deal. I thank the Senator from Maryland as well as the administration for making sure we did not take a single step backward on CRA.

Sunshine provisions are in the bill. It is very hard to argue against them. If I am for sunshine for business and for political people, including myself, how can we not be for sunshine even for groups we support and believe in? I have no problem with the sunshine provision.

We succeeded in CRA. We also succeeded in helping the consumer in terms of protections.

Regarding ATM fees, I am proud banks will be required to disclose any and all charges for using an ATM before a customer makes a decision to withdraw funds. I fought for years for this provision, first in the House with Representative ROUKEMA, and now in the Senate. It is in the bill. In addition, there are privacy protections in the bill.

Does the bill go as far as I wish on privacy? No. But privacy is a large and complicated issue. We don't know what the balance ought to be between the ability of businesses to share information and the right of the consumer to protect his or her information. In the Senate, we did not have a single hearing on privacy. To restructure all of privacy with huge numbers of unknown consequences on this bill made no sense. My goal, again, was, can we move forward? We have. Not as far as I prefer or many prefer but certainly not enough to sink a bill that has so many necessities.

Finally, safety and soundness. The one thing that has dominated my thinking in this area is that we not repeat an S&L crisis, and we not allow insured deposits to be used for risky activities. I am proud to say the compromise between Treasury and the Federal Reserve in the structure of the bill makes sure that when insured dollars are used for anything that might be slightly risky, the capital requirements and firewalls will make virtually certain we will not repeat the kind of S&L crisis we have had in the past.

In conclusion, this is a historic day. It is a historic day for my State of New York, which I am proud to say is the financial capital of the world and, with this bill, has a much greater likelihood of remaining so. It is a historic day for modernizing one of the most important industries in America where we are technologically and entrepreneurially ahead of the rest of the world. This will help maintain our lead. And it is a historic day for those who have argued that we need to keep CRA strong and keep consumer protections in the bill.

From Glass-Steagall to Gramm-Leach, from the Great Depression to the Golden Age, from isolationist to internationalist, from underdogs to champions, this bill is an American success story for our economy, for our financial institutions, for our communities and consumers, and for my State of New York. I was proud to have played a role with so many others in ensuring its passage.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I commend the Senator from New York for his statement. I underscore the positive and constructive role he played with respect to this legislation throughout, and thank him for his contribution to this effort.

Mr. GRAMM. Mr. President, we have already started assembling for the swearing in. I suggest we move off the bill now for that purpose.

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

Mr. LOTT. Mr. President, I observe the absence of a quorum, but we will proceed momentarily.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The VICE PRESIDENT. Without objection, it is so ordered.

CERTIFICATE OF ELECTION AND CREDENTIALS

The VICE PRESIDENT. The Chair lays before the Senate the credentials of LINCOLN D. CHAFEE, appointed a Senator by the Governor of the State of Rhode Island on November 2, 1999, to represent said State in the Senate of the United States until the vacancy in the term ending January 3, 2001, caused by the death of the Honorable John H. Chafee, is filled by election as provided by law.

The clerk will read the certificate.

The legislative clerk read as follows:

STATE OF RHODE ISLAND—CERTIFICATE OF ELECTION FOR UNEXPIRED TERM

To the President of the Senate of the United States:

This is to certify that, pursuant to the power vested in me by the Constitution of the United States and the laws of the State of Rhode Island and Providence Plantations, I, Lincoln C. Almond, the Governor of Rhode Island, do hereby appoint Lincoln D. Chafee, a Senator from Rhode Island to represent it in the Senate of the United States until the vacancy therein, caused by the death of Senator John H. Chafee, is filled by election as provided by law.

ADMINISTRATION OF OATH OF OFFICE

The VICE PRESIDENT. The Senator designate will present himself at the desk and take the oath of office.

Mr. CHAFEE, escorted by Mr. REED, advanced to the desk of the Vice President; the oath prescribed by law was administered to him by the Vice President, and he subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations, Senator.

[Applause, Senators rising.]

The VICE PRESIDENT. The majority leader.

Mr. LOTT. Mr. President, I officially welcome the new junior Senator from the State of Rhode Island, Senator LINCOLN CHAFEE.

I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. WARNER. Mr. President, this is a historic day for America, for the Senate, for the citizens of Rhode Island, and for the family of the late Senator John Chafee. I ask unanimous consent now—and I am joined in this unanimous-consent request by Senator LINCOLN CHAFEE, who was just sworn in as United States Senator for the State of Rhode Island—that remarks given at his funeral by Senator Chafee's son, Zechariah Chafee, entitled ''The Service of Thanksgiving for the Life of John Chafee,'' October 30, 1999, be printed in the RECORD.

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

REFLECTION OF ZECHARIAH CHAFEE

(A Service of Thanksgiving for the Life of John Hubbard Chafee, October 30th, 1999)

What a man! What a life!

Come with me. Let us look at how he lived, and what he was made of. John Chafee said at times that the great shapers of his life were his parents, the Boy Scouts, his wrestling, the United States Marine Corps, the U.S. Senate, and above all, his own family.

From his parents, an upright Yankee, a vivacious Scot, he without a doubt drew his graciousness toward me, women and children of all walks of life. From them as well came his decency and keen sense of the difference between right and wrong.

As for the scouts, not only was he an industrious member of a Providence troop as a boy, but it seems he kept a scout handbook in his Senate office! Examining Article 8 of the Scout law of his day, one finds this stricture: A scout smiles and whistles under all difficulties! Is this how he came by his trademark good cheer?

I must say though that his skeptical children had some problem reconciling the cautionary scout motto ''be prepared,'' with my father's brisk assertion. ''It will all work out, stick with me—here we go!''

But with him in charge, it usually did work out—and even if it did not, it was still fun!

At the Providence Country Day school, he began his wrestling career, which he furthered at Yale when he captained the freshmen team. Wrestling called forth the qualities, so many of you have come to know. The tenacity, the willingness to give it his all.

The sheer love of the contest. The will to victory and the confidence that goes with it. Remember, that on the wrestling mat, it's one man's struggle with another. There are no excuses. But just as important to note—there was a team—and he was the captain. The man to who others looked—the inspirer, the leader.

Following Yale, he went on to wrestle AAU. Now, some time when you're riffling through your back issues of ''Body Builder'' magazine, circa 1948, you might look up his citation as an All-American wrestler. And when you next pass through Stillwater, Oklahoma, drop in at the National Wrestling Hall of Fame. You'll find his picture on the wall.

It has been said that as a boy, Johnny Chafee had a poster in his room featuring a jut-jawed marine on the move, rifle in hand and bearing the legend ''US Marines—First to Fight.''

December 7th, 1941 gave Chafee that chance. He left Yale and headed for Parris Island. As the new recruits arrived and stepped down a company street in the soft southern night, from the windows of the surrounding barracks came the jeering call—''You'll be sorry! You'll be sorry!''

But he never was.

Look at a globe someday. Run your finger northeast from the upper shoulder of Australia in the Solomon Island chain and you'll find the Island of Guadalcanal.

Here on August 7th, 1942, 19 year old private first class John Chafee waded to shore with the first marine division. It was America's first step on the long, lethal ladder that would lead to Tokyo. You recalled the story of the battle—how the Navy fleet, supporting Marines, weighed anchor and sailed over the horizon, leaving the division alone in far off hostile seas.

The world watched an wondered about the fate of the Marines. The world need not have doubted, as my father once explained, ''In the foxholes at night, on the jungle patrols and in the roar of battle, what bound these men together—what drove them on, was not patriotic zeal, but rather the confidence that they were all Marines. That the man to the left, the man to the right was a U.S. Marine. My father said that in that far perimeter, far from any help, he had no doubt that the Marines would prevail, come what may. That was that famous ''esprit de corps''—and he would carry it with him for the rest of his life.

He lived by the teachings of the Corps. Leadership by example. Self-discipline. The knowledge that success often requires audacity and risk. The conviction that when given a mission—no matter how disagreeable—one doesn't complain or delay, but gets started and presses on 'til the end.

There are other qualities as well. With John Chafee the phrase ''Gung-Ho'' leaps to mind. My dictionary defines this as extremely enthusiastic and dedicated, but goes on to note that this World War II Marine Corps motto derives from a Chinese word meaning ''work together''.

Work together.

Wasn't that motto a guiding light for my father's entire public service?

Once a Marine always a Marine.

In a few minutes, as John Chafee's mortal remains are carried from this church, the organ will sound the triumphant cords of the Marine Corps Hymn.

From heaven . . . he will be listening.

I know he'll hear it! At war's end, my father completed his studies at Yale Law and went off to Harvard Law. About that time, a cousin described for him, a trio of lovely sisters from Long Island's north shore. The Coates girls!

''Save one for me,'' he urged.

It took a bit of a chase, but in November of 1950, Ginny Coates, in white veil and gown, stepped toward him down the church's aisle. She has been the beating heart of our family, the sustainer of her man and her children ever since.

My father found legal practice in Providence stifling. So in 1951 there came a telegram from the Corps, recalling him to combat duty in Korea. He kicked his heels together and whooped! It was as Commanding Officer of Dog Company, 2nd Battalion, 7th Marines that Chafee came into his own. Lt. James Brady in his memoirs. *The Coldest War*, had this to say.

''You learned from men like Chafee, a Yalie with a law degree from Harvard, who came from money, a handsome, patrician man, physically courageous and tireless. From all that could have come arrogance, snobbery. He possessed neither of those traits; he was only calm and vigorous, and efficient, usually cheerful, decent and humane, a good man, a fine officer.''

Following combat in Korea, Chafee jumped into Rhode Island politics and won a seat in the Rhode Island legislature. Also in the space of the next 10 years, he fathered six children. Now one might observe that for a Protestant with political hopes in the most heavily Catholic state in the country, it did not hurt to ''get with the program.''

In 1962, and at age 39, he pitched his hat in the ring for Governor, running as a Republican in a state with the highest percentage of Democrats in the nation. Now that's optimism!

See if you recognize some familiar qualities in the Providence Sunday Journal endorsement of John Chafee for governor 37 years ago.

''He has been demonstrating an awareness that government belongs to the people—not the politicians. He has been modest in his claims. He has been careful and honest in taking positions. He has brought fresh thinking to old problems. He has been unassuming in his presentations, in that he neither hectors nor lectures.''

Some things never change.

If they missed anything, it was his cyclonic energy and his political courage. Those qualities would be quickly revealed.

Chafee would win his race by a mere 398 votes out a total of 327,506 votes cast. Now, at the Duke of Wellington once confided after the battle of Waterloo, ''It was a damn close run thing.''

John Chafee hit the Governor's office with the force of a gale.

He saw government as a way we work together, to meet the needs and solve the problems of our common lives. And he was only too happy to lead the way.

In the many tributes of the last few days, you've read and heard of his achievements. He loved the job and made it great fund for those around him of all ages. He governed exuberantly. For instance, he delighted in directing his pilot to give visiting school children rides in the official state helicopter. This lead to complaints by a scrooge in state government. There then appeared in the paper a cartoon, which hangs today on my parents wall at home.

In it, the angry official shakes his hand skyward, where a helicopter buzzes merry children hanging from skids and doors, and a gleeful John Chafee—big chin magnified—happily manning the controls.

Before we lay him to rest, I know my father would love it if I just described a few scenes from his family's life together.

Stand beside him in the crowd, at the fence of the horse show ring, as my sister Tribbie canters in on her lovely pony, Puck. Girl and pony flow round the ring and ripple over the jumps. They'll take the state championship that day.

Now see him at the helm of *Windway* as she runs before a slight southwesterly off Beavertail. He tosses a long line astern. His children dive and clutch it, shooting along behind the boat like mini torpedoes.

Have a seat now at the big dinner table at Stonecroft, his summer house on the coast of Maine. Listen, as he polls the table, questioning one by one his happy guests on the issues of the day.

''What's your position on the flag burning amendment? Should we give up the Pananama Canal?'' And more recently, ''what would you do with the budget surplus?''

Doesn't he make you think?

It's a summer morn' in Maine. The day's still cool from the night before. There he is over by the flagpole, the banner in his hand. See that cluster of small children by his side—some towheaded, some dark? His grandchildren! Little hands reach up to tug the line—little faces look aloft. It's up! The Stars and Stripes float on the morning air!

See him now on the summer deck of the two room cabin with the wood stove, where he and mother live when they're back in Rhode Island.

It's evening, the sun sweeps low over the meadows on the far side of the river. The air is still, the tide is high. Egrets hunt along the marshy shallows. Ginny has brought cheese and crackers to the table. A bourbon glows amber in his glass.

They speak easily together, bound by the love of nearly fifty years.

In closing, as I look out on our President and upon John Chafee's many Senate friends, I recall a large color photograph on my father's office wall. In it, Senator Dole, eyes twinkling, cracks a joke as President Reagan, John Chafee and Senator Alan Simpson bend an ear, amusement alight on their faces.

After the event, my father obtained a copy of the photo, and at a later meeting with the President, slid it down the table towards him and asked him if he'd sign it.

Without missing a beat, Reagan penned a line and slid it back.

It read simply, ''John—Some time it is fun, isn't it?''

Some time it is fun, isn't it?

Dad, when you were around, it sure was.

Mr. WARNER. Mr. President, I want to read the first paragraph of the statement given by Zechariah Chafee:

What a man. What a life. Come with me. Let us look at how he lived and what he was made of. John Chafee said at times that the great shapers of his life were his parents, the Boy Scouts, his wrestling, the United States Marine Corps, the United States Senate and, above all, his own family.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. May I be recognized for 2 minutes?

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

Mr. REED. Mr. President, I thank and commend the Senator from Virginia for his very thoughtful introduction of those remarks. Like so many in our body, we were in that church. Zech Chafee's words rang so true—the clarion call about his father, his service to this great Nation.

Also, I join Senator WARNER in saying this is a very proud day for the Chafee family. They are proud of the accomplishments of Senator John H. Chafee and proud of the commitment to public service of Lincoln Chafee. I am pleased and proud to join my colleague from Virginia in this request. I yield the floor.

The PRESIDING OFFICER. The majority leader.

FINANCIAL SERVICES MODERNIZATION ACT OF 1999—CONFERENCE REPORT—Continued

Mr. LOTT. Mr. President, let me just take a moment at this time, if the Senator would allow me.

When the history is written of this session of Congress, it will probably identify this piece of legislation as the single biggest achievement. I have heard this financial services modernization issue discussed for my entire career in the Congress, which is now up to 27 years. It has been tried by Republicans, by Democrats in the Congress, House and Senate, administrations of both parties. It never quite occurred.

I think it is appropriate we commend all of those who have been involved in this process for bringing us to this moment. This legislation is going to pass overwhelmingly. It is going to bring us into the modern era of financial services. It is going to allow us to be more equally competitive around the world.

I think we should properly note what has happened. If today's papers are any indication, we passed major trade legislation yesterday and it didn't even make the first section of one of the papers in this city; it wound up in the business section. It was hardly noted, the effort that was put into passing that major free trade legislation. I hope that will not be the case with this major legislation.

So for all those involved—I won't begin at the top and go to the bottom—obviously Secretary Rubin was involved in earlier discussions; Alan Greenspan was involved; Secretary Summers has been involved. The administration did stay engaged when they could have said we are not going to talk anymore. Leaders in both the House and the Senate, the elected leadership, Democrats and Republicans on both sides of the aisle, on both sides of the Capitol worked to make this happen.

Let me say for the record—I know, because I watched it very carefully and had some meetings which, I think, helped give it some momentum, some impetus—it would not be where it is today, it would not have been achieved, without the leadership of the senior Senator from Texas, Mr. GRAMM. He has done a masterful job. Many people said: It won't happen. Many people said: He will kill it. I kept saying: No; you wait. He will make this happen through thick or thin. It will get done.

It is being done. To take nothing away from all those involved—including the ranking member of the committee, Senator SARBANES of Maryland, who was actively involved—I have to note, with a lot of appreciation and gratitude, the tremendous leadership of the Senator from Texas. I don't think he can probably ever replicate this effort again. So I think that at this time we should express our appreciation because it is a monumental achievement.

I yield the floor.

The PRESIDING OFFICER (Mr. FITZGERALD). The Senator from Texas.

Mr. GRAMM. Mr. President, I appreciate that. I know it is going to cost me something big, but I am very grateful for it. As I said last night, one of the reasons we were successful, one of the reasons this bill is as good as it is, is that I have had the very strong support of TRENT LOTT and our leadership. Having their support is like having a stone wall to your back in a gun fight: You can still get killed, but nobody is going to shoot you in the back. That has been very beneficial. TRENT LOTT's willingness to say we are going to follow this path, whether it leads us to success or failure, is really what has led us to success.

I appreciate those kind comments and yield the floor.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, are we back on the bill?

The PRESIDING OFFICER. We are back on the bill.

Mr. SARBANES. I yield 10 minutes of my time to the distinguished Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. EDWARDS. Mr. President, I rise today in support of the Gramm-Leach-Bliley Act. This legislation is of critical importance to America and will benefit our nation's financial services companies and American consumers. Quite simply, I believe it helps pave the way to our continued economic prosperity.

This legislation will ensure stronger consumer protections in the rapidly changing and consolidating world of financial services. The legislation is important to consumers, because the industry is already changing dramatically, but through regulatory backdoors and without much-needed consumer protections. Banks, securities firms, and insurance companies—historically separated from one another—have already started engaging in each others' business, and there have been no affirmative protections in place for the nation's consumers. This law rectifies that situation.

I do have some concerns with certain sections regarding federal preemption of state laws that I hope to clarify. Throughout consideration of this legislation—S. 900, H.R. 10, and the chairmen's mark—I have worked with my colleagues to make sure that the final language of the bill does not adversely affect recently passed consumer protection legislation in my home state of North Carolina.

North Carolina is a leading state in the financial services world on several fronts. We are home to some of the largest banks in the country. We are home to some of the strongest and most innovative community development groups in the country. We see, every day, how well these players work with one another to provide convenient banking services to all North Carolinians.

North Carolina is also a leader in consumer protections. Our state General Assembly recently passed two important pieces of consumer legislation that had broad support. First, the General Assembly passed legislation that will require Blue Cross/Blue Shield of North Carolina—a non-profit—to create a public trust to help fund public health expenses in the event it converts to for-profit status. Its rationale was simple. A company should not be able to use its not-for-profit status—a government granted exemption from taxation—to build market dominance and then convert to for-profit status. In that situation, the not-for-profit status would have acted as a government subsidy, and conversion should not be allowed without some form of assessment for the subsidy. This legislation had bipartisan support and was agreed to by all parties.

Throughout consideration of financial modernization legislation, I have steadfastly supported language that will protect this law from possible federal preemption. The conference report accompanying the legislation indicates that this type of law is not of the sort for which federal preemption would come into play. Specifically, the report noted that "[t]he House receded on its provision specifically addressing a North Carolina Blue Cross-Blue Shield organization, as the State laws governing those types of entities would not be preempted so long as the State laws do not discriminate . . .". Because the North Carolina law places a requirement on Blue Cross/Blue Shield of North Carolina regardless of any possible affiliation, it treats identically all interested parties seeking to affiliate or acquire. A bank that might want to acquire Blue Cross/Blue Shield must comply with the law in the same way as a car dealership, or any other potential acquirer, would. Therefore, it is impossible to argue that the law is in any way discriminatory.

The other critical piece of legislation is a recently passed law that prohibits the financing of products like credit insurance in home mortgages. In recent years, including credit insurance costs in the mortgage was a favorite tactic of some predatory institutions—a tactic that ultimately cost consumers thousands of dollars. North Carolina is a leader in making sure its residents are protected from predatory lending and financing practice, predominant over what may be weaker federal standards or laws.

The State of North Carolina enacted this law on July 22, 1999. The law, among other things, regulates mortgage financing and what non-housing products may be included. For example, it bars the lump sum financing of credit insurance premiums in consumer home loans. The law was intended to regulate mortgages and to prevent a potentially misleading form of home lending. It does not prevent credit insurance from being provided for home loans on a monthly basis, but merely cuts off financing the premiums upfront since the state General Assembly determined that such financing is fundamentally unfair. Congress does not intend to preempt this law in the Gramm-Leach-Bliley Act.

I believe that this North Carolina law regulates mortgage financing and does not target the ability of an insured depository to sell insurance products. The focus of my state's legislature was on mortgages and efforts to shoehorn other products into the cost of the mortgage. The legislature would have acted the same way if mortgage lenders had been attempting to include lump sum financing of moving expenses or a new TV. However, if it were determined that the law concerns insurance sales activities, this Act still would not preempt the North Carolina provision. At most, the North Carolina law regulates how credit insurance is sold—the prohibition on financing credit insurance premiums cuts off one avenue of sale while leaving all other avenues open. As Section 104(d)(2) of the Act states, such laws are not preempted unless they ''prevent or significantly interfere with the activities of depository institutions or their affiliates.'' The North Carolina law does neither. Banks may still sell credit insurance in connection with mortgages, only one sale technique is foreclosed.

In addition to the two consumer protection matters I just mentioned, I wanted to say a few words about the privacy provisions in this legislation. A great deal of debate centered on personal financial information and the way banks, securities firms and insurance companies may use that information. Privacy in financial services is an extremely complex issue because what one person may view as an invasion of privacy, another might appreciate as a timely and appropriate offering of a much-needed service. I think it is important to realize that the issue of protecting personal privacy is not limited to the financial services world. In our meetings, we also spoke of privacy of medical information. The news is full of stories of other companies—grocery stores, toy makers, appliance stores, telephone companies and others—that are creating massive databases of customer information to be used for marketing products and services.

In this legislation, we have given customers the opportunity to decide whether or not they want to let their financial institution share their personal information with a third party. We require financial institutions to have a privacy policy—and we require that this policy is explained to all the institution's customers. We also included an important provision that makes it a Federal crime—punishable by up to 5 years in prison—to obtain customer information through fraudulent or deceptive means. I myself would have supported even more privacy protection. I am confident that in the next few years, we will be forced to deal with this problem more comprehensively.

Finally, I would like to say a few things about the Community Reinvestment Act. I struggled long and hard with the CRA provisions included in this law, because CRA is so important to North Carolina and to me personally. I wanted to be able to support this bill, but I would have refused to do so if I believed that CRA was undermined. I have seen first hand the amazing benefits—to banks and to consumers—that have resulted from CRA.

North Carolina banks represent some of the biggest and best CRA success stories, and I know from talking to bankers that they work well with community groups to make sure all neighborhoods are served. I spoke with several North Carolina community group leaders about the compromise we worked out, and while I know it wasn't their ideal, I believe that they recognize how much effort went into protecting CRA. Most importantly, I want to make sure that everyone knows that before a bank can even benefit from the new powers under this legislation, it must have at least a ''satisfactory'' CRA record. And, if it doesn't maintain at least a ''satisfactory'' rating, that bank can't buy any other financial firm until it gets its rating back up. What this means for CRA, and for those who actively support its goals, is that the commitments banks make to serving their communities will continue to be of paramount importance to their daily business.

However, I do worry about some of the reporting burdens being imposed on CRA groups by this measure. In the last few days, these reporting requirements have been the subject of numerous talks between committee members and the Treasury Department. Because these requirements are a new idea—the provision was added to S. 900 during floor debate—we have been careful to make sure that the language is clear that the provision will not impose undue burdens on community groups. I fear that unless provisions of this bill are narrowly interpreted, they could provoke a kind of regulatory witch hunt. But I am confident that the spirit of this bill is to diminish regulatory burdens and that all provisions in this law must be interpreted in that light.

And so we find ourselves at a truly historic moment. We are about to pass legislation that will modernize our nation's financial laws, increase competition, increase options for consumers, decrease costs, protect personal financial information and ensure the continued application of the Community Reinvestment Act. We have a good bill here, and I strongly support it.

To elaborate, this is a bill that has been long overdue. There are those who have been toiling in the vineyards with respect to this bill for a very long time.

Financial services modernization is well recognized throughout the Senate as something that is desperately needed. If done the right way, which I believe this bill accomplished, it is helpful to consumers. It will provide a more competitive market, greater competition, and one-stop shopping for consumers of financial services. It will also help provide a coherent legal framework for the operation of the financial services industry in this country.

A lot of the things we are doing officially and legally through this bill have been done through the back door for years because of the fact that the financial services industry has changed so much in this country over the last 20 to 30 years. The one position we, on my side, felt most strongly about was, while we believed in financial services modernization and supported it—and I wholeheartedly held that belief—it was critical that we be able to maintain the provisions of the Community Reinvestment Act, or CRA, because CRA has done so much good in this country. It has done so much good in my home State of North Carolina to help revitalize chronically economically disadvantaged areas, turned neighborhoods around that were crime infested. It has been an extraordinarily positive thing, something the banks in my State of North Carolina strongly support, always have supported, and continue to support.

The one other issue is that of privacy. We made some positive steps with respect to privacy. Since essentially there was very little regulation of people's personal privacy in existing law, we made a positive step in that direction. But there is probably still additional work to do in that area.

Let me talk, again, about the Community Reinvestment Act, which is the foundation for us being able to get a bill. The Community Reinvestment Act has had such an extraordinarily positive impact on areas of our country that desperately needed financial support. The bedrock principle in our negotiations on this legislation was that no bank should be allowed to take advantage of the expanded services available under this bill unless they had a satisfactory CRA rating. As a result of much discussion and negotiation between the parties involved in this bill, we have been able to accomplish that. I believe we have done what needed to be done to maintain the fundamental principle of CRA.

In addition, we have been able to provide that no bank can acquire or merge with another institution unless it has at least a satisfactory CRA rating. We worked very hard to make sure that

principle remained in place. After much discussion and negotiation, after the bill passed the Senate over the objection of a number of us because we believed it weakened CRA, in the conference committee and in the discussions we were able to get this principle reinstated. We have done the most fundamental thing that had to be done in order to get a bill, which is to make sure CRA was in place, that it remained vibrant and strong, and that no bank could take advantage of the provisions of these expanded services available under this bill unless they had a satisfactory CRA rating.

I believe in CRA. I think it is an extraordinarily positive thing for the country. The banks in my State believe in it. They have done a wonderful job complying with the provisions of CRA. We have been able, through hard work and negotiation, to maintain those critical provisions of CRA in this bill.

This bill also contains some positive steps in the area of privacy. We had, as I indicated earlier, very little protection for people's personal financial records in banking and financial institutions prior to the enactment of this bill. Assuming we are able to pass this conference report today, there will be some positive steps in that direction. The reality is, though, there are a number of us, myself included, who believe we need to go further, that there is more that needs to be done to protect people's privacy.

Folks have a fundamental right to know what is happening with their personal financial information and to know it is not being used in inappropriate ways.

This bill takes a positive step in that direction. I think for that reason it makes sense to support the bill. However, I believe there is more work that needs to be done in this area. Many of us on our side, including the ranking member, Senator SARBANES, believe there is more to be done in this area.

Financial modernization, as contained in this bill, will also help ensure continued economic growth in this country. The reason for that is that now our banks, our financial institutions in this country, will be able to compete in the global marketplace because our financial institutions have operated for many years now under rules that were antiquated, which in this environment and marketplace made no sense, and with which foreign competitors, who also do business in the United States, didn't have to comply. With continued prosperity and growth so important in our country, it was important that we be able to have modernization in the financial services industry. This bill accomplishes that.

It will be good, as I indicated, not only for domestic competition, to allow banks to compete with one another and, as a result, lower costs for consumers, but it also allows our banks to compete internationally, which is critically important.

Finally, I thank those who worked so long and hard on this bill. There are many who worked long and tirelessly on this bill: First, Senator SARBANES, our ranking member, who has been one of my mentors in my 10 months here in the Senate, who is a remarkable leader; he has shown remarkable leadership and guidance on this bill. Also, Senator SARBANES' extraordinary staff, Steve Harris and Marty Gruenberg, who are both wonderful, have worked with us throughout this process. This could not have been done without their work and guidance. Also, my friends, Senator DODD, Senator SCHUMER, and Senator REID, who, along with Senator SARBANES, were in that small room with me late into the evening negotiating the provisions of the CRA, which eventually were contained in this legislation and without which there would be no bill. They all worked tirelessly—Senators DODD, SCHUMER, REID, and SARBANES—late into the evening, and we were able, finally, to reach a reasonable compromise. But it could not have been done without the leadership of all of those Senators.

Senators SHELBY and BRYAN worked very hard on the issue of privacy. Philosophically, and in my heart, I am with them on that issue. I think we have made positive steps in the area of privacy. Senators SHELBY and BRYAN are fundamentally right that the American people deserve and believe they deserve the right to have their personal financial information protected. They showed great leadership in that area. Senators JOHNSON, KERREY, and BAYH, throughout this process, have worked with us very long and hard, and without their support this legislation would not have been possible.

Finally, I mention our chairman, Senator GRAMM, beside whom I had occasion to sit for many hours on that Thursday night and Friday morning when we were able to finally reach agreement on this bill. Without his hard work and leadership and willingness to compromise and negotiate, ultimately, this bill would not exist. The majority leader is right in that respect. So I applaud him for his work on this bill, and I applaud him particularly for his willingness to compromise, to negotiate, and to have a back-and-forth discussion with those of us who had somewhat different views on issues such as CRA privacy.

Finally, to Chairmen LEACH and BLILEY and ranking members LAFALCE and DINGELL, who did great work throughout this process, including that late-evening meeting that went to 2:30 or 3 o'clock in the morning; and Secretary Summers and members of the Treasury Department who were in that room working tirelessly with us, particularly to iron out some of the details associated with the compromises that were reached that night.

I do believe this is a historic piece of legislation. I think it is a piece of legislation that benefits consumers; it will increase competition in this country; it will lower prices. I believe it will allow for one-stop shopping for folks who want to go to one place and have all their financial services provided, and it makes positive steps in the area of privacy, although there is still work left to be done.

Also, most fundamentally, it protects the critical principles of the Community Reinvestment Act, which has been such a positive law in this country and has had such an extraordinarily positive impact on my home State. I have seen neighborhoods that have literally been turned around by CRA, the Community Reinvestment Act. Because of the work and negotiation that went into this legislation, I believe we have satisfied the fundamental principles of CRA.

Mr. President, I urge colleagues to support and vote for this conference report. It is the result of a lot of hard work by a lot of people and a lot of compromises.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, before yielding to the Senator from Connecticut, I acknowledge and express my deep appreciation to the Senator from North Carolina for his very positive and constructive contributions throughout the process of developing this legislation. He really made a very important difference in helping to get us through some satisfactory resolutions of some difficult questions. I am very appreciative to him.

Mr. President, I yield 15 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I thank the Chair and I thank my colleague and ranking member of the Banking Committee.

I rise today, as well, in strong support of this very historic conference report accompanying S. 900, which I believe will receive strong bipartisan support by Members of this body as well as in the House and will be signed into law by President Clinton.

Nearly 70 years ago, the Glass-Steagall Act, which provided the foundation for separating domestic banking, securities, and insurance activities, was enacted into law. Advances in technology, the change in our Nation's capital markets, and the very fast-growing globalization of financial services have demanded that we as a legislative body examine and make some changes to our financial laws to accommodate and to take into consideration these dramatic changes that have occurred. Making these changes has not been easy. The task of creating a new regulatory framework that strengthens consumer protections and, at the same time, fosters market efficiencies and industry innovations has been extremely difficult. Endless hours, days, weeks, and years of negotiations have been spent to craft legislation to allow our Nation's financial services industries to remain leaders in the global marketplace.

I have been a member of the Senate Banking Committee since the first day I was sworn into the Senate, almost 19 years ago. I think this effort dates to about 1967 or 1968, more than 30 years ago. This has been an ongoing debate and issue on the part of the Banking Committees of the Senate and the House, the Commerce Committee, and numerous efforts at the executive branch level. But certainly over the last 20 years, on numerous occasions, this body has enacted reforms to financial services only to watch the legislation die either in conference or be unable to reach a final consideration on the floor of the Senate.

So I speak today on behalf of a lot of people who have come before us. I think of people such as Senator Don Riegle of Michigan, who worked very hard on this; Senator Jake Garn; William Proxmire, the first chairman I served under on the Banking Committee. They all labored hard to try to come up with a means by which we might modernize these services. Certainly, those who predated those Members I mentioned worked diligently over the years to try to see if they could modernize these financial services to accommodate the efficiencies and demands of the end of the 20th century. We begin, in about 60 days, a new millennium, where already the ability to transact financial business on a global basis can be done in nanoseconds around the globe—a far cry from where we were 3 years ago when this effort first began to try to address some of the realities that had overtaken the Glass-Steagall Act, as sound a piece of legislation as it was, which was adopted so many years ago.

So today I speak not only on behalf of the conference report that I think accomplishes the task so many who came before us labored to achieve, but this landmark legislation dramatically modernizes our financial laws to allow banks, securities firms, and insurance companies to affiliate and provide a rational process for these affiliations to take place—not one done by court decision or simply by regulation, but, as the legislative body in this country, we have now authorized regulation through the deliberate process of hearings, markup of bills, consideration on the floor of the Senate, and a conference report. While it is laborious, rather, to go through that, and difficult, it is far better, in my view, to establish these laws on that basis than to be relying strictly on the courts and regulators to do so.

I welcome this day as a day of success and triumph for the legislative body exercising its responsibilities to put its strong imprint on how this process ought to work.

As we enter the 21st century, S. 900 will help, in my view, to continue our Nation's financial services leadership in the global marketplace—that is a critical issue—remaining competitive abroad but helping to continue to create new jobs and new opportunities for literally millions of people here at home.

This legislation also provides significant benefits and protections to investors and financial services consumers who will not only benefit from the competition of these diversified firms, but who will also benefit from standardized and comprehensive protections for the sale of financial products.

There are a number of aspects of this conference report that I would like to touch upon very briefly.

Critical to my support—and I think many others—of any financial services modernization legislation was ensuring that banks continue to invest in the communities in which they serve.

I have often stated that if the price of modernizing our financial services industry would be to deny fair access of credit to those who need it the most, I was not willing to pay that price, nor do I think many others would.

This legislation before us not only preserves current investment in our communities, but it actually strengthens both the intent and the practical effect of the Community Reinvestment Act.

Under this legislation, CRA will continue to apply to all banks regardless of size or location, without exception.

Additionally, this legislation will guarantee that no bank with an unsatisfactory CRA rating can engage in any new financial activities of insurance or securities.

This is fundamentally an important change. For the first time, a bank's CRA rating will be a consideration if it attempts to engage in new financial activities. That is a major triumph.

Some legitimate concerns have been raised over the potential burden on community groups and banks imposed by reporting requirements. I have worked hard, as have others, to make sure that no undue burden is placed on community groups and that the appropriate Federal banking regulations will have adequate discretion to ensure that result.

We are going to need to watch this and see to it that it doesn't occur over the coming weeks and months. But I am confident that with the provisions in this bill any efforts to try to become punitive or overreaching when it comes to regulations will be met with responsible regulatory action. So we will be monitoring that action very carefully.

S. 900 reaffirms that the State regulation of insurance codified by McCarran-Ferguson remains intact, a very important provision. It further provides an orderly process for resolving differences between States and Federal regulators on bank insurance activities.

This legislation reinforces further the essential concept that investors need protection regardless of whether they purchase securities from a broker, bank, or other entity.

S. 900 ensures that in creating this new financial structure the integrity of our markets is maintained and that investor protections are enhanced.

With the rapid change in our financial markets, this legislation ensures that investors remain protected, which is fundamentally a critical area to all of us.

Another area that needs improvement is the protection of consumer privacy. We did not go far enough, in my view, in this bill in doing that. There were some steps made that are certainly an improvement over the status quo. But I believe far more action is necessary in this area than incorporated in this bill.

This legislation contains some important privacy protections. For the first time, financial institutions must disclose to consumers their intent to share or sell personal financial information to anyone. Although stronger provisions which I have supported along with many others were not approved by the conference, I believe that we have sent a strong signal to the industry about the use of sensitive consumer information. I happen to believe that consumers not only have the right to know, but also have a right to say no to the sharing of their personal financial information with anybody. This erosion of the privacy of our most personal, sensitive financial information can and must be stopped.

I hope the privacy provisions contained in this bill will be an important first step to ensuring and addressing this critically important issue.

I am a coauthor along with the ranking Democrat of this committee, Senator SARBANES, and others of the Financial Information Privacy Act, S. 187, that was introduced in this Congress. We welcome further cosponsors of this bill. This is a matter that people care about regardless of place in the country, ideology, or financial status.

It is unsettling to people to know that when a merger or acquisition occurs, while you shared certain financial information with those with whom you initially negotiated, all of a sudden there is a new entity involved, and somehow that information you shared with a company is going to become the product of another industry that you didn't anticipate when you shared the initial information.

Certainly, people are finding it unsettling. They know it goes on. The unsolicited inquiries they receive by telephone and mail certainly indicate that financial services information that people thought was being held private is becoming far too public.

This is an issue on which we have to spend more time. It needs to be addressed. I am aware of the concern of the industry. But consumer demands in this area are not going to go away.

Further, let me say it isn't just a question of banks. Customers would be given, under this proposal, the important opportunity to prevent banks and securities firms from disclosing or selling this information to affiliates before banks and security firms could disclose or sell information to a third party.

They would be required to give notice to the consumer and obtain the express written permission of the consumer before making any such disclosure.

I will continue to press for even greater privacy protections than are presently included in this bill.

This is a good bill, as I said at the outset. There are a lot of people who can rightfully claim credit for having been significant players in producing this product. No single individual was responsible for this result.

As I mentioned, there are the people who are no longer in public life, some of whom have even passed away, who can literally be called inheritors of this product and responsible in some ways for the success we are announcing today.

I mention the previous chairmen of the Banking Committee in the Senate, certainly previous banking chairs of the House side, former Secretaries of the Treasury, and different administrations must feel some sense of accomplishment today as we achieve this result. They were a part of that historic journey which began so many years ago.

There were 66 conferees, an unwieldy number. Twelve percent of the U.S. Congress were members of this conference. Certainly, each and every one of them were involved to one degree or another. Though the number was unwieldy, I think all of the members played an important and constructive role from time to time.

I commend Senator Al D'Amato, our former colleague from New York, who is no longer a member of this body but was chairman of this committee last year. He crafted a good bill, H.R. 10. It wasn't adopted into law. But a lot of what we have in front of us today was part of that bill last year. He did a good job. While we are of different parties and different political persuasions on many matters, Al D'Amato is a friend of mine. I have always thought of him to be such, and he deserves some recognition today as we talk about the accomplishments of this bill.

Senator PHIL GRAMM of Texas, who I have served with on the Banking Committee now for many years—I have worked with him on numerous pieces of legislation but nothing quite of the import of this bill—is a tough negotiator. He is knowledgeable and he is smart. He worked hard on this bill and deserves credit as chairman of the committee for the final result and for pulling the pieces together.

It has been mentioned by my good friend, Senator JOHN EDWARDS of North Carolina. I see my colleague from Rhode Island, JACK REED, who was there that evening. ROD GRAMS, who is on the floor at this moment, was in the room. That was quite an evening.

I suppose history books will expand the size of the number of people who were in that room that night as oftentimes happens. It wasn't that big a room. There were not that many people in the room. But I have said to the chairman of the committee that I admired his stamina that night. He was there pretty much taking arrows and glances from the Federal Reserve Board, the Treasury, House Democrats, and Senate Democrats. While we fought hard, I admired his stamina, his stick-to-itiveness, his willingness to stay in the room to get the job done.

I begin by commending Senator GRAMM for his fine work. Obviously, our ranking Democrat, Senator SARBANES, with whom I have sat next to on this committee for almost 20 years, without his leadership I don't believe we would have achieved the result we have today. I commend him for his fine work not only in this bill but over the years for the job he has done paying detailed attention to critical pieces of legislation, a sense of patience when others wanted to rush to a quick result.

More often than not, when Senator SARBANES suggests we slow down, it is not for idle reasons. He is as knowledgeable as any individual I know, and he pays attention to the details. Too often we don't pay careful enough attention to the details and they can come back to haunt Members of Congress. I commend him for his terrific work.

Also, I commend Congressman LEACH, the chairman of the House Banking Committee, JOHN LAFALCE, Chairman BLILEY, and Chairman DINGELL, all with whom I have served over the years in the House. JOHN LAFALCE and I were elected to Congress on the same day: 25 years ago Tuesday night we were elected to Congress the first time. Today, he is the ranking Democrat on that committee. And JIM LEACH, Chairman BLILEY, and JOHN DINGELL all did a very fine job in working on this.

I thank the Banking Committee staff, both the minority and the majority, for the work they have done on this legislation. I begin with Alex Sternhell, who is my staff person who has worked so hard on this legislation. Again, like Alex who has worked hard going back 19 years, it began with Ed Silverman of my office, who was on the Banking Committee, along with a series of terrific staff members who have traveled this road on financial services modernization. Ed Silverman, Marti Cochran, Peter Kinzler, Michael Stein, Paul Hannah, Courtney Ward, and Andrew Lowenthal should be commended for all of their help. Alex did a great job on this. I thank him. Steve Harris, Marty Gruenberg and the wonderful job of working so many years, Patience Singleton, Dean Shahinian, and others on the minority side have been integral to this process, including Wayne Abernathy, Linda Lord, Geoff Gray, Dina Ellis, and others have made tremendously valuable contributions. I want the record to reflect my appreciation and admiration for their work.

The administration has remained firm in their commitment to passage of this legislation. John Podesta, Gene Sperling, and others have played critical roles during this process and were very involved on Thursday night and Friday morning working out the final version of the bill.

We should not forget that former Treasury Secretary Robert Rubin, who pushed very hard for the legislation, did a terrific job on it and played a pivotal role in drafting the legislation. Larry Summers, his successor, deserves great credit for his contributions as well, and the whole team at the Treasury—Alan Greenspan and his capable staff; Arthur Levitt, Chairman of the SEC, for his contribution to the financial services modernization, particularly the critical pieces that affect the securities industry and investor protections. This would not have been adopted if not for his fine work.

Lastly, of course, the members of our committee. JACK REED was there that night and did a terrific job. I want the record to reflect that the Boy Scouts of America, particularly, owe JACK REED a debt of gratitude. He discovered what could have been a very significant loophole in this bill and used the example that the Boy Scouts of America could be adversely affected. While it is not so named in the bill, that provision will be known by those in the room that night as the Jack Reed Boy Scout amendment. They got a good deal of support on behalf of the Senator from Rhode Island.

JOHN EDWARDS and CHUCK SCHUMER, new members of the committee, were there, along with JACK REED, and did a terrific job as new members of the committee, wading right in and making a significant contribution; also, JOHN KERRY and DICK BRYAN, who cared so much about privacy issues and fought hard. We did not get all we needed, but we had a tremendous voice in those efforts. EVAN BAYH and TIM JOHNSON played critical roles, as well.

I have often said over the years of trying to achieve financial modernization I am reminded of the mythical figure Sisyphus who rolled the rock up the hill only to have it roll back down the hill when he got near the top. I have a painting of Sisyphus that I cherish. Today, I can report that the rock is at the top of the hill and I think it will stay there.

To all who have been involved in this, my sincere thanks for their tremendous efforts. The industry people and outside groups who make valuable contributions deserve recognition.

I yield the floor.

Mr. SARBANES. Mr. President, I thank the able Senator from Connecticut for his very fine remarks and also acknowledge the very positive and constructive role he played throughout this process that helped the Senate get a product that we can bring back and recommend to our colleagues in the Senate, after having it initially in the Senate on a very divided vote. There were a number of very difficult issues to work out and the Senator from Connecticut was intimately involved with

all or most of those issues. We are very appreciative of him for the instructive contribution that was made.

I yield 10 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The senior Senator from Rhode Island.

Mr. REED. Mr. President, I thank Senator DODD for his kind words and his great leadership, along with Senator SARBANES.

I rise to support the conference report on S. 900, the Financial Services Modernization Act of 1999. We are on the verge of a historic transformation of the financial services industry that will take it from the Depression-era laws of Glass-Steagall and position it to meet the challenges of the next century.

Some may argue this legislation is a ratification of what the market has already done, but it is an important ratification because it will allow our financial institutions to be more efficient and more effective. I think it will accomplish two fundamental and very important goals. First, it will provide more efficient access to financial services which will directly benefit consumers in terms of better service and lower cost. Second, it will make our financial institutions much more competitive in a world of globalized financial transactions. These two goals have been achieved in this legislation. I am proud to support the legislation.

It is also incumbent upon us to understand and underscore some of the concerns that still remain after this legislation is passed. Again, let me emphasize this legislation will increase the efficiency and effectiveness of our financial services industry and will benefit the American consumer. As we tear down the walls between banks and insurance companies and securities firms and open up many possibilities, we also open many potential pitfalls. I think we should be concerned about those, also.

As we celebrate passage today, we should also underscore and point out areas that bear close watching. Fundamental changes as we are proposing today include consequences which may have adverse effects if they are not anticipated and watched carefully. Among those is the issue of the consolidation of our financial services industry. We are witnessing the megamergers that are transforming our financial services industry from small multiple providers to large providers that are very few in number. We run the risk of the doctrine ''too big to fail;'' that the financial institutions will become so large we will have to save them even if they are unwise and foolish in their policies. We have seen this before. We have to be very careful about this.

The legislation does not require any market policing requirements with regard to this issue. It does mandate the Federal Reserve, within 18 months of passage of this bill, will review the impact of potential mergers and consolidations in the financial services industry. I think that is appropriate, and I look forward to the report of the Federal Reserve. Again, this is another issue of which we have to be terribly conscious because with this legislation we are allowing a huge concentration across different functional areas of financial activities in the United States. Again, I believe it is justified and warranted by the changing conditions of our economy, but we should be careful as we go forward.

Another issue that has been mentioned several times before is the issue of privacy. The legislation before us is taking a first step in protecting the financial information of the consumers of America, but it is just a first step. There are many more steps we must and should take. They will be demanded of us by our constituents, the consumers of financial services throughout the United States. With the growth of computer technology and the ability to store and disseminate large volumes of information instantaneously, we will continue to wrestle with these issues of privacy, not just in financial services but in every area of endeavor throughout our economy.

We took a first step. We have instructed companies, if they wish to share a customer's private information, they must give that customer the option to say no to that activity. We have also tried to curtail some of the more egregious predatory activities we have witnessed in the last few years with respect to the abuse of consumer information by financial institutions. As I said before, we are moving ahead with this first step. We must not only contemplate but also be prepared to take other steps in the future to protect the privacy of the American people. This legislation has laid a foundation, but that foundation alone will not protect the privacy of the American people.

There is another issue I would like to comment upon, which has been commented upon by my colleagues also, and that is the issue of the Community Reinvestment Act. The Community Reinvestment Act is not just a device to allocate resources in poor neighborhoods; it is a commitment by this Government, through the banking industry, to ensure that all Americans have a fair opportunity to participate in the economy and do so in a way that they can benefit themselves and their families.

Community Reinvestment has been a powerful success over the decade since its passage because it has, for the first time, given many communities which before were ignored, which before were denied access to credit and financial services, those very financial services and credit. As a result, not only did they get the money but they got something else: They got a feeling of participation and connection to this economy and to this country. That perception, that feeling, is just as important as any of the specific programs funded by CRA.

What we have done in this legislation is protect the fundamental essence of what I think CRA should be about. We have said that if any financial institution wants to partake of these new, enhanced, expanded powers, they must by law have a satisfactory CRA rating. If they do not have a satisfactory CRA rating, they will not be able to take advantage of this legislation.

I believe the dynamics of the financial industry are such that the opportunity to participate in these new powers will be a positive force, ensuring through competition in the marketplace that CRA is not neglected, that CRA is still a strong, vital part of any financial institution. If that is not the case, then we have to be prepared to act once again because we cannot abandon the Community Reinvestment Act. To do so would be to abandon scores and scores of our fellow citizens. We cannot do that. We should not do that.

This legislation with respect to CRA has been improved immensely from the Senate version. As you recall, the original provisions sent forward by Chairman GRAMM had potentially severe effects on CRA. There was a total exemption of small banks from any CRA requirements. That would represent 38 percent of the banks in this country. They would be exempt totally from any recognition of CRA responsibility. That has been eliminated from this conference report.

What we have done is allowed small banks that have satisfactory or better CRA records to have a longer interval between their inspections. But we have also required and provided that the regulators at any time can conduct a CRA inspection if they have reasonable cause to believe the CRA program is not being followed by that financial institution. These are steps which have strengthened CRA, particularly in contrast to the legislation we considered on this floor several months ago.

There is another aspect I believe deserves comment, and that is the issue of functional regulation. I am very pleased that functional regulation has become the order of the day, that the Securities and Exchange Commission will look at securities activities, banking regulators look at banking activities, and the Federal Reserve will have enhanced powers to look at financial holding companies and other major financial institutions. But I believe we have to recognize we are giving these regulatory authorities new powers, some of which are somewhat novel. They have to have the capacity, both institutionally and financially, with resources, to be much more perceptive and much more thorough in their regulatory process— again hearkening back to the point of the huge potential concentration in these financial institutions.

We also understand with respect to this legislation that, in this arena of functional regulation, there might be some potential stalemates.

Mr. President, one of the potential roadblocks or stalemates is that State

insurance commissioners still play an extremely important role. In some respects, unless they are fully integrated through this Federal financial regulatory structure, we might in fact have problems. That is another issue that bears close watching.

There is, I believe, something else we should comment upon, and that is the success we have had in allowing the financial services industry to choose the mode of operation which best suits their unique situation for an individual company. What I am specifically referring to is the language with respect to operating subsidiaries. I know my colleague, Senator SHELBY of Alabama, has worked long and hard on this. I, too, have worked long and hard on it. We now have a situation where national banks can choose to operate a certain limited spectrum of activities in a subsidiary or in the holding company. I believe this is sensible. It also gives the Treasury Department a significant role in the regulatory process since they, too, will be able to regulate some of these new activities. That is important also.

One last point I believe bears repeating. We are entering in some respects, a brave new world. The old walls have come down. We have new opportunities; new financial vistas have to be explored. It behooves us to be very watchful, very careful, and to insist on and ensure that the regulators are careful and also that they have the resources to do this job. We will all rue the day, this day, if years from now or months from now we discover that, because of this new flexibility, there are more complicated problems facing us. I think we should go forward but go forward with the notion that we, in fact, are going to regulate well and wisely these new powers we are giving financial institutions.

Let me conclude by saying this has been the work of many hands. I thank Chairman GRAMM for his persistent efforts. Our ranking member, Senator SARBANES, has done a remarkable job leading us carefully, thoroughly, and thoughtfully. Senator DODD has been especially important in this process, bringing us together in moments when we did not think we could come together for final resolution. Senator SCHUMER, my colleague from New York, was very active throughout this process; Senator EDWARDS, and many others—all of the conferees played critical roles. In the other body, Chairman LEACH and ranking member LAFALCE, Chairman DINGELL and Chairman BLILEY, all were very effective.

I reserve special words for two members of the administration with whom I have worked over the last several years: Bob Rubin, the former Secretary, and John Hawke, the former Comptroller of the Currency.

Finally, on my staff, I thank Jonathan Berger and Kevin Davis for their great work.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. SARBANES. Will the Senator yield to me for a second?

Mr. GRAMS. I yield.

Mr. SARBANES. Mr. President, before the Senator leaves the floor, I thank the Senator from Rhode Island for his extraordinary contributions throughout the process of developing this conference report. He has made an extremely valuable contribution to a successful result. I am deeply appreciative.

Mr. GRAMS. Mr. President, I rise this afternoon in strong support of this very important legislation that balances the interests of individual consumers with the needs of America's financial services industries.

I know names have been mentioned and accolades have gone out, and very well-deserved, to those who need to be thanked for their hard work. I start the list with Senator PHIL GRAMM who worked very hard over this last year. By the way, it was a year ago today following the elections that we began consideration of getting this bill back on the floor again. Also, of course, I thank the ranking member, Senator SARBANES, who worked very hard as well over these years, and especially over the last 12 months, in crafting this bill and making sure of its success.

I also thank former Treasury Secretary Rubin and the latter contributions by Treasury Secretary Larry Summers. Chairman Greenspan of the Federal Reserve and SEC Chairman Arthur Levitt, of course, were very instrumental in this. I thank our colleagues on the House side, Chairman LEACH and Congressman BLILEY, for their work and efforts.

I could go on. When one does this, they always run the risk of not mentioning somebody. There were so many hands in this.

Alan Brubaker appears on the list to be commended. Alan is on my staff, and I have to compliment him as well on all the hours he has put in on this bill, working very hard staff to staff. Alan has done a tremendous job, and I compliment him on his efforts.

In testimony before the House Banking Committee, then-Secretary of the Treasury, Robert Rubin, testified that the administration estimated enactment of financial modernization legislation will result in annual savings of $15 billion. The important part of this is those savings will end up in the pockets of consumers because in a competitive world, people are going to find the cheapest way in an expanded array of financial services. The consumers, under this bill, are going to be the biggest benefactors—$15 billion in annual savings in financial modernization.

This package of reforms has been under consideration, as we heard, in one form or another for over two decades. I am proud to be a member of the committee and the Senate that has taken the handoff from those who came before us and carried the ball across the goal line. As Senator DODD mentioned, former Senator Alfonse D'Amato should also be recognized for the contributions he made over the years.

This has been a top priority for myself. I served on the Banking Committee in the House for the one term I was there, and the No. 1 priority when I reached the Senate was to be on the Banking Committee. I was never a banker, but I have sat across the table from many bankers. I thought it was very important to add the voice of a small businessman and an individual in banking legislation.

This legislation provides the appropriate regulatory framework for an event already occurring throughout the regulatory fiat, and that is the affiliation between commercial banks, securities firms, and insurance companies.

We protect consumers by establishing a system of functional regulation whereby institutions will be overseen by experts in their areas. In other words, the securities operations will continue to be supervised by security experts, banks by banking experts and, of course, insurance by State insurance commissioners.

In addition to ensuring a level playing field for business through consistent regulation, again, consumers also benefit because the institutions with which they are dealing will be regulated by the experts in those products. Thus, by authorizing properly regulated affiliations between financial companies, we ensure that our financial services companies will be able to compete worldwide and with appropriate regulation at home, they will not be forced to move offshore to remain competitive.

Although the estimated $15 billion in cost savings will certainly benefit our consumers, the provision which most immediately impacts the consumer, of course, is the establishment of a national floor of privacy protections.

A lot of people do not realize that without this bill, we would go back to almost zero, except for the fair credit reporting bills. This brings a tremendous number of new protections in privacy to our consumers. It is a major step forward in that area.

The consensus contained in this bill will now provide consumers with major areas of protection beyond current law. Specifically, the conference agreement, one, ensures consumers will have greater clarity of their financial institution's privacy policies by requiring the institution to disclose those policies on information sharing—to the affiliates and third parties of both current and former customers—at the time the institution establishes a relationship with that customer, as well as reviewing those regulations or those policies each and every year. The consumer will have major privacy protections.

Two, it provides consumers with the ability to take their names off the list,

in other words, to opt out if they do not want their personal information shared with a nonaffiliated third party.

Three, it criminalizes the actions of bad actors who use false pretense or, in other words, lie to obtain a consumer's personal financial information.

Four, it preserves all existing and all future State privacy protections above and beyond the national floor established in this bill. It allows the States to set their levels as well.

Five, it authorizes a study to review whether further privacy measures are needed. That is very important because as we complete this bill—nobody has ever written a perfect bill, I do not think, out of Washington, and it is very important to review what we have done and look at what else needs to be done. But this review is going to be very important as well in the area of privacy.

Although the central purpose of the bill is to remove decades-old barriers to the integration of the financial services industry, by recognizing that privacy is both a very important issue to the consumer and a responsibility of the financial institution, the bill puts in place the framework to ensure the consumer is protected and allows the financial industry to expand services and products.

I recognize the debate over privacy has not been concluded with these changes. The enthusiasm these provisions have garnered, as well as the expressions of support Congress has received for recent actions to prevent implementation of the FDIC's ''Know Your Customer'' rule and to restrict the ability of States to sell driver's license information, demonstrates the public's concern over these privacy issues.

I look forward to further debate on these issues following the comprehensive hearings Chairman GRAMM has pledged to hold after we have received the findings of the report called for in this bill. After further study, we will all be better equipped to consider the issue of privacy. In the meantime, I firmly believe we have provided stronger protections for the consumer.

Mr. President, I thank all my colleagues for all their hard work. I strongly urge them to support this conference report.

I thank the Chair and yield the floor.

Mr. BRYAN addressed the Chair.

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

Mr. BRYAN. Mr. President, I believe the record will reflect that the Senator from Nevada, pursuant to a unanimous consent agreement, has 30 minutes to speak. If I am so informed, I would like to yield myself a part of the time at this point.

The PRESIDING OFFICER. That is correct.

Mr. BRYAN. I thank the Presiding Officer.

Mr. President, and my colleagues, when we are talking about the financial institutions and affiliates and nonaffiliates, and international banking transactions, those are concepts which most of my constituents, and I daresay most of the constituents of all of my colleagues, see as having very little relevance to their lives. There are not too many people in the country whose lives are intimately involved, on a day-to-day basis, with affiliate sharing of information or involved in major financial transactions.

Most of us have an insurance policy or two, and increasingly—about 50 percent—American families now have stock ownership in some form or another. Most of us have bank accounts, and that is probably the extent of the average American family in terms of financial information. So I think it may be instructive if I put some context into this debate we are having.

We have experienced, in the decade of the 1990s, an extraordinary rapidity of change, if you will, in the way in which financial services—banking, insurance, and stock securities—are handled in this country.

We have also seen an enormous number of mergers across the board in American business. To some extent, it is almost a sense of deja vu because at the end of the last century, in the 1890s, we saw a tremendous consolidation of industry in the country. Many will recall that was a period of time in which we had vast industrial cartels and trusts. So there was an enormous concentration of wealth and power in some of these large industrial concerns that were just taking shape in the latter part of the 19th century.

In a sense, as the 20th century is coming to a close, that pace has quickened. The critics would say we are experiencing a sense of merger mania or merger frenzy. So many of the major financial institutions in the country are participating in that.

Just a couple of examples: Citibank and Travelers have come together; NationsBank and Bank of America—and I could point out countless hundreds.

What impact does that have on the average citizen in this country? I think it is fair to say, none of us really know.

The advocates for these mergers and consolidations are saying: Look. We will provide new convenience to the American public, we will have one-stop shopping for insurance and banking and securities; that it will be less expensive; that more options will be provided. That may, in fact, be the case. I think none of us know for sure.

The critics raise the specter that this concentration of power, this enormous business combine that is taking place across the whole range of financial services, may not be good for the country; that that kind of concentration of wealth, as we learned a century ago, may be bad for the public. I have not reached a judgment on that.

I was fully prepared to support this legislation because I recognize another reality. Historically, from the 1930s, banking, insurance, and securities were separated in three discrete and separate categories: If you wanted to have a banking transaction, you went to the bank; if you wanted to get insurance coverage, you went to an insurance company; if you wanted to dabble in the stock market or wanted to buy stocks or bonds, you went to a stockbroker.

That is the way most Americans have historically dealt with the financial services industry. That was as a result of legislation enacted after the great financial collapse of the Great Depression to protect against this consolidation of power that many thought was a contributing factor to the collapse of the financial industry in America in 1929. It is called Glass-Steagall. So if that name comes up, that is what that means.

I think that reality and fairness would dictate that the model which regulates those industries as three separate and discrete industries has no longer relevance in America today. Whether it should, whether we wish that was still the case, in point of fact several things have occurred.

Court decisions, decisions by administrative agencies, have, in effect, torn down those walls of separation. Increasingly, we are having a lot of those services, the banking and the insurance and the securities functions, kind of merged together. As a result of that, I think it is fair to say—and the advocates have made this point—the financial regulatory structure that emerged as a consequence of the Great Depression, the Glass-Steagall Act, no longer comports with the reality of the marketplace. That is fair and that is true.

So we need a new regulatory model, a new framework. This legislation has much to commend it. And it provides that regulatory framework. Essentially, we are saying in this legislation: Look, if you are providing an insurance service, you ought to be regulated by the same regulator, whether you are a small independent insurance office in Winnemucca, NV, or whether you are operating in the ionosphere of some of the major Wall Street concerns in the financial center of our country in New York City. That is called functional regulation.

So that is the background.

As I said, I had hoped to be able to support this legislation. I recognize it has been worked on for many years. The reality of this also has to be tempered by another reality, and that is the right of privacy. For more than a century, we have recognized in America the right of privacy. That right of privacy, as we know it today, is threatened and endangered. It is threatened and endangered by some of the marvelous technologies of our time.

Let's talk about financial services for a moment in terms of that technology. It was not too long ago that when you went to a bank, if you were going to make a bank deposit, you saw a teller, and he or she, by hand, posted, entered—there was kind of a carbon

sheet—the deposit in the record. If you were applying for insurance, you manually filled out papers; your insurance agent compiled all of this, and he kind of kept a carbon copy. Twenty years ago, when we got into Xerox capability, he had duplication capability. The same thing was essentially true for securities.

What has changed all of that? Some very positive and powerful forces: Computerization. As a result of some software programs, it is possible to gather data and profile it, whether you are a bank depositor, whether you are an individual who is an insurance customer, or whether you are a stock and bond owner and you have your account with a securities firm. Just a stroke of the key now can bring that data up. What does that mean?

It means that if I am a marketer and I want to get a profile of somebody who, say, has an average bank account balance of $50,000, no longer would it be necessary for some poor devil in a green eye shade laboring in some dimly lit corner of some financial company to go through and pull the records manually. Today, a sophisticated software program can simply, with a key stroke, bring up that information. That information is very valuable. It is very comprehensive. Today, most Americans have an enormous amount of their personal financial data, the kind of thing that is very personal—their bank account, what checks they are writing and to whom, what kind of insurance coverages they have, their application indicating any health problems they might have—as part of a database. It is on a computer disk drive. What kind of stocks and bonds they have, what kind of certificates of deposit they may own and when they may come up—that database is there.

I think most of us have this vague concept that when we are dealing with our bank, when we are dealing with our insurance company, when we are dealing with our stockbroker, that stuff is confidential. Isn't it? Isn't that similar to talking with your lawyer about a legal problem or your doctor about a medical problem or even sharing with your local pastor, your rabbi, your minister, your religious advisor? Isn't there a privilege there? It is kind of confidential. Certainly you, as an individual, think it is confidential. You certainly do not have the expectation that that information is going to be shared. If that was your expectation, I regret to tell you that you are wrong because today that information, even without this legislation—and I will talk about that—is freely exchanged.

It is big money. It is big money in the sense that individuals who share that information—financial companies—share that information because they make substantial amounts of money as a result of that.

Let me give an indication in terms of what the U.S. Comptroller of the Currency has said: Most large national banks—this is without this legislation—sell customer account information to marketing companies. Those are the lovely people who call you at home during the dinner hour frequently or who inundate your mailbox with some type of solicitation.

The U.S. Comptroller of the Currency says: Most large national banks sell customer account information to marketing companies, and the banks typically get 20 percent to 25 percent of the revenue generated by marketers. Some banks have generated millions of dollars in revenue by providing third parties with information on millions of customers, including name and address, Social Security number, credit card numbers—all of this according to a Ms. Julie Williams, chief counsel to the U.S. Comptroller of the Currency.

This enormous amount of financial information that is collected, which you give your bank, your insurance company, your security broker, is now being freely shared. It is valuable, and it is worth millions of dollars. That is the current law.

What about this piece of legislation makes the privacy concerns even more heightened? The advocates of this bill will say there are no privacy restrictions now, and that is largely true. Banks, insurance companies, security houses are free to share this information. So they say: Look, we have some privacy provisions in there. We are taking some important protections.

I will comment on that in a moment. But this bill tears down those walls of separation between banking, between insurance, and between securities functions, and it kind of merges them altogether.

The advocates will say that is going to make it convenient for everyone. What it means is that a bank will now be able to own an affiliate, a sister company, an insurance company, and so that information from the bank and its sister affiliate, an insurance company or a security company, can now be freely exchanged.

We are talking about the large brokerage houses in America. We are talking about the largest insurance companies in America. We are talking about the largest banks in America. In effect, that information the banks were selling and making substantial amounts of money on, as was pointed out by the Comptroller of the Currency that they were selling to marketers, now, as a result of this legislation, which will encourage the formation of these affiliate or sister banking, sister insurance, sister securities relationships, will expand exponentially. No question about that—cross-marketing, that is part of the intent. That is what drives this.

There are some realities of the marketplace we all acknowledge. So that information that is in your bank account now can move to an insurance company affiliate, can move to a securities affiliate, and the converse of that is true; it can move in the other direction. You have a stock account; that information can be shared with an affiliate that is an insurance company or a bank.

So this information that you would think—and I thought, until I became a member of this committee and became more familiar with the laws dealing with financial companies—is confidential is now going to be widely shared. And there are big dollars in this. That is why the privacy concerns are heightened, that more of this information is going to be shared with more people, the most personal and private kind of stuff in your financial history, your health record, as reflected by any information on your bank account.

Now, what is happening currently before this new law? Let us talk about a couple of examples I think will prove to be particularly egregious. This is the kind of abuse that occurs.

In one case, a 90-year-old woman who had been a customer of a bank for more than 50 years—that would be a trusted relationship; I cannot imagine this woman would believe this information would be shared with others, but it was—was billed by a telemarketer for a computer product. She didn't even own a computer. Before she died, it took her 11 months to get the telemarketer to remove the charges from her credit card account. Information which the bank had shared, her bank, a relationship of 50 years, one would have to think there was a trust relationship that the depositor had with that bank, but this information was shared.

Let me point out, as has occurred during the course of our discussion, a situation with respect to the San Fernando Valley Bank. They sold a convicted felon 90 percent of the credit card numbers that the convicted felon used to run up $45.7 million in bogus charges against those customers. The bank sold that information to a telemarketer.

That is what is occurring now, today, without this exponential expansion of the sharing of information. Let me talk about U.S. Bank. U.S. Bank was involved in sharing some information, as well. That, too, posed some major concerns because this information was being sold to a telemarketer that offered such things as travel and health care products. The bank received nearly $4 million in commissions for selling this information to nearly a million customers. These things are occurring.

Here is a typical example of what this reflects. This is a deposit record. It appears that the last deposit was $109,451. What we know is that the lady who made this deposit, perhaps in an off-guarded moment of candor, shares with the teller—she is banking the old-fashioned way, sharing with the teller—that she is not really sure what to do with this money. One can assume that this money was recently acquired, through an inheritance or some change of circumstance in her life, and she had a good bit of money that came in, this $109,000. She shares this information with the teller. The teller writes on the bottom: ''She came in today and wasn't

sure what she could do with her money.'' Look up here. It says ''David.'' He is one of these affiliates who is involved with a securities company. It says: ''David, see what you can do. Thank you, teller 12''—whoever teller 12 is. That information is then being shared with a securities company, and, undoubtedly, this lady received a call. She has absolutely no idea that anybody other than perhaps the closest members of her family know she has just come into some money and deposited $109,000. That is the kind of stuff that is occurring now.

The point I am trying to make is that if those abuses are occurring now—and that is only the tip of the iceberg—imagine what is going to be happening with all of these fire walls having been taken down and the affiliates sharing information.

There is one thing I did not make clear. I did point out that banks will be able to assist their affiliate that is an insurance or securities company, but these affiliates also own other companies, commercial firms that may sell a whole range of products, such as sporting goods, travel packages, vacation homes, you name it. So that is part of their business currently. With the affiliation sharing, all of that information moves downstream within the sister affiliate, which is a major concern in terms of these marketing efforts.

Now, let's talk about what the bill purports to do. I inquire, how much time I have remaining?

The PRESIDING OFFICER. The Senator has 8 minutes remaining.

Mr. BRYAN. OK. We will try to do this quickly.

Let's talk about the expectation of what people think in terms of their privacy. I think this is an interesting number. The Wall Street Journal did a poll on what our expectations are and what we fear will happen most. Which one or two concerns are you most concerned about in the next century? Loss of personal privacy, 29 percent. This is not done by some do-gooder, ultraliberal social think tank; this is done by the Wall Street Journal, which is the voice of American business. And 29 percent fear loss of personal privacy.

When you ask people, ''Would you mind if a company you did business with sold information about you to another company?'' 92 percent say yes. Yes, they mind. The American people care very much about that. They may not know the difference between an opsub and an affiliate, or what a unitary thrift is, what a ''whoopie'' is. Those are all terms we have debated here. But they sure know what privacy is about.

''In the future, insurance companies and investment firms may be able to merge into a single company. If they do, would you support or oppose these newly merged companies internally sharing information?'' That is what this bill permits.

Eighty-one percent say no.

Here are some headlines across America: ''Banks Sell Your Secrets,'' USA Today. Los Angeles Times: ''Privacy? Don't bank on it.'' Los Angeles Times: ''Your Privacy Could Be a Thing of the Past.''

Let's talk about the bill because the bill provides minimal protection. First of all, it tells you the banks are required to post a policy of what their privacy policy is. Here is an existing web page with an existing bank in the country today:

> Question 4: If I request to be excluded from affiliate sharing of information, what information about me and my products and services with you will and will not be shared within your affiliated family of banks and companies?

That is the question. Here is the answer:

> Answer 4: Even if you request to be excluded from affiliate sharing of information, we will share this other information about you and your products and services with each other to the extent permitted by law.

This web page would be perfectly appropriate and legal under the new law. All that is required is a posting of the policy. Now, if anybody in America thinks that is an adequate protection for your privacy, I would like to talk about a little piece of property I have in New York called the Brooklyn Bridge, and we would like to talk about you buying it from me. Utterly absurd. That is what is happening.

Now, there is absolutely no provision—none, zippo, nada, zero, nothing—that prevents the sharing of information from affiliate to affiliate. No privacy at all. That is freely exchanged; it is freely exchanged.

With respect to the third party, the nonaffiliate, we are told, yes, there is an opt-out provision; that is, you can let people know you want that not to be done. OK, that sounds fine, except there are two major, glaring exceptions. Those are marketing agreements and joint marketing in which those provisions simply do not apply. So if the third party itself has a company that is involved in telemarketing, there is absolutely no prohibition against that information being shared. So in point of fact—and the USA Today, I think, has made a very telling commentary on that by pointing out that these provisions simply provide very little. I quote the October 28 edition:

> A consumer's right to opt out of data-swapping arrangements is severely restricted. Consumers would not, for instance, be able to stop banks from sharing information with third parties that market a bank's own products; nor could we block data-sharing deals that involve products sold under joint agreements.

Further, it goes on to point out there is no protection against banks sharing information with financial or insurance companies they own. In fact, since the law would encourage such cross-ownership, a consumer's chance of stopping widespread information sharing likely would be minimal.

I simply say for colleagues interested in privacy, receive no comfort, my friends—none—that these very transparent and illusory privacy provisions really provide much at all. They provide virtually nothing, no protection at all with respect to affiliate sharing.

I think the protection with respect to a transfer to a third party with those two gaping loopholes—gaping—any attorney who has taken a single course in any kind of securities would easily be able to craft a loophole for his client that would make that activity perfectly permissible.

The bottom line of all of this is that those of us on the committee who offered an amendment which would have simply said, look, you have to provide every customer with the right to opt out; that is, to be notified that: Look, you have a right to opt out if you don't want this to occur, we are told, no, that would destroy the dynamics, the synergy of the marketplace; it could not happen.

Let me tell you, these very American companies—and they are premier companies and wonderful companies and successful, and as Americans we are vicariously proud of them—do business in Europe. But in doing business in Europe, the European Union requires the opt-out provision. And the same companies that say American citizens should not have that privacy, that it would destroy their opportunities in the market and the synergies of the marketplace to provide those same protections that those of us in committee sought to add to the European counterparts—you will recall the U.S. bank situation. The attorney general of Minnesota took them to task. Guess what. As part of a settlement agreement that they entered into, they agreed as part of that settlement agreement to do what? To inform customers of the bank's privacy policy and to provide notice of customers' rights to opt out of the sharing of information with bank affiliates.

Think about that. U.S. banks as part of a settlement said they could do it and it would not compromise their ability to take advantage of the dynamics and the synergies of the marketplace. The largest and most successful financial companies in America that do business daily in Europe have agreed to be bound by those provisions, but they will not be bound by the provisions in this country.

So Americans have a very much depreciated right of privacy compared to their counterparts in Europe. I would simply say, Why? Why? I don't know what the answer is.

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

Mr. BRYAN. Will the Senator yield to me an additional 5 minutes?

Mr. SHELBY. Mr. President, I yield to the Senator from Nevada an additional 5 minutes.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. Mr. President, I will wind this up because the Senator from Alabama has shared this fight with the Senator from Nevada in committee and

in conference. I thank him for his leadership and his support.

The point I was trying to make is this is not an unreasonable request. If one of the largest banks in America, as part of a settlement with the attorney general of Minnesota, can agree to the opt-out provisions which a number of us on the committee sought to add, every bank can live with those provisions.

If the major banks in America that do business in Europe every day of the week can live with those provisions, I think we have to ask ourselves why would these companies not be prepared to provide the same kinds of privacy protections that either they have agreed to in a consent decree when they have been taken to court by the attorney general—in this case the attorney general of Minnesota—not be willing to provide the same kinds of protections provided to Europeans to people in America?

There was some debate in the committee. ''We don't want to impose upon the American economy the European model.'' No; I don't either. None of us did. The question is not do we want to impose the European model. The question that has to be framed is, why should Americans be entitled to less protection as to their right to privacy from the same company that is doing business in Europe and providing those protections to their European customers?

I must say that it was because of these overarching concerns—we have seen the examples; I believe they are simply the iceberg of examples today—the potential for abuse in terms of violating your fundamental right of privacy and the most sensitive information about your personal life will be widely shared and disseminated. I think if you look at it very carefully, there is no protection at all in the affiliate area—none. A sister company can freely exchange that information with banks, insurance, stock brokerages, and the companies which those affiliates own.

With respect to third parties, the so-called nonaffiliate, if you look at those marketing and joint agreement exceptions, I have to tell you there is not much there. What you get, in fact, is the whole of the doughnut. That is not much protection.

My able colleague from Alabama and I and others, the distinguished ranking member of the committee, fought the good fight for this in the committee. We just believe those protections are inadequate.

I thank my colleague for yielding me the time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, how much time do I have?

The PRESIDING OFFICER. Fifty-five minutes.

Mr. SHELBY. I yield as much time as I shall consume.

Mr. President, I rise to voice my stringent objection to the conference report of the financial services modernization bill. While I believe we need to modernize the laws that govern this country's financial system, I do not believe we should do so at any price.

My colleagues in the Senate should know this legislation comes with a very high price to the American people. In my judgment, the price is simply too high. Let me explain.

First of all, I want to say that there are some very good things in this bill, not the least of which is the repeal of two sections of the Depression-era Glass-Steagall Act which allow banks, securities firms, and insurance companies to affiliate. Congress has worked on this for many years.

Under Senator GRAMM's leadership as chairman of our Committee on Banking, this much-needed change will soon become reality. I think that is very positive in this bill.

That being said, I think it should be perfectly clear that there remains Depression-era laws on the books, and I hope Chairman GRAMM would be interested in working with others on the Banking Committee to repeal those laws as well.

In particular, I am referring to the 1930s price control on business checking accounts. To the extent that we are modernizing this country's financial laws, one would think we would eliminate this price control and allow small businesses across this country to receive interest on their checking accounts and enjoy the full benefits of financial modernization.

Let me talk just a few minutes on CRA expansion.

I also feel compelled to set the record straight on the floor this afternoon on the Community Reinvestment Act provisions in this bill. Make no mistake about it. This bill expands—yes, Mr. President, expands—the Community Reinvestment Act. I know a great deal about this because I, along with Senator GRAMM, killed this very bill last year because we were both opposed to the dramatic expansion of CRA in the bill at that time.

I don't understand what is different this year. I don't understand why no one is willing to stand up and oppose the expansion of CRA when it is very clear that this bill does, indeed, expand CRA. Why else would the administration support the bill? Why else would Rev. Jesse Jackson support the bill? We all know why. The bill expands CRA.

On page 15 of the bill, my colleagues will see a provision entitled ''CRA Requirement.'' This provision says that ''the appropriate Federal banking agency shall prohibit a financial holding company, or any insured depository institution from'' commencing any new activity or directly or indirectly acquiring control of a company engaged in any new activity, if the institution has a less than satisfactory CRA record on its most recent exam.

That is a very crucial ''maintenance'' requirement, as we call it in this bill.

Last year, the legislation gave the regulators the discretion to impose restrictions for falling out of compliance with CRA. This year, we have inserted a statutory prohibition of conducting new activities.

If the institution that was CRA-compliant when elected to become a financial holding company then chooses to engage in a new activity, the regulator could then use the enforcement authority in section 8 of the Federal Deposit Insurance Act to impose civil money penalties on bank directors and officers. I am opposed to the maintenance requirement today just as much as I was opposed to the maintenance requirement last year. My position has not changed.

This expansion does not exist in current law today. If you have a certain bank charter, you can conduct all activities permissible to that charter whether you have a CRA-satisfactory record or not.

I believe we are making a grave mistake by expanding CRA. I am extremely disappointed because I know we have reached the point of no return. As conservatives, we will have no legs to stand on if and when we try to revisit this issue. My friends, we are, indeed, paying a very high price for this legislation.

Privacy is very important to all Americans. I pose a question to my colleagues: Does anyone know what issue brings together the American Civil Liberties Union, Consumers Union, and Ralph Nader of Public Citizen to Phyllis Schlafly of Eagle Forum and the Free Congress Foundation? It is the bill before the Senate, the financial privacy provisions. All of these groups have formed an unprecedented coalition to oppose this bill simply based on the lack of privacy protections. That is the price the American people are going to pay—their privacy—if we pass this bill for only a few large financial conglomerates.

In an article entitled ''Banks Sell Your Secrets,'' USA Today reported:

> Consumers across the USA have been shocked and upset to learn banks have been selling their private financial data, from account balances to Social Security numbers.

Phyllis Schlafly of the Eagle Forum is quoted:

> The checks you write and receive, the invoices you pay and the investments you make reveal as much about you as a personal diary, but instead of banks keeping your information under lock and key, it is being collected, repackaged and sold.

In September of this year, the Los Angeles Times reported that Charter Pacific Bank of San Fernando Valley, CA, sold 3.7 million credit card numbers to a felon who then allegedly ran up over $45 million worth of charges to the cardholders. It appears the felon also billed customers for access to X-rated web sites the customers never knew about. How do these people explain that to their families, their neighbors, or their church members?

The USA Today also ran an article on October 28, 1999, entitled ''Congress Passes Up Chance to Protect Your Financial Privacy.'' Reporting on this specific bill before the Senate today, the article read:

> Technology already has made it far easier for disparate firms to collect, share and sell warehouses of sensitive data on individuals. And the banking bill would encourage banks, insurance companies, and investment firms to link arms, making data swapping from a wide range of sources much easier.

That, my friends, is the point. We are about to pass this afternoon a financial modernization bill that represents industry interests in a big way. However, we have forgotten the interests of the most crucial market participant of all in America—the consumer, the American citizen. Under this bill, the consumer has little, if any, ability to protect the transfer of his or her personal nonpublic financial information. Indeed, the so-called privacy protections in this bill are a far cry from the protection we give taxpayers on their tax returns. It is against the law for an unauthorized inspection or disclosure of an individual's tax return. Violation of this law is punishable by fines, imprisonment, or both. The Internal Revenue Code even prescribes civil damages for the unauthorized inspection or disclosure and the notification to the taxpayer if an unauthorized inspection or disclosure has occurred.

I can assure Members these large financial conglomerates will have more information on citizens than the IRS, but we have done virtually nothing to protect the sharing of such nonpublic personal financial information for the American people.

Proponents of financial modernization will say the bill includes the strongest privacy provisions ever enacted by Congress. While that sounds great, the reality is the provisions are porous and do not provide the consumer with sufficient information to make an informed decision or the true ability to opt out of information sharing.

First, the opt-out requirement does not apply to affiliate sharing. This is significant because the bill allows financial holding companies to affiliate with entities engaged in activities that are ''complementary,'' to financial activities, as well as grandfather commercial companies and those acquired from merchant banking.

As a result, the holding company can share a wealth of nonpublic personal financial information with affiliated telemarketers selling nonfinancial products such as travel services, dental plans, and so forth. Should an insurance company be allowed to affiliate with a grocery store chain in order to track an individual's diet? Nothing in this bill prohibits this relationship or sharing of that information.

Second, the bill includes an exception to the porous opt-out provision that allows two or more financial institutions to share their customers' nonpublic personal information with telemarketers to market financial products or services offered under a so-called joint agreement.

While the financial institution must notify its customers about the sharing of that information, it does not have to provide customers with the ability to opt out of such information sharing. Furthermore, under the joint agreement provision, the nonaffiliated third party could then share the nonpublic personal information with its own affiliate. As a result, the opt-out provision provides no privacy protection at all.

For example, a financial institution could endorse a for-profit investment tip sheet service or stock day trading service targeting senior citizens. The financial institution could share confidential information with that tip sheet service or day trading service without affording the customer the right to opt out of it. To be more specific, the institution can give the tip sheet or day trading service a list of wealthy senior citizens or, in the case of an insurance company, a list of recent widows or widowers who recently received a large insurance payment. Is this really what the Senate wants to encourage and endorse? I hope not.

The bill also allegedly includes an all-out prohibition against the sharing of customer account number information for marketing purposes. What about sharing account numbers for the purposes of verifying customers' credit card accounts? The bill allows that. It is a way to get around it. Charter Pacific Bank in California claims they sell customer data files to merchants for data verification purposes, not marketing purposes. Therefore, the privacy provisions in the bill allow Charter Pacific to sell the customer account information to anyone, much less a felon, all over again.

As if that were not enough, all of a sudden new language has appeared in the conference report telling the regulators to allow for the transfer of personal account numbers to nonaffiliated third party telemarketers if the information is encrypted. Nothing in this bill says financial institutions are prohibited from giving the third party the key to unlock the encrypted information. In fact, that is common practice. This exception completely eviscerates the prohibition of third party telemarketers in the bill. This means U.S. Bancorp in Minnesota could sell the account numbers to MemberWorks all over again. This bill would not prevent it.

I believe these privacy provisions are a sham. I have said it before. They are a joke on the American people, and I will not sit by and be a party to this. When the American people, and they will, become aware of what Congress has done, it will be too late. This bill lets the genie out of the bottle. I am sure, as soon as this bill passes, if not before, a lot of people will be running for cover and introducing privacy bills. I bet President Clinton will set up a Presidential commission or something such as that, or a study group, to study the issue. That sounds nice. Too bad the President is not willing to make financial privacy a priority when it really matters, right here and right now, when we are giving financial institutions the unprecedented ability to collect, profile, share, and sell personal nonpublic financial information.

Critics claim that requiring a consumer to provide his affirmative consent before sharing information would be a hindrance to the free flow of information and basically unworkable. If this is the case, why did Citibank agree to an opt-in requirement for nonaffiliated third parties to do business in Germany? You heard me right. The biggest and most vocal proponent of this bill signed an agreement with its German affiliates in 1995 that basically required Citibank to obtain consent on the application form before they could share personal data to third parties. Citibank agreed to give Germans more privacy protections than we are giving our own citizens in the United States today.

Does that bother anybody else in this Chamber besides me? It should. I think this is a tragedy. I think it is absurd. The banking industry has told us they would oppose this bill if we simply give the consumer the ability to object to the sharing of nonpublic personal information. First of all, I think it is hypocritical of them to threaten us with that position, seeing as how Citigroup voluntarily agreed to provide consumers the ability to opt out in Germany.

Second, I believe Congress should not be dictated to by the financial industry or any other industry as to what provisions we put in on behalf of the American consumer. They should not write laws, ever. But Congress should.

I have heard many Members talk about empowerment and how we must empower the individual. We spend a lot of time discussing empowerment zones. Why are we ignoring the empowerment principle on this piece of legislation? Why is Congress going to take a walk on this issue? Why is Congress not going to stand up for the American people and assure them the ability to stop a financial institution from profiling individuals based on their most personal behavioral patterns and then selling that information at will? The American people clearly believe this is too high a price to pay for this bill. If we are going to allow the huge financial conglomerates to affiliate to provide services—and we are—why must we also give them the ability to sell, profit, and exploit an individual's personal nonpublic profile?

This is not a partisan issue. It does not matter if you are a Democrat or Republican, conservative, liberal, rich or poor. An individual's financial matters are very private to that individual. Families will not discuss how much money other family members make at the dinner table. It is too private. It is

too sensitive. They do not talk about it because they do not want to talk about it and they are in control of what information they share, even with their loved ones.

The bitter irony is that while the individual is practicing discretion in America, Congress is belligerently aiding and abetting complete strangers in accessing an individual's most private financial matters, including account balances, where they shop, and what they buy. We are aiding and abetting the felon in California who bought a list of account numbers and charged up to $45 million. We are aiding and abetting third party marketers such as MemberWorks, who bought a list from a bank and then automatically billed individuals' accounts.

I have said it before and I will say it again here, we are paying a very high price, a very dear price for this bill. The American people are paying a very dear price for this bill, and they will continue to pay it. It is very difficult for me this afternoon to celebrate this landmark achievement of financial modernization when I know we did so at the expense of every American.

I know this bill will pass with a lot of votes, but I urge my colleagues to vote against this bill mainly because of the lack of privacy provisions. Ask your mother, your father, your husband, or your wife about this. They will all tell you that one-stop shopping is not worth giving up their financial privacy. The price is too high—too high.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LEAHY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senate is considering S. 900 under controlled time.

Mr. LEAHY. How much time is remaining for the proponents of the conference report?

The PRESIDING OFFICER. Senator GRAMM has 28 minutes; Senator SARBANES, 23 minutes; Senator SHELBY, 44 minutes; and Senator DORGAN, 19 minutes.

Mr. SARBANES. Mr. President, I yield the Senator 5 minutes off the time.

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

Mr. LEAHY. Mr. President, I rise today to speak in support of the Conference Report on S. 900, the Financial Modernization Act of 1999. As we prepare to enter the 21st century, it is critical that our laws governing financial services reflect the reality of the current marketplace and establish a sound legal framework that will carry us well into the new millennium.

This legislation will repeal the Glass-Steagall Act, a Depression-era law that separates the banking, securities, and insurance industries. The Glass-Steagall Act was originally adopted in 1933 to stave off another Great Depression.

While it clearly served its purpose back then, the law regulating our financial service industries is now sorely out of date.

The face of financial services has changed dramatically in recent years. We are already witnessing a marketplace at work that is producing new services offered by financial institutions of all shapes and sizes. But under current law, the financial firms are often forced to work around existing prohibitions on the coupling of different services, often incurring unnecessary costs to the ultimate detriment of the consumer.

Modernizing current law will make the financial services industry more competitive, both at home and abroad. This legislation will make it easier for banking, securities, and insurance firms to consolidate their services, allowing them to cut expenses and offer more products at a lower cost to businesses and consumers.

The Treasury Department has estimated that increased competition in the securities, banking, and insurance industry could save consumers as much as $15 billion annually.

I want to praise the Clinton Administration and the Senate and House conferees for reaching a fair and equitable compromise regarding the application the Community Reinvestment Act (CRA). Since the enactment of the CRA in 1977, financial institutions have committed more than one trillion dollars to low and moderate income communities.

The continued strength of the CRA means that hundreds of billions of dollars worth of new home mortgage and small business loans will be made in low- and moderate-income urban and rural communities in the next century.

The compromise contained in the conference report prevents a bank from moving into a new line of business if it does not have a satisfactory lending record under the CRA, while limiting the frequency of reviews under the CRA for small banks with a satisfactory or excellent record.

I am pleased to report that in my home state of Vermont, no banks, large or small, have received less than a satisfactory CRA rating. It is my hope that this legislation will encourage banks in other states to improve their community lending records. Enforcement of the CRA is a win-win situation for banks and neighborhoods across the country.

In addition, this legislation allows states to continue to regulate insurance sales by banks and other new financial entities, keeping this authority where it properly belongs. The Vermont Department of Banking, Insurance and Securities has strongly supported its continued oversight of insurance sales by banks and other financial firms in my home state because of the agency's experience and expertise, and I agree.

I am also pleased that the conferees did not include the medical privacy language included in the House-passed bill in the conference report. Senators KENNEDY and JEFFORDS joined me in sending a letter on July 20 to the Chairman of the Senate Banking Committee requesting that this section be struck in conference.

This language had been inserted in the House bill under the guise of providing medical privacy protections, but it would do no such thing. The language actually would have created a laundry list of lawful uses of personally identifiable health information without any consent by the patient.

Moreover, the House-passed language would have wiped out the August deadline for Congressional action included in the Health Insurance Portability and Accountability Act of 1996. I strongly opposed this wrongheaded approach.

I still have significant concerns about how this bill may negatively impact the privacy of individuals medical records. However, I believe the recent steps by the Clinton Administration to establish federal regulations governing some medical records of Americans is an important step forward.

And I will reaffirm something I have said over, and over again—this Congress must act on its own and pass a comprehensive federal law that will govern all medical records and all those who could have access to them.

Mr. President, I must also express my deep disappointment with conference report's financial privacy provisions. Congress has missed an historic opportunity to provide fundamental privacy of every American's personal financial information.

Our right of privacy has become one of the most vulnerable rights in the Information Age. We must master new threats to our individual privacy and security, and in particular, to our ability to control the terms under which our personal information is acquired, disclosed and used.

But this conference report fails to give consumers the control over their personal financial information that every American deserves.

After this conference report becomes law, new conglomerates in the financial services industry will begin offering a widening variety of services, each of which requires a customer to provide financial, medical or other personal information. But nothing in the new law will prevent these new subsidiaries or affiliates of financial conglomerates from sharing this information for uses beyond those the customer thought he or she was providing it for.

For example, the conference report has no consumer consent requirements for these new financial subsidiaries or affiliates to sell, share, or publish savings account balances, certificates of

deposit maturity dates and balances, stock and mutual fund purchases and sales, life insurance payouts or health insurance claims. That is wrong.

I am an enthusiast when it comes to the Internet and our burgeoning information technologies. These are exciting times, and the digitalization of information and the explosion in the growth of computing and electronic networking offer tremendous potential benefits to the way Americans live, work, conduct commerce, and interact with their government. But we must make sure that information technology remains our servant, instead of becoming our master.

Tuesday, I spoke with Treasury Secretary Summers about the need for additional legislation to provide real financial privacy safeguards. In the next session of the 106th Congress, I look forward to working with him and Senator SHELBY, Senator BRYAN, Senator SARBANES and others on the Senate Banking Committee to enact comprehensive legislation to update our laws to provide fundamental privacy protections of the personal financial information of all Americans.

The need for financial privacy protection will not go away, and Congress should address it without further delay.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, Senator DORGAN is here to speak, and I will yield the floor to allow him to speak, but I want to make it clear to anyone who has time that we are fast reaching the magic moment where we are going to conclude the debate and vote. It is only fair that Senator SARBANES and I as managers of the bill be allowed to speak last. I ask unanimous consent that we may hold our time until the end.

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

Mr. DORGAN. Mr. President, I come to the floor in a circumstance where I will not support the legislation that is before the Senate today. Before I describe the reasons for that, let me say I certainly admire the craftsmanship and the legislative skills of the Senator from Texas and the Senator from Maryland, the Senator from Connecticut, and so many others who have played a role in bringing this legislation to the floor. Frankly, I did not think they were going to get it done, but they did.

In the final hours of the Congress, they bring a piece of legislation to the floor—it is called financial services modernization. I know they feel passionately and strongly it is the right thing to do. For other reasons, I feel very strongly it is the wrong thing to do. I do not come to denigrate their work. We have a philosophical disagreement about this legislation, and I want to describe why.

This legislation repeals some of the major provisions of the Glass-Steagall Act named after Senator Carter Glass from Virginia, and Henry Steagall, a Congressman from Alabama, the primary authors. It will allow banks and security underwriters to affiliate with one another. It also repeals similar provisions in other banking laws to allow banks and insurance firms to marry up. It will permit many new kinds of financial services to be conducted within a financial holding company or a national bank subsidiary.

I want to describe why I think in many ways this effort is some legislative version of back to the future. I believe when this legislation is enacted—and it is expected it will be—we will see immediately even a greater level of concentration and merger activity in the financial services industries.

When there is this aggressive move toward even greater concentration—and the concentration we have seen recently ought to be alarming to all of us—but when this increased concentration occurs, we ought to ask the question: Will this be good for the consumer, or will it hurt the consumer? We know it will probably be good for those who are combining and merging. They do that because it is in their interest. But will it be in the public's interest? Will the consumer be better served by larger and larger companies? Bank mergers, in fact, last year held the top spot in the value of all mergers: More than $250 billion in bank mergers deals last year. That is $250 billion out of $1.6 trillion in merger deals. Of the banks in this country, 10 companies hold about 30 percent of all domestic deposits and are expected to hold more than 40 percent of all domestic assets should the pending bank mergers that now exist be approved.

After news that there was a compromise on this financial services modernization bill in the late hours, a compromise that there was going to be a bill passed by Congress, I noted the stock values of likely takeover targets jumped in some cases by more than $7 a share. That ought to tell us what is on the horizon.

Clearly this legislation is not concerned about the rapid rate of consolidation in our financial services industries. The conference report that is before us dropped even a minimal House bill provision that would have required an annual General Accounting Office report to Congress on market concentration in financial services over the next 5 years. Even that minimal step that was in the House bill was dropped in this conference report.

What does it mean if we have all this concentration and merger activity? The bigger they are, the less likely this Government can allow them to fail. That is why we have a doctrine in this country with some of our larger banks—and that ''some'' is a growing list—of something called ''too big to fail.'' A few years ago, we had only 11 banks in America that were considered by our regulators so big they would not be allowed to fail. Their failure would be catastrophic to our economy and so, therefore, they cannot fail.

The list of too big to fail banks has grown actually. Now it is 21 banks. There are 21 banks that are now too big to fail in this country.

We are also told by the Federal Reserve Board that the largest megabanks in this country, so-called LCBOs, the large complex banking organizations, need customized supervision because their complexity and size have reached a scale and diversity that would threaten the stability of financial markets around the world in the event of failure.

Let me read something from the Federal Reserve Bank president from Richmond. This is a Fed regional bank president saying this:

> Here's the risk: when a bank's balance sheet has been weakened by financial losses, the safety net creates adverse incentives that economists usually refer to as a ''moral hazard.'' Since the bank is insured, its depositors will not necessarily rush to withdraw deposits even if knowledge of the bank's problems begin to spread.

Because the bank is too big to fail.

> In these circumstances, the bank has an incentive to pursue relatively risky loans and investments in hope that higher returns will strengthen its balance sheets and ease the difficulty. If the gamble fails, the insurance fund and ultimately taxpayers are left to absorb the losses. I am sure you remember that not very long ago, the S&L bailout bilked taxpayers for well over $100 billion.

Again, quoting the president of the Richmond Federal Reserve Bank:

> The point I want to make in the context of bank mergers is that the failure of a large, merged banking organization could be very costly to resolve. Additionally, the existence of such organizations could exacerbate the so-called too-big-to-fail problem and the risks it prevents. Consequently, I believe the current merger wave has intensified the need for a fresh review of the safety net—specifically the breadth of the deposit insurance coverage—with an eye towards reform.

This bill addresses a lot of issues. But it does nothing, for example, to deal with megabanks engaged in risky derivatives trading. I do not know if many know it, but we have something like $33 trillion in value of derivatives held by U.S. commercial banks in this country.

Federally-insured banks in this country are trading in derivatives out of their own proprietary accounts. You could just as well put a roulette wheel in the bank lobby. That is what it is. I offered amendments on the floor of the Senate when this bill was originally here to stop bank speculation in derivatives in their own proprietary accounts and also to take a look at some sensible regulation of risky hedge funds, but those amendments were rejected. You think there is not risk here? There is dramatic risk, and it is increasing. This piece of legislation acts as if it does not exist. It ignores it.

A philosopher and author once said: Those who cannot remember the past are condemned to repeat it. We have a piece of legislation on the floor today that I hope very much, for the sake of

not only those who vote for it and believe in it but for the American people who will eventually have to pick up the pieces—I hope this works.

Fusing together of the idea of banking, which requires not just safety and soundness to be successful but the perception of safety and soundness, with other inherently risky speculative activity is, in my judgment, unwise.

I do not usually quote William Safire. I guess I have done it a couple times on the floor of the Senate. I suppose we all look for things that are comforting to our point of view. But William Safire wrote a piece 3 days ago in the New York Times:

> Americans are unaware that Congress and the President have just agreed to put us all at extraordinary financial and personal risk.

Then he talks about the risk. The risk of allowing the coupling of inherently risky enterprises with our banking system, that requires the perception of safety and soundness, I personally think is unwise. I do not denigrate those who believe otherwise. There is room for disagreement. I may be dead wrong.

It may be that I am hopelessly old-fashioned. But I just do not think we should ignore the lessons learned in the 1930s, when we had this galloping behavior by people who believed nothing was ever going to go wrong and you could do banking and securities and all this together—just kind of put it in a tossed salad; it would be just fine—and then we saw, of course, massive failures across this country. And people understood that we did something wrong here: We allowed the financial institutions, and especially banks in this country, to be involved in circumstances that were inherently risky. It was a dumb thing to do.

The result was, we created barriers saying: Let's not let that happen again. Let's never let that happen again. And those barriers are now being torn down with a bill called financial services modernization.

I remember a couple of circumstances that existed more recently. I was not around during the bank failures of the 1930s. I was not around for the debate that persuaded a Congress to enact Glass-Steagall and a range of other protections. But I was here when, in the early 1980s, it was decided that we should expand the opportunities for savings and loans to do certain things. And they began to broker deposits and they took off. They would take a sleepy little savings and loan in some town, and they would take off like a Roman candle. Pretty soon they would have a multibillion-dollar organization, and they would decide they would use that organization to park junk bonds in. We had a savings and loan out in California that had over 50 percent of its assets in risky junk bonds.

Let me describe the ultimate perversion, the hood ornament on stupidity. The U.S. Government owned nonperforming junk bonds in the Taj Mahal Casino. Let me say that again. The U.S. Government ended up owning nonperforming junk bonds in the Taj Mahal Casino in Atlantic City. How did that happen? The savings and loans were able to buy junk bonds. The savings and loans went belly up. The junk bonds were not performing. And the U.S. Government ended up with those junk bonds.

Was that a perversion? Of course it was. But it is an example of what has happened when we decide, under a term called modernization, to forget the lessons of the past, to forget there are certain things that are inherently risky, and they ought not be fused or merged with the enterprise of banking that requires the perception and, of course, the reality—but especially the perception—of safety and soundness.

Last year, we had a failure of a firm called LTCM, Long-Term Capital Management. It was an organization run by some of the smartest people in the world, I guess, in the area of finance. They had Nobel laureates helping run this place. They had some of the smartest people on Wall Street. They put together a lot of money. They had this hedge fund, unregulated hedge fund. They had invested more than $1 trillion in derivatives in this fund—more than $1 trillion in derivatives value.

Then, with all of the smartest folks around, and all this money, and an enormous amount of leverage, when it looked as if this firm was going to go belly up, just flat out broke, guess what happened. On a Sunday, Mr. Greenspan and the Federal Reserve Board decided to convene a meeting of corresponding banks and others who had an interest in this, saying: You have to save Long-Term Capital Management. You have to save this hedge firm. If you don't, there will be catastrophic results in the economy. The hit will be too big.

You have this unregulated risky activity out there in the economy, and you have one firm that has $1 trillion in derivative values and enormous risk, and, with all their brains, it doesn't work. They are going to go belly up. Who bears the burden of that? The Federal Government, the Federal Reserve Board.

We have the GAO doing an investigation to find out the circumstances of all that. I am very interested in this no-fault capitalism that exists with respect to Long-Term Capital Management. Who decides what kind of capitalism is no-fault capitalism? And when and how and is there a conflict of interest here?

The reason I raise this point is, this will be replicated again and again and again, as long as we bring bills to the floor that talk about financial services modernization and refuse to deal with the issue of thoughtful and sensible regulation of things such as hedge funds and derivatives and as long as we bring bills to the floor that say we can connect and couple, we can actually hitch up, inherently risky enterprises with the core banking issues in this country.

I hear about fire walls and affiliates, all these issues. I probably know less about them than some others; I admit that. But I certainly know, having studied and read a great deal about the lessons of history, there are some things that are not old-fashioned; there are some notions that represent transcendental truths. One of those, in my judgment, is that we are, with this piece of legislation, moving towards greater risk. We are almost certainly moving towards substantial new concentration and mergers in the financial services industry that are almost certainly not in the interest of consumers. And we are deliberately and certainly, with this legislation, moving towards inheriting much greater risk in our financial services industries.

I regret I cannot support the legislation. But let me end where I began because this is not one of those issues where I don't respect those who have a different view. I said when I started—I say as I close—there was a great deal of legislative skill exhibited on the part of those who put this together. I didn't think they were going to get this done, frankly. I wish they hadn't, but they did. That is a testament to their skill.

I don't know whether I am right or wrong on this issue. I believe fervently that 2 years, 5 years, 10 years from now, we will look back at this moment and say: We modernized the financial services industry because the industry did it itself and we needed to move head and draw a ring around it and provide some guidance, some rules and regulations. I also think we will, in 10 years time, look back and say: We should not have done that because we forgot the lessons of the past; those lessons represent timeless truths that were as true in the year 2000 or 2010 as they were in the year 1930 or 1935.

Again, I cannot vote for this legislation. My hope is that history will prove me wrong and that this will not pose the kind of difficulties and risks I fear it will for the American people.

One final point: With respect to the regulation of risky hedge funds, and especially the issue dealing with the value of derivatives in this country—$33 trillion, a substantial amount of it held by the 25 largest banks in this country, a substantial amount being traded in proprietary accounts of those banks—we must do something to address those issues. That kind of risk overhanging the financial institutions of this country one day, with a thud, will wake everyone up and lead them to ask the question: Why didn't we understand that we had to do something about that? How on Earth could we have thought that would continue to exist without a massive problem for the American people and for its financial system?

I yield the floor.

Mr. FEINGOLD. Mr. President, after years of persistent lobbying and a flood of political donations, three industries may soon have a lot to celebrate—the

insurance, banking and securities industries will have a huge victory if we pass this conference report today.

I do want to note that some of those Senators who helped to craft this legislation are among the very best Members of the Senate.

While I oppose this measure, I certainly commend them for their dedication and hard work on this bill.

Nevertheless, with this legislation, this Congress is declaring the ultimate bank holiday—giving banks, insurance companies and securities firms a permanent vacation from the Glass-Steagall Act and other Depression-era banking law reforms.

Advocates of this legislation will tell you that it is terrific for consumers, offering them one-stop shopping for all their financial and insurance needs.

But the reality is far more complicated and far less appealing—it is likely to cause a merger-mania in the industry that could severely limit consumer choice and spur a rise in banking fees.

This conference report also raises serious issues about consumer privacy. Privacy advocates worry that it will give bankers, insurers and securities firms virtually unlimited license to share account data and other sensitive information.

To top it all off, this legislation undermines the Community Reinvestment Act.

Higher bank fees, reduced consumer choice and fewer protections for low-income loan assistance—these don't sound very good to most consumers, Mr. President. But they sound good to the industries that will benefit from this legislation. This conference report is music to the ears of the industries that have been lobbying for these changes for decades.

And this lobbying campaign has left a trail of political contributions that is nothing short of stunning. A recent study by Common Cause put the political contributions of these special interests at $187.2 million in the last ten years.

That is why I am going to take this opportunity to Call the Bankroll. This lobbying effort for so-called financial services modernization is truly breathtaking, because it combines the clout of three industries that on their own are giants in the campaign finance system, particularly the soft money system.

Together the power of their combined pocketbooks were a powerful force propelling this legislation through Congress.

One of these industries, the securities and investment industry is a legendary soft money donor, and I will just highlight a few such firms that have lobbied on behalf of this legislation.

Merrill Lynch has long called for banking deregulation. The company, its subsidiaries and executives gave more than $310,000 in soft money during the 1998 election cycle.

Morgan Stanley Dean Witter, which gave more than $145,000 in soft money in 1997 and 1998, was also a key part of the lobbying team on this issue. In fact the Washington Post reported that the company's chairman, along with several other corporate heads, made calls to White House officials the very night the conference hammered out an agreement on this bill.

Lobbyists lined the halls outside the room where the conference met to reconcile the House and Senate version of the bill, and as we know, that is standard procedure on Capitol Hill.

As usual, corporate lobbyists lined the halls, while the consumers who will bear the impact—and consumer advocates agree it will be an adverse impact—of this bill, were left out in the cold.

The banking industry was also there that night, of course, since this legislation is a bonanza for them too, revolutionizing the kinds of services that banks can offer.

Citigroup was there, and so was the presence of the more than $720,000 that Citigroup and its executives and subsidiaries gave in soft money to the political parties in the 1998 election cycle.

That is a huge sum, Mr. President, especially for an election cycle in which there was not even a presidential election.

And in the current election cycle Citigroup is off to a running start with $293,000 in soft money from Citigroup, its executives and subsidiaries.

That is more than $1 million from Citigroup, it's executives and subsidiaries in just two and a half years.

The powerful banking interest BankAmerica, its executives and subsidiaries also weighed in with more than $347,000 in soft money in the 1998 election cycle, and more than $40,000 already in the current election cycle.

And let's not forget the insurance industry. They have a massive stake in this legislation as well, an interest that is well-reflected by the size of the industry's soft money contributions.

For instance, there is the Chubb Corp and its subsidiaries, which gave nearly $220,000 in soft money contributions in 1997 and 1998, and has given more than $60,000 already in 1999.

Then there is the industry lobby group, the American Council of Life Insurance, which also gave heavily to the parties with more than $315,000 in soft money contributions in 1997 and 1998, and more than $63,000 so far this year.

In the end, what do all these contributions add up to? They add up to tremendous access to legislators and broad influence over the process by which this legislation was crafted—access and influence that the average consumer can't even begin to imagine, let alone afford.

This is a serious problem, and I think everyone in this Chamber knows it.

The American people certainly know it.

They think our votes are on the auction block, and who can blame them.

Who can blame them, and more than that, who can show them why they should think otherwise?

That is a question I ask my colleagues, and I think we all know the answer.

Mr. MIKULSKI. Mr. President, I rise today to oppose the Financial Services Modernization Conference Report.

While I oppose this legislation, I strongly commend the work of my senior colleague Senator SARBANES. Because of his efforts, this bill is far better than previous versions. It does more to help low and moderate income and minority Americans to have access to capital, credit and financial services. Senator SARBANES also improved the privacy provisions of this bill.

Despite the significant improvements Senator SARBANES fought so hard for, there are still a number of what I call ''yellow flashing lights'' or warning signals that force me to oppose this legislation.

First, I am concerned that if we relax the laws about who can own and operate financial institutions, an unhealthy concentration of financial resources will be the inevitable result. The savings of the many will be controlled by the few. If we relax banking regulations in this country, Americans will know less about where their deposits are kept and about how they are being used.

Marylanders used to have savings accounts with local banks where the teller knew their name and their family. We have already seen the trend toward mega-mergers, accompanied by higher fees, a decline in service, and the loss of neighborhood financial institutions. This bill accelerates that trend.

With a globalization of financial resources, the local bank could be bought by a holding company based in Thailand. Instead of the friendly teller, consumers will be contacting a computer operator in a country half-way around the globe through an 800 number. Their account will be subject to financial risks that have nothing to do with their job, their community, or even the economy of the United States. I know impersonalized globalization is not what banking customers want when we talk about modernization of the financial services.

Second, I am concerned that complex financial and insurance products will now be sold in a cluttered market by untrained individuals. Investment and insurance planning for families is a very important process. These are some of the most important decisions that families make. They should be made with the assistance of certified professionals—whom the family can trust. By breaking down these fire walls and allowing various companies to offer insurance and complex investment products, we run the risk that consumers will be confused, defrauded, and treated like market segments and not individuals with unique needs and goals.

Third, I am concerned about the privacy provisions in this legislation. While the bill offers some privacy protections for consumers, such as requiring financial institutions to provide

customers with notice of its privacy policies, it does not go far enough. There are several loopholes in the bill that will allow for the sharing of private information among private institutions. Customers cannot object to having that information shared in those circumstances and there are no restrictions on the kind of detailed personal information that can be shared. Imagine the problems that could arise if insurance providers could scrutinize your credit card purchases. Protecting personal information is one of the issues that matter most to the American people—and this bill does not speak to their concerns.

Finally, the bill does not have the safeguards we need against bank failures. Banks will now be venturing out to engage in new and risky industries. If a bank fails during one of those ventures, thousands of people and businesses who have worked hard and invested their money with that bank fail too. Let's not forget about the taxpayers who will be left to pick up the pieces. These failures could set off a chain reaction and threaten the stability of our entire economy.

Mr. President, I am not opposed to a necessary reform of our financial services laws. But I believe the American people need greater protection before a global financial plan is enacted.

Mr. HARKIN. Mr. President, I oppose this conference report. There are a number of important and positive elements in the measure that provide for improvements in the regulation of financial institutions that will better enable us to assure for the soundness of our financial institutions. More could have been done in that area. But, there are clear improvements. There are provisions which help small banks and small insurance companies acquire additional resources that are important to their ability to compete, to help their customers and useful to economy in their local areas. And, in a world marketplace, American institutions should have the resources needed to compete in that marketplace.

Unfortunately, these positive steps are outweighed by the negative impact the bill will have on the privacy rights of Americans. Under this legislation, banks, insurance firms, and credit card agencies that are owned by the same mega-corporation can share a consumer's personal information. What kind of stock do you own? What information can be acquired from your credit card statements? When do your CD's mature? And, I fear, that information about a customer's health might also become available to those in a company who might decide if a customer is to get a loan or not get a loan. Do we want any possibility that a loan officer might have access to information about the medical condition and other private medical matters of a loan applicant without the customer's permission? I believe that this bill should have clearly provided solid protections in these areas. Unfortunately, these are the kinds of things that could happen if this measure becomes law.

The measure does not even allow a customer to say No, I do not want any information picked up from my bank account or from records with the insurance company which is a part of a larger financial institution to be shared by any other part of a financial institution. If a customer wants information shared because that customer believes that he or she would be helped by one stop shopping for financial activities, fine. Let that customer waive rights to privacy by signing an appropriate form. But, the basic right to block information collected by a company from being shared by other parts of a company is not in this bill.

There is an ability to say that you do not want the financial entity to simply sell the information. But, I understand that under this bill, your financial institution can share information they have acquired from your various accounts with other companies that they have entered into certain types of marketing agreements.

Computers have great advantages. They increase the efficiency of our economy. But, they can store huge amounts of information about a person's private habits and circumstances. In this age where we have an explosion in the amount of information that is collected about people, I believe it is essential that we erect strong barriers that prevent the passage of personal information without a person's permission.

I am also concerned about the weakness in the bill concerning the Community Reinvestment Act. We need to keep the burdens of paperwork down, particularly for small banks. But, we also need to provide for effective teeth in the requirement that banks provide proper financial assistance to all parts of their service area. And, this bill falls short in that area.

Mrs. BOXER. Mr. President, although I am a longstanding supporter of financial services modernization, I will vote against S. 900—the Financial Services Modernization bill. I am concerned that this bill does far too little to ensure the privacy of individuals.

Over the past three or four years we have seen an explosion of mergers in the financial services industry. Citibank and the Travelers Group merged. And in my home state, BankAmerica—California's biggest bank—merged with NationsBank. All of these mergers, in my home state and elsewhere, will undoubtedly have a major impact on consumers. And while we do not know what that impact will ultimately be, I believe we do know it will impact our privacy. Why?

Although most Americans believe their financial data is private, they are wrong. In fact, current law allows banks to do basically whatever they want with the personal information they collect from their customers in the course of doing business. Banks can provide a consumer's name, address, account balance, payment history, even his account number and social security number to their affiliates. And they can sell that information to third parties without even notifying the customer whose information has been sold.

Given that banks already share and sell the personal information of their customers, why then do I oppose this bill? I oppose it because I believe the bill will heighten the existing problem.

Mr. President, S. 900 will heighten the problem because, as noted by Robert Scheer in a November 2 Los Angeles Times editorial, ''. . . [the bill] allows banks, insurance and brokerage firms to merge not only their equity but also the vast accumulation of computerized records on consumers' buying habits, health treatments, investments and credit history.''

The tearing down of walls that now exist between banks, insurance firms, and securities firms, in this highly technological and computerized era, means the information now being shared will expand exponentially. There will be more information to share, more comprehensive information to share, and more people with whom to share it and to whom to sell it.

Privacy rights are most vulnerable in the information age. And while I realize we cannot turn back the clock, I do believe we as policy makers can and should provide some parameters for the sharing and selling of personal information. Unfortunately, despite all of the talk of self regulation, financial institutions provide little if any privacy protections. The legislation before us does nothing to improve this situation.

Finally, I understand that many financial institutions have complained that stronger privacy protections in the context of financial services modernization are unworkable, too costly to implement, and will, in part, defeat the purpose of allowing banks, insurance companies, and brokerage firms to affiliate. I reject these arguments for two specific reasons.

First, at least one large U.S. financial institution offers its European customers the kinds of privacy protections it contends it cannot offer its U.S. customers. In 1995, that institution agreed to allow their German customers to ''opt-in'' to having their non-public financial information shared with other companies.

Second, it is the current policy of some U.S. financial institutions not share their customers' personal information without first getting the permission of those customers or allowing those customers to ''opt-out'' of such sharing. And those institutions, American Express and U.S. Bancorp among them, apparently have not found such policies overly burdensome or competitively disadvantageous.

In closing, proponents of this legislation suggest the privacy provisions included in the bill are sufficient. Indeed, some have suggested the privacy provisions contained in this bill are historic.

And although some small steps have been made, like the notice provision which requires financial institutions to tell customers about their policies for disclosing nonpublic personal data and the provision which prevents stronger state consumer privacy laws from being pre-empted, I believe the steps are far too small.

I wish I could support this bill. As I said at the outset, I am a longstanding supporter of financial services modernization. I do not believe, however, the privacy of consumers should be, or need be, sacrificed for such modernization.

Mr. BENNETT addressed the Chair.

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

Mr. BENNETT. Are we in a quorum call?

The PRESIDING OFFICER. No, we are not.

Mr. BENNETT. I seek recognition then.

Mr. GRAMM. Mr. President, I yield 5 minutes to the distinguished Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. I thank the chairman of the committee.

I rise with my fellow members of the committee to express my delight at this particular piece of legislation and the fact that we have come to where we are.

I take note of the work of Geoff Gray, Linda Lord, Wayne Abernathy, and other members of the committee staff who have provided such tremendous support for this. They have been available not only to the chairman but to members of the committee as well in a way that has been tremendously helpful. I make that acknowledgment of their contribution.

I will focus for just a moment on the issues of privacy. Most of the other issues relating to this bill have already been aired and discussed. I don't need to add to that. But I have paid a lot of attention to the whole privacy issue for the last 3½, 4 years, primarily because of my interest in medical confidentiality. I am the prime sponsor of the bill relating to confidentiality of medical records and, frankly, have had quite an education in the whole privacy area as a result of that.

We are in a new world. That has become a cliche but, as with most cliches, it happens to be true. We are in a new world now where information is available at a level and a quantity that has never been the case before. Those who complain about this and want to go back to the anonymity of the pre-electronic age are wishing for something that is simply not going to happen. Those who call themselves ''privacy advocates,'' who have attacked certain portions of this bill, are wishing for a world that is long gone.

The only question now with respect to the information that is available to us is not will it be available but, rather, how will it be responsibly used. One of the things that many of the privacy advocates ignore is the reality of the marketplace. Having been a businessman prior to coming to the Congress, I want to talk about that for a minute. The privacy advocates think Government must intervene on behalf of the consumers against rapacious businesses that would somehow use the information available to them in a way to do damage to those consumers. I suppose there are some businesses that might be so foolish as to do that, but the vast majority of businesses recognize that the only way they survive is on repeat business, and the only way they get repeat business is to keep their customers happy.

I remember, during the hearings, Congressman MARKEY raised some specters and gave us examples of abuses that banks had made of credit card information of some of their customers. I made the comment there, and I will repeat it here: If a bank did to me what Congressman MARKEY accused a bank of doing to one of its customers, I would change banks. I can solve the problem on my own very quickly. I don't need the Government to step in in that situation to protect me.

Furthermore, the bankers I deal with, such as the retailers and others that want to sell me something, are very anxious not to offend me. They are very anxious to keep me happy. So if they start using this information that they have, as a result of the information age, in a way to service my needs better, they are going to keep me happy. If Government interferes with their ability to do that, Government will get in the way. On the other hand, if they—that is, the banks—use this information in a way I don't like, they jeopardize our relationship, and they jeopardize my business.

We must understand here in the Congress that customers are not the captives of the business and banking organizations that depend upon them for revenue. Customers are the reason for their existence, and customers, consequently, truly are king. That is another cliche that a lot of people who haven't been in business don't understand, but it is true. The customer is king. If you do anything that violates your trust with the customer, you are going to pay for it, and you are going to pay for it in real dollars.

So I believe the balance that has been struck in this bill to provide the right amount of privacy protection is the correct balance, and I think we must take some time and see how it works out in the real world of real commerce before we panic and say we must pass further Federal regulations.

With that, I record my approval of the work of the chairman and the ranking member with respect to the conference and all of the difficulties connected therewith, and say this is a historic day that we are finally reaching after many, many years of wrangling on this subject.

I yield the floor.

SECURITIES TRANSACTIONS

Mr. LEVIN. Mr. President, I thank Senator SARBANES for entering into this colloquy with me during consideration of the conference report to the financial services modernization bill, S. 900. This is an important bill which will bring our nation's regulatory structure up to date with the many changes that have taken place over the past several decades regarding the activities of banks, securities firms, and insurance companies.

Mr. SARBANES. I agree with my colleague. The regulatory structure for banks, securities firms, and insurance companies has not kept apace of the new activities in which these entities have been able to take part.

Mr. LEVIN. As I understand it, S. 900 will, among other things, make changes to the Glass-Steagall Act which separates banking and securities business so that banks and their affiliates will be able to take part in securities transactions from which they were previously prohibited.

Mr. SARBANES. The Senator is correct. This is one of the fundamental aspects of this legislation.

Mr. LEVIN. During Senate consideration of S. 900, I was concerned with the ability of banks, securities firms, and insurance companies to enter into these new activities, and how these new activities would be regulated and by whom. In particular, I was concerned with how the securities activities of banks would be regulated. In the original version of S. 900 there were loopholes which allowed the securities activities of banks to go unregulated by the Securities and Exchange Commission. I felt that these loopholes should be closed. I believe that it makes the most sense for the regulators who have the most experience in securities transactions, namely the SEC, to oversee these activities.

Mr. SARBANES. The Senator is correct. Under current law, banks are exempt from SEC regulation as brokers and dealers. The original version of S. 900 would have maintained this exemption and would have allowed banks to conduct a large range of securities transactions outside SEC regulation.

Mr. LEVIN. It is for this reason that I sponsored, with the support of Senator SCHUMER, an amendment to S. 900 which stated the following: ''It is the intention of this Act subject to carefully defined exceptions which do not undermine the dominant principle of functional regulation to ensure that securities transactions effected by a bank are regulated by securities regulators, notwithstanding any other provision of this Act.'' This amendment was agreed to during Senate consideration of S. 900. Senator SARBANES, as ranking member of the Senate Banking Committee, is it your understanding that the conference report upholds the approach which I sought in my amendment?

Mr. SARBANES. Yes, the conference report does uphold your approach.

Mr. LEVIN. I thank the Senator. Meaningful oversight by the SEC of securities transactions by banks is critical to the financial health of our economy. Functional regulation will help to ensure that confidence in our financial system continues.

Mr. President, I have a copy of a letter from the Chairman of the Securities and Exchange Commission Arthur Levitt to Senate Banking Chairman PHIL GRAMM in which Chairman Levitt ''enthusiastically support(s) the securities provisions contained in the (chairman's) Mark'' which eventually became part of the conference report. I ask unanimous consent that a copy of this letter be printed in the RECORD following this colloquy.

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

SECURITIES AND EXCHANGE COMMISSION,
Washington, DC, October 14, 1999.

Hon. PHIL GRAMM,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR GRAMM: As you know, the Securities and Exchange Commission has long supported financial modernization legislation that provides the protections of the securities laws to all investors. I believe that the changes to the securities laws contained in the proposed amendments to the Chairmen's Mark that we agreed upon today will significantly strengthen the investor protections of the bill.

With the approval of those amendments, which I understand you are distributing now, I enthusiastically support the securities provisions contained in the Mark.

I appreciate your willingness to work with us on these provisions to protect investors.

Sincerely,

ARTHUR LEVITT.

SECTION 711

Mr. DODD. Mr. President, I rise to engage in a colloquy with the chairman of the Banking Committee. As the Chairman is aware, some legitimate concerns have been raised over the potential burdens imposed by the reporting requirements contained in section 711.

Am I correct in stating that section 711(h)(2)(A) provides that Federal banking regulators shall ''ensure that the regulations prescribed by the agency do not impose any undue burden on the parties and the proprietary and confidential information is protected.''

Mr. GRAMM. Mr. President, the understanding of the Senator from Connecticut is correct.

Mr. DODD. Mr. President, I also inquire of the chairman of the Banking Committee whether I am also correct in stating that the statement of managers provides that ''the Federal banking agencies are directed, in implementing regulations under this provision, to minimize the regulatory burden on reporting parties. One way in which to accomplish this goal would be wherever possible and appropriate with the purposes of this section, to make use of existing reporting and auditing requirements and practices of reporting parties, and thus avoid unnecessary duplication of effort. The managers intend that, in issuing regulations under this section, the appropriate Federal supervisory agency may provide that the nongovernmental entity or person that is not an insured depository institution may, where appropriate and in keeping with the provisions of this section, fulfill the requirements of subsection (c) by the submission of its annual audited financial statement or its Federal income tax return.''

Mr. GRAMM. The understanding of the Senator from Connecticut is correct.

Mr. DODD. I thank the chairman for his cooperation in this matter.

EFFECTIVE DATE OF TITLE I

Mr. DODD. Mr. President, I rise to engage in a colloquy with the chairman of the Banking Committee. Mr. Chairman, the conference committee agreed to make the effective date of implementation of title I, except for section 104, 120 days from the date of enactment. We reached this decision to provide the regulators with an opportunity to implement this legislation effectively. Am I correct in stating that it is the intent of the conferees that title I become effective 120 days after enactment even if the agencies are not able to complete all of the rulemaking required under the act during that time.

Mr. GRAMM. Mr. President, the understanding of the Senator from Connecticut is correct. In addition, it should be noted that in some instances, no rule-writing is required. For example, new section 4(k)(4) of the Bank Holding Company Act, as added by section 103 of the bill, explicitly authorizes bank holding companies which file the necessary certifications to engage in a laundry list of financial activities. These activities are permissible upon the effective date of the act without further action by the regulators. The conferees recognize, however, that refinements in rulemaking may be necessary and desirable going forward, and for example, have specifically authorized the Federal Reserve and the Treasury Department to jointly issue rules on merchant banking activities. If regulators determine that any such rulemaking is necessary, the conferees encourage them to act expeditiously.

SECTION 731

Mr. GRAMS. Mr. President, I ask Senator GRAMM, in his capacity as chairman of the Senate Banking Committee and one of the chief authors of the Gramm-Leach-Bliley Act that is before us today, to clarify a point about section 731 of the act. Is it correct that section 731 is not intended to affect banks whose home office and authorized branch offices are not located in the State described?

Mr. GRAMM. Mr. President, that is correct.

Mr. GRAMS. Mr. President, I also inquire whether it is also Chairman GRAMM's understanding that, notwithstanding section 731, national banks with interstate offices are in all events authorized under section 85 of the National Bank Act, as confirmed by the United States Supreme Court case, *Marquette National Bank* v. *First of Omaha Service Corp.*, 439 U.S. 299 (1978), to export the interest rates of the State where their home office is located?

Mr. GRAMM. Mr. President, that is my understanding. I would add that national banks are also entitled to charge the rates of the host State of the interstate branch, as authorized by interpretations of the Comptroller of the Currency, where there is some nexus between the hose State and the loan.

SECTION 507

Mr. MACK. Mr. President, I rise to engage in a colloquy with my good friend Senator GRAMM, chairman of the Committee on Banking, on section 507 of the Financial Services Modernization Act of 1999. I want to confirm that section 507 is intended to apply only to the amendments made by subtitle A of title V of the bill, and that section 507 is not to be construed, under any circumstances, to apply to any provision of law other than the provisions of subtitle A. For instance, subtitle A of title V relates only to disclosure of nonpublic personal information to nonaffiliated third parties. This means that section 507 of the bill does not supersede, alter, or affect laws on the disclosure of information among affiliated entities. In particular, section 507 does not supersede, alter, or affect the provisions of the Federal Fair Credit Reporting Act (or FCRA) regarding the communication of information among persons related by common ownership or affiliated by corporate control, nor does section 507 supersede, alter, or affect the existing FCRA preemption of state laws with respect to the exchange of information among affiliated entities. I yield to my friend.

Mr. GRAMM. Mr. President, the understanding of the Senator from Florida is correct. Section 507 is intended to apply only to subtitle A of title V of the bill, and is not to be construed to apply to any provision of law other than the provisions of the subtitle. Thus, section 507 does not affect the existing FCRA provisions on that statute's relationship to state laws.

SECTION 502(b)

Mr. CRAPO. Mr. President, I respectfully request of the chairman that we engage in a colloquy regarding section 502(b), which describes the opt-out notice required by subtitle A.

I would like to clarify that a financial institutions' obligation to send an opt-out notice under this subtitle is satisfied when it has complied with notification requirements regarding privacy policies and practices under section 503, and the consumer is further given the right to direct that their non-public personal information not be disclosed to non-affiliated third parties. A separate opt-out notice need not be provided for each third party disclosure, provided that the consumer receives a prior clear and conspicuous

opt-out opportunity covering third party disclosures generally.

Mr. GRAMM. Mr. President, the interpretation of the Senator from Idaho on this point is correct. The intent of section 502 is to assure that consumers receive clear and conspicuous notice of a financial institutions' privacy policies and practices, and to assure that consumers can direct that their nonpublic information not be disclosed to third parties. So long as consumers receive a notice that gives them a clear choice about whether or not that nonpublic personal information can be transferred to non-affiliated third parties, the opt-out choice need not be provided separately for each disclosure of such information.

INSURANCE COMPANY INVESTMENTS

Mr. BENNETT. Mr. President, I rise to engage the distinguished chairman of the Banking Committee in a colloquy on the ability of insurance companies to make investments that are treated as ''financial in nature'' under this legislation even though the investments are made in companies that are not engaged in financial activities.

Am I correct that overlap between board members and officers of a financial holding company and a portfolio company in which an insurance company has an investment is not intended to result necessarily in a determination that the holding company routinely manages or operates the portfolio company? Or to state this intention another way, the existence of routine holding company management or operation is to be based upon an assessment of actual holding company involvement in day-to-day management and operations of the portfolio company, rather than board member or officer overlaps.

Mr. GRAMM. Mr. President, the understanding of the Senator from Utah is correct.

Mr. BENNETT. Mr. President, I also inquire of the distinguished chairman of the Banking Committee whether I am also correct that the exception under which a holding company may routinely manage or operate a portfolio company when necessary or required to obtain a reasonable return on investment is intended to apply to an investment in a company that has been generating a below average rate of return on investment either at the time the holding company becomes a bank holding company or that generates a below average rate of return at a subsequent time?

Mr. GRAMM. Mr. President, the understanding of the Senator from Utah is also correct.

Mr. BENNETT. Mr. President, finally, I would inquire whether I am correct that, consistent with the principle of functional regulation applied throughout this legislation, the determination whether an investment made by an insurance company is made in the ordinary course of business in accordance with relevant state law should be made by the insurance authority of the state in which the insurance company is located.

Mr. GRAMM. Mr. President, yes, the Senator's understanding is correct.

Mr. BENNETT. Mr. President, I thank the Chairman.

SECTION 502(d)

Mr. HAGEL. Mr. President, will the chairman of the Banking committee yield for a few questions?

Mr. GRAMM. Mr. President, I yield to the vice chairman of the Financial Institutions Subcommittee.

Mr. HAGEL. Mr. President, I inquire of the chairman with respect to the provision in section 502(d) that prohibits the sharing of customer account numbers with non-affiliated third parties for marketing purposes, is it the intent that the third party be able to receive customer account number upon approval by the customer?

Mr. GRAMM. Mr. President, yes, that is correct.

Mr. HAGEL. Mr. President, I also inquire of the chairman whether, in fact, it is his expectation that the regulators will use their broad exemptive authority given in the legislation to allow for sharing encrypted account numbers if the customer has given his or her authorization?

Mr. GRAMM. Mr. President, yes, that is true.

Mr. BENNETT. Mr. President, would the chairman please yield to me for a question?

Mr. GRAMM. Mr. President, I would be happy to yield to the chairman of the financial Institutions Subcommittee.

Mr. BENNETT. Mr. President, I inquire of the distinguished chairman of the Banking Committee whether the managers felt so strongly that they chose to highlight this exemption for encrypted account numbers in report language. We would hope the regulators would use this exemptive authority. Isn't that true?

Mr. GRAMM. Mr. President, Yes.

Mr. HAGEL. This commonsense approach is consistent with consumer choice and with the customer privacy. We expect the regulators to use their exemptive authority to allow legitimate business practices that safeguard customer financial information to continue to operate and provide customers with greater choices of products and services.

SECTION 401

Mr. BENNETT. Mr. President, I rise to engage in a colloquy with the distinguished chairman of the Banking Committee. It is my understanding that section 401 of the Gramm-Leach-Bliley Act is intended to prohibit acquisitions of grandfathered unitary thrift holding companies by commercial companies. Section 401 is not intended to prohibit acquisitions of grandfathered unitary thrift holding companies by companies that, immediately prior to the acquisition, engage only in the activities permissible for financial holding companies. Is that correct?

Mr. GRAMM. Mr. President, the understanding of the gentleman from Utah is correct.

Mr. BENNETT. Mr. President, I also seek clarification of the chairman of the Banking Committee that section 401 of the Gramm-Leach-Bliley Act is not intended to limit or otherwise affect the powers and authorities of grandfathered unitary thrift holding companies after such companies are acquired by companies that, immediately prior to the acquisition, engage only in the activities permissible for financial holding companies. Is that correct?

Mr. GRAMM. Mr. President, the understanding of the gentleman from Utah is correct.

Mr. GORTON. Mr. President, will the chairman yield to me for a question?

Mr. GRAMM. Mr. President, I would be happy to do so.

Mr. GORTON. Mr. President, it is my understanding that, under section 401 of the Gramm-Leach-Bliley Act, the Office of Thrift Supervision has the authority to prevent evasions of the unitary thrift holding company grandfather provisions of the act. Will the chairman tell me if that is correct?

Mr. GRAMM. Mr. President, that is correct.

Mr. GORTON. Mr. President, there is a long-standing body of law that addresses the issue of when an acquisition or change in control of a savings association or thrift holding company occurs. Is it intended that the Office of Thrift Supervision would apply to existing body of law to determine if an evasion has occurred?

Mr. GRAMM. Mr. President, in response to my colleague, let me state that section 401 is intended to authorize the Office of Thrift Supervision to prevent evasions through actions that are consistent with the statutory, regulatory and interpretive provisions governing acquisitions or changes in control of savings associations and thrift holding companies that were in effect on the grandfather cut-off date, May 4, 1999.

TITLE V

Mr. ALLARD. Mr. President, I wish to engage my esteemed colleague, Senator GRAMM, in a brief colloquy to clarify two items pertaining to title V, subtitle A. First Mr. President, is it Chairman GRAMM's understanding that the term ''nonpublic personal information'' as that term is defined in section 509(4) of title V, subtitle A, applies to information that describes an individual's financial condition obtained from one of the three sources as set forth in the definition, and by example would include experiences with the account established in the initial transaction or other private financial information?

Mr. GRAMM. Mr. President, that is my understanding.

Mr. ALLARD. The second item relates to an amendment to the Fair Credit Reporting Act, ''FCRA'' in 506(b) of title V, subtitle A. Mr. President, it is my understanding that striking the FCRA's outright prohibition on various agencies drafting trade regulation rules or other regulations is intended to allow for these agencies to fulfill

their mandate under this title to issue regulations. The deletion leaves the law silent on the issue of agencies issuing regulations outside of this title, and it should not be construed to mean that an agency now has a mandate to issue any such regulations. Mr. President, does the distinguished chairman of the Banking Committee, Mr. GRAMM, share this view of the provision?

Mr. GRAMM. Mr. President, I agree with Senator ALLARD's assessments on these points.

Mrs. FEINSTEIN. Mr. President, I rise to support the Financial Services Modernization Act. I would like to explain why I will vote in favor of this conference bill, but I also want to discuss one area where I feel this legislation falls significantly short—privacy. The financial modernization bill deserves the support of this body for several reasons:

(1) First, it reforms our antiquated financial services laws. By allowing a single organization to offer any type of financial product, the bill will stimulate competition and innovation in the banking, securities and insurance industry. It will increase choice and reduce costs for consumers, communities and businesses. According to Secretary Summers, Americans spend over $350 billion per year for fees and commissions for brokerage, insurance and banking services. If increased competition yielded savings to consumers of even 5 percent, they would save over $18 billion per year.

(2) By removing the barriers to competition, the act will also enhance the stability of our financial services system. Financial institutions will be able to diversify their product offerings—and therefore their sources of revenue. They will also be better able to compete in the global financial marketplace, which is rapidly changing. Though U.S. banks still maintain some of the highest numbers in assets, they no longer rank the highest among the world's top banks in profitability. The financial services modernization bill gives U.S. financial institutions the flexibility and expanded powers to stay competitive in the changing market.

(3) The conference bill benefits Americans communities by preserving the Community Reinvestment Act. I am pleased to see that the act requires that banks maintain a good track record in community reinvestment as a condition for expanding into newly authorized businesses. This is the first time that a bank's rating under the CRA will be considered when it expands outside of traditional banking activities. I am also happy to see that the act applies CRA to all banks without exception.

Despite these merits, there is one issue of great concern to many Californians and many Americans—the lack of privacy provisions in the legislation. As my colleagues know, financial institutions are currently permitted to document, profile, and sell our most personal financial information. Financial institutions share and sell social security numbers, addresses, information about what stocks we own, what checks we write, what we charge on our credit cards and how much money we have in the bank. All of this without the knowledge or permission of their clients. I believe Americans should have the opportunity to prohibit a financial institution from sharing or selling this personal financial information.

The bottom line is simple: Bank customers should have the final say in whether their bank sells or even shares their personal financial information. Regardless of whether that information is being shared with a financial institution within a bank's shareholding company or with a third party. The consumer should decide who has access to this personal information. According to an October 21st USA Today article, U.S. Bancorp sold customer information to a telemarketer membership program. U.S. Bancorp customers began complaining that they were billed for marketing services they never agreed to. According to the lawsuit against U.S. Bancorp, the bank's customers say they were never even contacted by the marketing service before the charges appeared on their statements.

In one case, the suit says, a 90-year-old woman who had been a customer of U.S. Bancorp for more than 50 years was billed for a program that offers discounts on computer products. The woman didn't own a computer. Before she died, she tried for 11 months to get the telemarketing firm to remove the charges from her credit card account. The legislation does not do enough to prevent this type of problem. In another example, the Los Angeles Times reports that a small San Fernando Valley bank unknowingly became the accessory to a huge credit card scam. The bank sold 3.7 million credit card numbers to a felon, who then allegedly bilked cardholders out of millions of dollars.

Under the act, people applying for a mortgage will have no say over who has access to their personal financial data. If a person has been treated for an illness and paid for their medical tests with their credit care or personal checks, that individual's bank and mortgage company will share this information, without the knowledge or consent of the client. Tax information, insurance information, and records of medical tests they have purchased will be fair game for financial institutions. This sensitive information should be kept private—not shared between banks, insurance companies, and securities firms.

For 66 years—since the Glass-Steagall Act was enacted after the Depression—a boundary has existed between banks, insurance companies, and securities firms. This bill breaks through that wall, by allowing financial entities to merge. This change, while beneficial to the industry, should not come at the expense of the consumer. Industry groups are opposed to privacy provisions—and go so far as to say that privacy provisions could make it tougher for them to fight fraud. It's no surprise they feel this way, considering banks typically get 20-to-25 percent of the revenue generated by the marketer. But a handful of financial companies already allow customers to restrict the use of private information—and it doesn't seem to be hurting them. American Express sends customers a notice once a year, asking customers if they want to receive product offers from American Express or outside merchants. Even if customers want the offers, the company never gives detailed information about a transaction history. If American Express can protect its customer's privacy, why can't all financial institutions?

The conference bill includes only a weak privacy provision allowing customers to say no to their bank's disclosure of information to third parties—such as telemarketers. I think this is a serious flaw in an otherwise very good bill. In fact, the language adopted by the conference authorizes financial institutions and third parties to enter into joint marketing agreements that would allow them to skirt the opt-out requirement. And the bill intentionally does not restrict the sharing of private financial information among a financial institution's affiliates. I hope my colleagues will work with me in the future to see that Americans' privacy is better protected.

The Financial Services Modernization Act makes the most important legislative changes to the structure of the U.S. financial system since the 1930s. I believe the bill is good for the U.S. economy as well as our ability to compete in global financial markets. Despite my reserves about the privacy provisions in the bill, I support S. 900, and urge its adoption by my colleagues.

Mr. KERRY. Mr. President, I express my genuine appreciation to all the members of the Senate Banking Committee for their hard work, commitment and dedication to resolving the tough and contentious issues surrounding the conference report that we are considering today. It is no exaggeration to suggest that this conference report represents more than 15 years of hard work and perseverance in tackling one of the most important issues in the new economy.

I support the conference report. However, I do so with some reservations about the way the final product was developed and because it does not include a number of important consumer protection provisions. For example, the legislation will pre-empt important state legislation prohibiting certain predatory lending practices that result in poor, vulnerable, elderly homeowners being bilked out of thousands of dollars or, in some cases, losing their homes.

However, I believe enactment of financial modernization is a critical first step toward breaking down barriers to allow financial services companies to provide better services at lower costs to consumers and to help insure American dominance of global finance in the 21st Century.

As we all know, breaking down the walls that separate commercial banking from the insurance and securities industries is of enormous importance to the future of the financial services industry, which has undergone an immense transformation in recent years. Dramatic changes in technology along with historic mergers, consolidations, and acquisitions have reordered the structure of the financial services industry and made the statutory distinctions that have existed in the law until today less and less relevant in the real world.

As a result of these changes, large corporations have begun bypassing traditional financial institutions and accessing capital markets directly. Many large corporations now meet their funding needs by issuing commercial paper, rather than by borrowing from banks. Banks and thrifts are also experiencing increased competition from non-banking institutions that offer a range of financial products and services. During this time, commercial banks have been unable to provide consumers with a number of important financial products and services.

The conference report that the Senate is considering today repeals the Glass-Steagall Act, which has separated banks from securities firms since the 1930s. It also repeals a similar provision that has separated banking and insurance. It will permit the creation of new financial holding companies that could offer banking, insurance, securities and other financial products.

I am very pleased that the Treasury Secretary Summers and Federal Reserve Bank Chairman Alan Greenspan have come to an agreement on the operating subsidiary issue that was included in the conference report. Banks will now be able to choose the corporate structure under which to conduct new non-banking activities—either through an operating subsidiary or through an affiliate. The bill would allow operating subsidiaries to engage in merchant banking activities, but only if the Federal Reserve and the Treasury jointly agree that the activity is permissible. A bank would have to be well capitalized and well managed after deducting its equity investment in an operating subsidiary from its capital in order to take advantage of these new activities. I believe that this compromise will let banks choose their own operating structure and will help maintain safety and soundness in our financial system.

The operating subsidiary provisions also include language that would retain state authority over state chartered bank subsidiaries. Section 121(d)(1) of the final bill provides that nothing in Section 46(d) supersedes the current authority of the FDIC over bank subsidiary activities under Section 24 of the Act. The provision recognizes that, consistent with current and proposed rules of the FDIC, investment authorities of state-chartered bank subsidiaries are not to be restricted to any greater extent that those authorized for a state bank itself. More particularly, in several states, including Massachusetts, state banks have a long history of exercising limited authority to invest in common stocks either directly or through wholly-owned subsidiaries. The FDIC has acknowledged and approved such investment authority through so-called investment subsidiaries. It is my understanding that the newly added Section 46(d) acknowledges and preserves that authority and does not contemplate imposition of additional regulatory requirements or impediments.

I am also glad that the conference report will permit financial institutions to engage in merchant banking activities. This will allow banks to invest in small companies for the purpose of appreciating and ultimately reselling the investment. The merchant banking provisions limit the day-to-day management of companies by financial institutions and the duration of the investment. I am hopeful that these new powers will allow banks to provide more capital for small businesses, which have been leading contributors to the economic growth of our country.

The conference report includes an important limitation on banking and commerce which eliminates the ability of commercial firms to form new unitary thrifts unless they had owned or had applied to own a unitary thrift by May 4, 1999. Under the conference report, current unitary thrift holding companies and their savings association subsidiaries would be able to continue their normal activities. However, future sales of unitary thrift holding companies would not be allowed to commercial firms. Sales would be limited only to financial holding companies.

Building this fence around financial firms to keep them largely isolated from joint ownership with commerce and industry is an extremely important safeguard in this legislation. My first priority as member of the Senate Banking Committee is to maintain the safety and soundness of our financial system to insure that American taxpayer funds are not necessary to bail out our financial institutions. However, we are now in an era in which banks and other firms are becoming ''too big to fail'' where the government will intervene if its collapse would cause a major harm to the economy. With the enactment of this legislation, banks, insurance and securities conglomerates will grow even larger and more intertwined. The failure of any one of these new conglomerates could disrupt our financial system and risk a taxpayer-funded bailout that would dwarf the savings and loan payout. For example, recently the Federal Reserve Bank felt compelled to rescue the Long Term Capital, a hedge fund, even though it was not a federally insured bank.

That is why I strongly supported including a provision that would have required large banks to back some portion of their assets with subordinated debt. Holders of this type of debt would have a strong incentive to monitor each financial institution's level of risk to protect their investment. This approach could also serve as an early warning signal for regulators of banks that are engaged in risky activities. Unfortunately, this requirement was reduced to only a study. I will be working with my colleagues and with federal regulators to address this problem in the future.

I am also very disappointed that the conference report does not include acceptable language regarding mutual insurance companies. Many States currently have laws that restrict the hostile take over of a mutual insurance company that has recently converted to a stock insurer. However, the conference report allows these state laws to be preempted ''so long as such restriction does not have the effect of discriminating, intentionally or unintentionally, against an insured depository institution or an affiliate thereof * * *.'' I believe that this language, as currently written, would allow only banks whose takeover attempts were denied by a state insurance commissioner to litigate. The ability to litigate would not be extended to any other potential acquisitor.

This law means that any state restriction of a banking organization's attempts to takeover a demutualizing insurance company could be construed by a court as discrimination against the bank. I believe that this could lead to costly and time consuming litigation for every insurance company that attempts demutualization. Further, if a court were to fail to interpret the word ''discrimination'' narrowly, this new language could essentially end the important state preemption provision only in cases where a bank is the proposed acquisitor. It would not allow other potential acquisitors to litigate.

I am also very concerned about the provision included in the conference report that will allow mutual insurance companies to redomesticate to another state and reorganize into a mutual holding companies or stock companies. I believe that this provision will allow some mutual insurance companies to move to states without adequate consumer protections and could endanger policyholders during a conversion from mutual to stock form.

I am pleased, however, that the conference report includes the PRIME Act, which will provide an opportunity to lend a helping hand to those in need of financial aid and technical assistance so that they can fulfill their personal, family, and community responsibilities. Microenterprise development has

given many a chance to break the cycle of poverty and welfare and move toward individual responsibility and financial independence.

Specifically, the PRIME Act authorizes funding for technical assistance to give microentrepreneurs access to information on developing a business plan, record-keeping, planning, financing and marketing, which are crucial to small business development.

For example, PRIME would augment funds for valuable programs run by Working Capital, located in Massachusetts and a recipient of a Presidential Award for Excellence in Microenterprise Development in 1997. Working Capital currently offers a number of valuable programs to its microenterprise customers which could be augmented by additional funding under PRIME such as providing business credit to microentrepreneurs and providing business education and training on how to draw up business plans and prepare financial projections. These programs instruct microentrepreneurs on how to use these tools in managing their businesses. This type of assistance is crucial to the development of our low-income communities and throughout the United States.

I very much appreciate that the conference report includes a provision to repeal the Savings Bank Provisions in the Bank Holding Company Act. Section 3(f) was added to the Bank Holding Company Act in 1987 to provide a special grant of authority to savings banks, but court decisions and Federal Reserve Board interpretations now make it restrictive for many Massachusetts banks. Repeal of this provision will bring the treatment of Massachusetts savings banks in line with that of other financial institutions.

Mr. President, I also want to emphasize that although I strongly believe that we have to take this first step to toward modernizing our banking industry and although I will support this conference report, I remain committed to strengthening and improving consumer privacy protections and to encouraging greater community investment by financial institutions.

I believe that we can and must do more to safeguard the financial privacy of every American. Every American deserves to control his or her personal financial information. I am concerned that the changes in technology and in the marketplace have diminished every American's ability to safeguard his or her personal financial privacy. The conference report gives customers of financial services companies only limited control over their personal financial information. Customers will now have the right to object to their institutions' sharing their financial data with third parties and will require these institutions to provide notice to customers when they disclose financial information within an affiliate. Fortunately, the conference report does not preempt stronger state privacy laws.

I want to note for the RECORD that I supported stronger privacy protections that would have given every customer the right to see what financial information would be shared with affiliates or third parties. I also supported an opt-in standard for consumers whose financial institution provides their personal financial information to unaffiliated third parties. This provision was supported by 26 state Attorneys General and many others. I will be working with my distinguished colleagues including the Senator from Maryland Mr. SARBANES, as well as Senators BRYAN, SHELBY and others to work on strengthening safeguards to protect the privacy of every American.

All throughout the consideration of this legislation, from the very first meetings of the Banking Committee, through floor consideration and the conference negotiations, Congressional Democrats and the Administration have insisted that the Community Reinvestment Act must be allowed to grow and adapt to the new circumstances being created for the financial industry. Despite the most aggressive, uninformed, and sustained attack on that important law I have ever witnessed, I am happy to say that the new law will reflect this important goal.

The new law established that, as a precondition for any bank to exercise any of the new powers authorized by this legislation, either de novo or through a merger or acquisition, a bank must have a satisfactory CRA rating. This test will be applied each time a bank seeks to take engage in a new activity, so that a bank will have to, as a practical matter, both have and maintain a satisfactory CRA rating to take advantage of the new law. Prior to this agreement, a bank could start up a securities affiliate without any regard to its CRA rating, so this new law is clearly a step forward. That is why Reverend Jesse Jackson and the Local Initiatives Support Corporation (LISC) support the CRA provisions in the bill.

I understand and share the concerns of some of my colleagues who believe that the conference report does not go far enough. Certainly, the alternative that and my fellow Democrats supported would have been more acceptable. However, I believe that this legislation clearly meets the objective of ensuring that CRA remains a central part of every financial institution's operations into the next century.

The conference report would also require certain agreements between a bank and community groups made in connection with CRA to be fully disclosed and would reduce the frequency of CRA compliance exams for certain banks with less than $250 million in assets.

I am concerned that further attempts to weaken the Community Reinvestment Act will occur during the 106th Congress. Let me be absolutely clear: I will strongly oppose any attempts to weaken CRA in any manner whatsoever. CRA is a fundamental tool to insure that all creditworthy Americans, regardless of the neighborhood they live in, regardless of their race or circumstances, have access to the bank loans that are needed to buy a home or start a business. It is a law that breathes life into the rhetoric we all use extolling the virtues of equal opportunity. We cannot and must not return to the days of poverty and desperation borne of bank redlining in too many communities across the nation.

This conference report is far from perfect, but few compromises ever are. A product that represents more than 15 years of hard work and the debates of literally hundreds of individuals and disparate constituencies could hardly represent a perfect product to every side. This report is no different. But I will tell you, and I think almost all of us would agree that in the American system of free enterprise the interests of consumers and industry are best served if we permit competition as long as that competition is fair and does not give any industry or player an advantage over another. I believe that this legislation is an important step in facilitating that competition and it meets that test by allowing every American access to a broader group of financial services at a lower cost. We have a historic chance to provide meaningful financial services reform. I will support the conference report and I urge my colleagues to support it as well. And, remembering as I think we all should, that this legislation represents not an endpoint but a starting point, I would respectfully suggest that we all focus in the months and years ahead on the potential role this Senate can play in helping to create the environment in which financial services work to the best advantage of every American. Our goal should be nothing less.

Mr. GORTON. Mr. President, I expect the financial services modernization conference report will pass both the Senate and House with large majorities. I certainly understand the strong support for this sweeping legislation, though I must register my strong displeasure and firm opposition to the punitive unitary thrift charter provisions included in this measure. The language approved by the conference committee and favored by the Clinton-Gore administration unfairly, unnecessarily and without compelling reason eliminates and restricts existing authorities and powers of the unitary thrift charter.

I am proud to represent a state where the thrift industry is thriving. Washington state thrifts manage over $200 billion in assets. It may surprise some to learn that the largest unitary thrift in the nation, Washington Mutual, is headquartered in Washington state. One does not expect a financial institution of this size to be based in Washington. Though, knowing this fact, one should not be surprised to learn of my significant interest in how this legislation affects my largest financial institution constituent and a major Washington state employer.

I support virtually all of the conference report's modernization provisions: eliminating the 1933 barrier to the affiliation of banks, insurance companies and securities firms that will allow consumers greater choice at reduced costs; the compromise agreement reached between the Federal Reserve Board and Treasury Department on the regulation of operating subsidiaries; improving the Community Reinvestment Act; expending Federal Home Loan Bank provisions that will allow greater access for small business and farm loans; and the inclusion of privacy protections for consumers.

These provisions do contribute to the modernization of our nation's financial services industry from the Great Depression era laws under which they have been operating. These changes represent positive advances for the future. Such is not the case with the unitary thrift charter provisions. The unitary thrift language is regressive and punitive—a step backwards for financial modernization and a black-mark on an otherwise favorable bill. I sincerely regret that delusional fears about the non-existent and impossible mixing of banking and commerce under a unitary thrift charter have prevailed over fact and reason. Neither the FDIC or the primary regulator have identified any safety and soundness concerns during the three decade existence of unitary thrifts. Not one.

It is clear that this legislation unfairly treats Washington Mutual and other unitary thrifts, and for this specific reason I seriously considered voting against the conference report to protest the injustice of the unitary thrift provisions. After listening to and speaking with Chairman GRAMM to clarify the impact of the unitary thrift charter provisions, however, I concluded that I will support passage of the conference report. The unitary thrift provisions are completely contradictory to this legislation's goal of modernization, yet I find the clarifying statements of Chairman GRAMM to be of sufficient reassurance that I will not vote against this conference report.

Mr. MACK. Mr. President, I rise today in strong support of the conference report accompanying S. 900, the Gramm-Leach-Bliley Act of 1999. And I want to begin my remarks today by congratulating Senator GRAMM, my friend and the chairman of the committee. We would not be here without his hard work, dedication, and skillful negotiation and he deserves the lion's share of credit for the fine bill we have before us today.

We are making history here. It has been 66 years since Congress passed the Glass-Steagall banking act in the depths of the Great Depression. It has been at least twenty years since determined efforts began in the Congress to repeal this outdated law and modernize the country's banking code. Today—finally—we have come to the end of the road.

As we stand on the verge of passing this bill, we have a great view both backward and forward. We can see a past in which the country's financial services industry led the world despite an archaic code recognized by everyone to be insufficient. And we can look ahead into a future that offers the American financial consumer: New and innovative products, better choices, information and service, and workable regulations that allow our financial firms to compete in the global marketplace to an even greater extent than today.

This much-needed legislation modernizing our nation's banking laws is happening none too soon. I want to spend some time talking about the two reasons I believe we're here. The first is the transformation of our economy over the past 20 years, and by extension the remarkable changes in our financial services sector. And the second is the tremendous impact of the technological revolution on the banking industry.

We are currently in the eighth year of the longest peacetime economic expansion in our history. When you look at the data, there is only one conclusion to draw: we are now reaping the economic benefits of the hard decisions on economic fundamentals we made back in the 1980s. Under the leadership of President Reagan, we dramatically lowered marginal tax rates, began the rollback of burdensome and overlapping regulations, promoted openness to trade and investment around the world, lowered interest rates, and defeated the inflation menace that crippled our economic competitiveness. In the 1990s, Congress finally completed the job by producing the first balanced federal budgets in a generation.

You cannot overestimate the impact of these fundamental economic victories on the prosperity the nation is enjoying today. One of my biggest concerns, as I think about the history of this era, is people will be left with the impression that President Clinton's 1993 tax increases created this economic expansion. Nothing could be further from the truth. We must not forget the hard—and ultimately correct—decisions made on fundamental questions like taxes, regulation, interest rates, and inflation in the 1980s that freed up the marketplace and allowed American businesses to capitalize on their inherent advantages.

The country's financial sector has certainly shared in this prosperity. We have witnessed a revolution in the delivery of financial services during the 1990s as the traditional barriers between banking, insurance and securities began to come down. Freedom and our free enterprise system ensured that new financial products and alliance emanated from America to service the demands of the global economy. These products and alliance provide American businesses, investors, and consumers with the ability to secure more easily the capital they need to finance their hopes and dreams. As this new economic and financial dynamic became more clear, it was also apparent our existing banking code was outdated and in need of change.

As part of the new economy, it is hard to overstate the impact of the technological revolution on the financial marketplace. Earlier this year, during hearings on the bill before us, Chairman Greenspan noted the financial sector:

> . . . is undergoing major and fundamental change driven by a revolution in technology, by dramatic innovations in the capital markets, and by the globalization of the financial markets and the financial services industry.

Indeed, the financial marketplace is changing with lightning speed. In September, we held a high-technology summit at the Joint Economic Committee. One of those who testified before our committee was a twenty-nine-year-old entrepreneur who created an electronic stock trading network. Nine of these electronic trading networks make up about twenty percent of the NASDAQ market and are posing a serious challenge to more traditional stock exchanges and markets. Mortgages and traditional banking services are available over the internet. And anybody who watches television advertisements knows a new generation od web-based businesses are transforming the traditional image—and, incidentally, the fee structure—of stock brokers and stock trading. These businesses and the many others who have gone online to challenge the existing orthodoxy are prompting sweeping changes in the financial marketplace. And they are creating yet another imperative for this bill.

As the American financial industry seized on technological advances to lead the world into new financial markets and new financial products, they awoke from their long slumber of lobbying wars and turf protection and realized it was in everybody's best interest to pass this bill. If our financial firms are to lead and compete in the world marketplace, they must be able to compete from a position of strength. And they must compete from the foundation of banking laws that reflect the new realities of the world marketplace.

The end game on this legislation was by no means easy. During the eleven months we spent writing this bill, we had to continually strike careful balances between the broad, over-arching goals of the bill and the temptation to tinker with the marketplace and predetermine the shape of future financial products and services. The fast pace of change presents a difficult choice for policymakers. We are often too cumbersome in the Congress to lead, we can be irrelevant if we follow, and some among us believe it could be risky to get out of the way. In the face of this dilemma, some of our colleagues wanted us to anticipate every possible side-effect of this financial transformation and write the laws accordingly. This is just not possible, and the resultant regulatory burdens would have stopped this financial revolution in its tracks.

In the bill before us today, we tried to embrace the following principles:

First, banks, insurance companies and securities firms should be able to enter one another's business and create a financial dynamic for the next century;

Second, new banking products should be regulated by the regulator that knows them best.

Third, institutions should disclose to customers what they are doing with their sensitive personal information—both within and outside the financial firm. And customers should be able to stop these companies from sharing their information with third parties.

Next, new financial activities conducted through subsidiaries of banks should be conducted so as to ensure taxpayer guaranteed deposits are not threatened.

And finally, the burdensome regulations on banks with respect to community lending should not be increased as a result of what we're doing in this bill.

There are sensible guidelines and I'm satisfied we've created the basis here for a safe, sound and flexible financial industry that will serve the interests of American consumers, investors and businesses well into the future.

As I said at the beginning of my remarks, we are making history here. A hundred years from today, I believe the primary thing people will remember about this Congress is that we finally did the right thing and passed this bill.

Mr. President, I would like to conclude my remarks on a personal note. As I begin to recognize the reality that my service in the United States Senate will end in slightly more than a year, I find I am engaging in the occasional reflection.

During the last 12 years of my 18 years in the Congress, I served on the Senate Banking Committee—the committee responsible for writing and overseeing the laws of the land that regulate the banking and financial industry. This has been special to me because I spent the first sixteen years of my career in the banking business. It was work I enjoyed as the years went by. It was also work I found increasingly frustrating because of the stifling regulatory burden placed on banks by the federal government. It was for these and other reasons I left my position as President and LEO of my bank in Cape Coral, Florida and ran for the Congress.

I will not stand here today and claim the credit for the far-reaching and far-sighted bill before us today. My friend and colleague Senator GRAMM deserves the credit on the Senate side. I nonetheless feel a strong sense of pride and institutional accomplishment for the legacy we are leaving to the United States in passing this bill. It will benefit the people, the industry, and the economy as a whole and it is truly a document we can all be very proud of. I urge my colleagues to support the conference report

Mr. WYDEN. Mr. President, I have always been supportive of modernizing the outdated laws and regulations governing the financial services industry. It doesn't make sense to me to slap a regulatory straight-jacket on American financial companies and drive up costs for consumers while companies around the globe are able to compete unhindered by unnecessary barriers. It seems to me that you can't compete in a 21st century global financial market using a playbook that was written during the Great Depression.

But I have also believed that financial services modernization shouldn't come at the expense of consumer and community interests. In fact, back in May, I voted against the Senate version of this bill, as did 43 of my colleagues here in the Senate, because it would have devastated lending in rural and low income communities, and because it didn't adequately address the issue of consumer financial privacy.

Fortunately, this conference report is leaps and bounds better than the bill that passed along party lines here in the Senate several months ago. It won't allow financial institutions to participate in the new and improved financial market unless they maintain a good community lending record. And, while far from perfect, it also begins to address the issue of consumer financial privacy, which was virtually non-existent in the previous bill.

This bill requires financial institutions to disclose their privacy and information sharing policies to their customers. And in some instances—but not enough—it allows consumers to block these companies from sharing their private customer information with other companies. This is an improvement over the original Senate bill, and even an improvement over current law.

This is a good start on financial privacy, but it doesn't close the deal. The privacy provisions in the conference report do not provide the level of protection that the American people deserve.

There is a long way to go with respect to protecting the financial privacy of all Americans. While I am disappointed that the privacy protections in the bill are not as strong as I would like, I share the beliefs of several of my distinguished colleagues, such as Senator SARBANES and Senator LEAHY, that these protections can be and must be further strengthened by legislation next year, and I intend to work closely with my colleagues to make sure this happens.

On balance, the conference report should be adopted, and I hope that the same forces that worked so hard to move legislative mountains and align political stars to make this legislation possible will work equally as hard with me and other Senators next year to give Americans the privacy protection they demand and deserve.

Mr. LIEBERMAN. Mr. President, I rise today to express my support for the Financial Services Modernization Act of 1999. The Financial Services Modernization Act of 1999 is landmark legislation that provides for a historic modernization of our financial services system. This legislation is the culmination of years of effort on the part of several Congresses, several administrations, and federal financial regulators. Passing this legislation will eliminate inefficiencies and unnecessary barriers in our economy that were created by the Glass-Steagall Act of 1933 and other laws passed generations ago.

With this legislation, the Congress recognizes the significant transformations taking place in our economy and its financial services sector. Through this Act, Congress makes the necessary and critical leaps for our financial services sector to catch up with the realities of a marketplace and economy driven by an information technology revolution. The changes created through this legislation are inevitable. They overhaul laws implemented decades ago that have not withstood the test of time and that have increasingly been bypassed through more and more regulatory loopholes. Passing the Financial Services Modernization Act of 1999 will create a rational financial structure in the U.S., the world's largest economy, that will be competitive in the global economy. I strongly urge my colleagues to support this legislation.

By updating laws separating banks, securities firms, and insurance companies, this Act will result in a broader array of financial services and products for consumers. It will spur innovation in the financial services industry and create a more competitive marketplace where powerful new products come to market more quickly and at a lower cost to consumers. It will lead to the creation of an array of new products for consumers and at the same time will help them to make their choices more intelligently and efficiently by allowing for one-stop shopping for a multitude of financial services.

Specifically, by overriding sections of the Glass-Steagall Act and other federal and state laws, this legislation will allow banks, insurance companies, and security firms to more easily merge or otherwise enter one another's businesses.

While allowing the industry greater flexibility to provide services, this legislation also protects consumer privacy by requiring financial institutions to create privacy policies and spell them out to consumers. Financial institutions will have to provide notice of how they share the financial information of their customers and with certain exceptions they would be prohibited from disclosing personally identifiable financial information to non-affiliated third parties without first giving consumers the opportunity to ''opt out''. The legislation gives regulatory agencies the authority to enforce those privacy protections.

Importantly, this legislation also retains key parts of the 1977 Community Reinvestment Act. Any financial services company that is out of compliance

with that Act would not be allowed to take advantage of mergers and other benefits outlined under this legislation. It is right that the Administration and others held fast to keeping a strong CRA component in this legislation. The CRA has been critically important to many communities and community-based organizations in Connecticut and across the country. The CRA, like the Individual Development Accounts (IDAs) that I strongly support, helps more Americans to actively participate in our economy by providing them the ability to build assets and to access financial services.

This legislation is not perfect. Its implementation will need to be monitored over time. I will be paying particular attention to how this legislation affects both consumer privacy and CRA implementation. However, this legislation is good and long overdue. It provides balanced and strong protections for consumers and communities without diluting its intended financial services benefits.

Finally, I would like to thank those who have worked so tirelessly to do what so many others have tried and failed to do for the last 20 years. Through the hard work of the Senate Banking Committee members, including Senator DODD of Connecticut and Chairman GRAMM, their House counterparts, in conjunction with the Administration, particularly Secretary Summers and his staff, the financial services industry, and those representing the interests of consumers and communities, we now have legislation with compromise language that achieves a broad public purpose. We are now able to achieve the improvements to our financial services sector that have been needed for decades and that will effectively bring us into the next century.

Mrs. LINCOLN. Mr. President, I rise today in support of the Financial Modernization Bill. After decades of unsuccessful tries, it appears that financial modernization legislation may finally become a reality. As we move into the next millennium, I believe it is important that the financial service structure in this country is up to par with the rest of the world so that American finance can continue to lead internationally.

The thing that impresses me the most about this bill, Mr. President, is not the way it will strengthen American financial markets and allow this important sector of our economy to grow with the technology of the age. It's not even that we will close the Unitary Thrift Loophole, or that we will maintain the Community Reinvestment Act to ensure that low income and minority communities in my home state of Arkansas will continue to have access to the capital needed to create jobs and increase incomes. What impresses me most, Mr. President, is the way we are going about passing it. When I vote for this bill later today, I feel like I will have weighed all the issues and had the opportunity to actually work to make it better for the people of my state. We deliberated, discussed, and fought over the merits of the legislation—not just parliamentary tactics. This bill was scrutinized by Senator SARBANES and Senator GRAMM and all of my colleagues on the Senate Banking Committee before it ever got to the floor. Before it was even put on the calendar, it was subject to the judgement and the intellect of these men, whose esteem I hold in the highest regard.

After this bill came out of committee and to the floor, we were able to offer and vote on amendments to adjust and strengthen the bill. I supported some amendments that passed, and I supported some that failed, but what is important is that my votes and the votes of my colleagues were registered and the conferees were able to gauge the Senate's support for these provisions. This allowed for compromise, Mr. President, and at the end of the day it allowed for a bill that a majority of the Senate can and, I predict, will support.

Mr. BURNS. Mr. President, I rise today to express my concern over the lack of adequate privacy protections in the financial modernization bill under consideration. While I feel that the current laws governing our financial services industry are out-of-date and in need of modernization, I do have strong concerns over the inadequate and weak privacy provisions included in this bill.

Paramount to our freedom is the right to privacy; to be left alone and to be secure in the belief that our business is just that, ours and no one else's. When we do share our personal business information with others it is with the real and reasonable expectation that it remains our property. When dealing with our doctor or lawyer we know that the communication is privileged. Traditionally, when providing information to our banker or insurance agent or our stockbroker, we similarly believed that the information provided was specific to that transaction.

We choose to compromise our privacy to the extent necessary to conduct business and with the belief that the information is ours and does not become the property of the person with whom we are dealing. No one has the right and no one should have the right to market our personal information without our prior approval. To do so violates our privacy and compromises the trust relationship that is vital to commerce.

Regrettably, we now know that those we trusted with one of our most prized possessions, our privacy, have violated that trust in the interests of profit. In the course of deliberations of this bill, we have heard that the sharing of information is essential to efficiency in the market place and to better provide customer benefits and services. However, the fact remains that these benefits come at the expense of personal privacy and that creates an atmosphere of distrust and invites abuse by the very people we must trust to conduct our business. Technology must be tempered with caution. Efficiency cannot be at the expense of personal privacy. Institutions should not have the license to exploit our information unless they allow us to opt out. Individuals should have the right to allow institutions to share their information by opting in. Customers should be given sufficient notice and choice to deny financial institutions from sharing or selling their nonpublic, personally identifiable, sensitive financial information. Americans must have the ability to say ''no.''

This bill remembers the big financial institutions in this country, however, seems to forget the most important variable in the equation—the individual. This bill protects banks' rights, but fails to consider an individual's rights to privacy. We need to establish rules to protect the privacy of a customer's confidential information. No longer should we rely upon or expect the financial institutions themselves to do this, as they are the very ones profiting from the sale of customer information. We must find a balanced system that protects consumers.

I assure my colleagues that we will very soon be revisiting this issue and that these deliberations will be prompted by constituents abused as a result of the loopholes contained in this bill. Bottom line, financial institutions should not be allowed to share and sell confidential, personal customer information without consent. Americans need provisions which truly protect their privacy. Americans deserve this right, no less.

Mr. LUGAR. Mr. President, I raise today in support of passage of the Conference Report to accompany S. 900, the Financial Services Modernization Act of 1999.

During my first term in the Senate, I served as a member of the Senate Banking Committee. It was a busy time for the Committee: we passed the Foreign Corrupt Practices Act, permitted for the first time interest bearing checking accounts, and agreed to the Community Reinvestment Act. During those years, the Committee also undertook the difficult tasks of restructuring the finances for New York City and Chrysler Corporation. I am proud of the work we did on the Committee with these initiatives, and we made sure that the American taxpayers did not have to foot the bill for the restructuring of the debt.

I am pleased that after all these years, we are on the verge of passing comprehensive reform that has bipartisan and Administration support. This bill will finally break down inefficient barriers between insurance, banking, and securities and allow United States financial services corporations to compete on an even basis with their European and Asian counterparts.

Over the years, through regulation, court cases, and the development of

new financial products, the line separating banking, insurance, and securities has been blurred. In recent years, banks have been selling insurance and mutual funds; brokerage firms have been offering customers money market accounts with check writing privileges. The market was dictating that the laws needed to be rewritten. I have always believed that the laws should be written by Congress, not bureaucrats. It has taken time to fine tune these changes and reach this bipartisan consensus; but Congress has finally met this challenge.

Mr. President, over the course of the last five years, a lot of work and hundreds of hours have gone into perfecting this monumental legislation. I want to commend the Members of the Conference Committee, representatives from the Administration and the Federal Reserve, and the financial community for crafting a consensus piece of legislation. It will open competition, while establishing proper safeguards to protect consumer privacy and maintaining safety and soundness standards for federally insured financial institutions.

In a free market society, competition lowers prices and raises the level of customer service. I believe consumers will benefit from this landmark bill by giving them the choice of products and services offered by more market participants. I am pleased to have this opportunity to speak in support of the passage of this long overdue legislation.

I yield the floor.

Mr. DOMENICI. Mr. President, I rise in strong support of the conference agreement before the Senate today. There are few bills Congress has completed in my time here which will have a more profound impact on our economy than this legislation to modernize and harmonize the various segments of our financial services industry.

I think this historic legislation will result in lower costs of financial services for American consumers, and enhance the competitiveness of United States companies in the global financial marketplace.

At the outset, I want to congratulate Chairman GRAMM and the members of the Senate Banking Committee for all of their hard work on this issue. As Chairman GRAMM knows, it has been no easy task to get the banking, securities and insurance industries, as well as the Administration, the regulators and community groups to agree on what shape this law should take. It is a testament to Senator GRAMM's tenacity that he was able finally to hammer out this agreement.

As we move into the 21st century, the United States continues to maintain capital markets which are the envy of the world. Bank consolidations and rapid expansion of new global markets have meant phenomenal growth in our financial services sector in recent years. The wave of bank mergers in the late 1990's has led to a situation where the assets held by the five largest banks in the United States now total $2.1 trillion. Five years ago, the top five only had $753 billion in assets.

In 1998, for the first time in many years, a U.S. bank is one of the top 10 largest in the world based on assets. From 1997 to 1998, U.S. banks in the top 100 in the world saw their assets grow by 23 percent, their capital base grow by 48 percent and their revenues increase by 36 percent. The United States has 8 of the top 10 securities firms in the world and 4 of the top 20 insurance companies.

With all of this financial strength consolidated in the United States, some may wonder why we need this historic new law. With the advent of the European Monetary Union, the combined gross domestic product of the nations in the Union is already equal to that of the United States. When the U.K. joins the Union, the combined GDP will be 10 percent greater than the GDP of the United States. United States firms need to be more flexible, more efficient, and able to offer more products if they are to compete successfully in these new markets.

Currently, European laws are much more flexible, allowing financial services firms across the Atlantic to be better integrated than United States firms. Our laws need to keep pace. This conference report will allow our various banking, insurance and securities firms to combine through financial holding companies so that they may be even stronger competitors in the increasingly international financial services marketplace.

This enhanced efficiency is not only good for the United States' competitiveness in the international market, it is good for consumers. The Treasury Department estimates that every 1 percentage point decline in the cost of financial intermediation could save U.S. consumers $3.5 billion a year.

This new law will allow consumers to enjoy cheaper access to capital and one-stop shopping at financial services superstores. Americans who want to borrow to buy a new car or a home, purchase insurance to protect that car or home, or invest in securities for the future, will for the first time under this new law be able to do all of that at one time, in one place and at a lower cost.

I want to commend the chairman and conferees for the way in which they have resolved two major issues which concerned me when we debated this bill in the Senate. Those issues are whether the Federal Reserve or Treasury Department should be the primary regulator of the new financial holding companies, and what to do about abuses of the Community Reinvestment Act of CRA.

First, I have great respect for Treasury Secretary Summers and his predecessor, Robert Rubin. They are two of the finest economic and financial minds in the world. But I simply believe that it is more appropriate for the Federal Reserve, a nonpolitical entity also headed by a pretty good economic and financial mind in Alan Greenspan, to serve as the primary regulator in this new age. Regulation of our financial system should not be subject to the ups and downs of the political process, as would be the case if a political appointee, in this case the Secretary of the Treasury, had control.

I believe that this bill makes the proper policy decision by designating the Federal Reserve as the umbrella regulator of financial holding companies. The bill provides a mechanism for coordination between the Fed and the Treasury in approving new financial activities for financial holding company subsidiaries. The Treasury Department, through the Office of the Comptroller of the Currency will maintain its functional regulatory authority over the banking activities of affiliates and subsidiaries of national banks. This is a good compromise and I salute the chairman for his work.

Second, I commend the chairman for his diligence in attempting to address the abusers related to the CRA. This bill does not go as far as I know the chairman would like, but it is a good start. And for those concerned community groups out there who have not abused the CRA, let there be no confusion: when this law is signed by the President, there will still be a CRA and there will still be robust community lending across the United States. In fact, the law itself states that nothing in the conference agreement repeals any existing provision of the CRA.

What the bill does is provide regulatory relief to small banks which demonstrate that they have achieved at least a satisfactory CRA rating in their most recent audit. This will reduce the burdens related to CRA exams for 82 percent of all banks. And for the larger institutions in cities like Albuquerque, the CRA will continue to apply in the same manner as it does today. That is an eminently reasonable approach.

Finally, the bill allows a little sunlight to be shed on all CRA agreements between banks and community groups. Over the next ten years, banks have promised $350 billion in loans and payments to community groups under the CRA. This law will require full public disclosure of those agreements, and an annual accounting of how the money and other resources promised in the agreement were utilized. The public has a right to examine the costs and benefits associated with CRA agreements, and this will provide that public accountability.

Mr. President, I want to commend all of those who have worked so hard to finally get Congress to the point where this bill can become law. I am happy to support this bill, and look forward to the President signing it into law.

Mr. MOYNIHAN. Mr. President, we have been debating the subject of banking in the Senate since the 18th century. We began to ask ourselves a question, could we have a national bank,

which Mr. Hamilton, of New York, thought we could do and should do. We created one. It had a very brief tenure. It went out of existence just in time that the Federal Government had no financial resources for the War of 1812. So it was reinstituted, in 1816 for 20 years, and went out of existence just in time for the panic of 1837. We went through greenbacks. There must have been a wampum period. We went to gold coinage. Then a free coinage of silver dominated our politics for almost two decades, as farmers sought liquidity and availability of credit. Finally, at the end of the century of exhaustive debate, we more or less gave up and adopted what we now call the Federal Reserve System.

To say we debated this matter for a century is certainly true. For the last quarter century, we have turned our focus to the nonbank bank. You are really reaching for obscurity when you define an issue as we have done, and yet that seems to be the term with which we have to deal.

The issue of the nonbank banks, were banks will be allowed to expand into newly authorized businesses such as securities and insurance underwriting, could finally be resolved in the Senate today. As we consider the conference report on financial modernization and prepare to pass the most significant piece of banking legislation since the 1933 Glass-Steagall Act, I would like to make two points, followed by a coda. The first being that we need financial modernization, that Depression-era banking laws need to be repealed. A May 4, 1999, Washington Post editorial reads:

> Since the Depression, Federal law has sought to keep banking, insurance and securities industries separate. The idea, in part, was to make sure that Federally insured bank deposits didn't wind up somewhere risky and unregulated. But in recent years, even without a change in the law, that separation has eroded. Banks have found ways to offer mutual funds to their customers; investment firms function like deposit institutions; etc. It makes sense now to bring legislation—and regulation—in line with reality.

It strikes me as odd that most corporations are free to engage in any lawful business. Banks, by contrast, are limited to the business of banking. It is generally agreed that the Glass-Steagall Act of 1933 and the Bank Holding Company Act of 1956 need to be amended. Banks, security firms, and insurance companies should be allowed to offer each other's services. They already do by finding loopholes in the law. Congress must catch up, and pass a law that condones this activity. London does it. Tokyo too. Why not New York, which, if I may say, is one of the world's banking capitals?

This is a real problem for existing banks, who find themselves under the serious constraints of Depression-era banking laws. Suddenly, they find that their activities are encroached upon and they are not able to do things that they ought to do—that they are going to need to do—in order to survive in a competitive world economy.

With this bill, we have the opportunity to modernize our financial institutions and allow banks to do the things they ought to do, that they are going to need to do, to survive and grow. We must seize this opportunity, pass this bill, and give our banks the opportunity to compete in the world economy.

Now to the second point. When this bill came up for a vote last May, I could not support it because the provisions concerning the Community Reinvestment Act were unacceptable. The CRA, enacted in 1977, has played a critical role in revitalizing low-and-medium-income communities. New York has benefitted from this. A March 17, 1999 New York Times editorial states:

> In New York City's South Bronx neighborhood, the money has turned burned-out areas into havens for affordable homes and a new middle class. The banks earn less on community-based loans than on corporate business. But the most civic-minded banks have accepted this reduced revenue as a cost of doing business—and as a reasonable sacrifice for keeping the surrounding communities strong.

I am told that an acceptable—albeit not perfect—compromise has been worked out on this matter. With this agreement in hand, I can now support the bill. However, I urge the regulators to keep a close eye on the CRA provision and make sure that banks make loans where they are required to and keep investing in those communities that need it most.

I conclude on the question of privacy. No small matter. Consumers, rightly so, are concerned that their personal information will be shared among the newly affiliated companies. The bill places no restrictions on the kinds of detailed personal information—such as customer bank balances, credit card account numbers, income and investments, insurance records, purchases made by check or credit card—that can be swapped among them. A November 3, 1999, Times editorial addresses this matter:

> In an electronic world where businesses can effortlessly collect, compile, and mine personal data for marketing and other purposes, consumers should have the right to control the spread of their financial information. Under current Federal law, consumers have almost no rights in this area. The bill adds some limited protections, but it does not go far enough, particularly since conglomeration will greatly accelerate the sharing of private information in the financial sector.

As we move ahead with this bill and make substantial changes to the banking laws, we must make sure that privacy laws keep pace. this is much too important of an issue to be overlooked.

I ask unanimous consent that the Times March 17th and November 3rd editorials, and the Post March 4th editorial be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 17, 1999]

MISCHIEF FROM MR. GRAMM

Cities that were in drastic decline 20 years ago are experiencing rebirth, thanks to new homeowners who are transforming neighborhoods of transients into places where families have a stake in what happens. The renaissance is due in part to the Federal Community Reinvestment Act, which requires banks to reinvest actively in depressed and minority areas that were historically written off. Senator Phil Gramm of Texas now wants to weaken the reinvestment Act, encouraging a return to the bad old days, when banks took everyone's deposits but lent them only to the affluent. Sensible members of Congress need to keep the measure intact.

The act was passed in 1977. Until then, prospective home or business owners in many communities had little chance of landing loans even from banks where they keep money on deposit. But according to the National Community reinvestment coalition, banks have committed more than $1 trillion to once neglected neighborhoods since the act was passed, the vast majority of it in the last six years.

In New York City's south Bronx neighborhood, the money has turned burned-out areas into havens for affordable homes and a new middle class. The banks earn less on community-based loans than on corporate business. But the most civic-minded banks have accepted this reduced revenue as a cost of doing business—and as a reasonably sacrifice for keeping the surrounding communities strong.

Federal bank examiners can block mergers or expansions for banks that fail to achieve a satisfactory Community Reinvestment Act rating. The Senate proposal that Mr. Gramm supports would exempt banks with assets of less than $100 million from their obligations under the act. That would include 65 percent of all banks. The Senate bill would also dramatically curtail the community's right to expose what it considers unfair practices. Without Federal pressure, however, the amount of money flowing to poorer neighborhoods would drop substantially, undermining the urban recovery.

Mr. Gramm argues that community groups are ''extorting'' money from banks in return for approval, and describes the required paperwork as odious. But community organizations that build affordable housing in Mr. Gramm's home state heartily disagree. Mayor Ron Kirk of Dallas disagrees as well, and told the Dallas Morning News that he welcomed the opportunity to explain to Mr. Gramm that ''there is no downside to investing in all parts of our community.''

In a perfect world, lending practices would be fair and the reinvestment Act would be unnecessary. But without Federal pressure the country would return to the era of redlining, when communities cut off from capital withered and died.

[From the New York Times, Nov. 3, 1999]

PRIVACY IN FINANCIAL DEALINGS

The financial services bill that will overhaul the nation's banking laws is a good deal for financial institutions but a bad deal for consumer privacy. The bill would allow banks, brokerage houses and insurance companies to merge into financial conglomerates, a long-overdue reform. The banking industry stands to gain from the right to expand into other businesses, and consumers could benefit from the case of one-stop shopping and the creation of new financial services. But protecting consumers' financial privacy should also be central to financial modernization. This bill is weak on that score.

In an electronic world where businesses can effortlessly collect, compile and mine personal data for marketing and other purposes, consumers should have the right to control the spread of their financial information. Under current federal law, consumers

have almost no rights in this area. The bill adds some limited protection, but it does not go far enough, particularly since conglomeration will greatly accelerate the sharing of private information to the financial sector.

The bill would require that a financial institution provide customers with general notice about its privacy and disclosure policy. But the institution would remain free to share a customer's personal information with affiliates of the company and with unaffiliated companies that sign marketing agreements, without the customer's consent and without giving the customer the right to object to having that information transferred.

The bill places no restrictions on the kind of detailed personal information—such as customer bank balances, credit card account numbers,income and investments, insurance records, purchases made by check or credit card—that can be swapped among affiliated companies. New regulations proposed by the Clinton administration on medical privacy would prohibit a health insurance company from disclosing medical records to a bank. But nothing in this bill would stop a bank or life insurance company, for example, from sharing equally personal information about customers.

The bill allows consumers to ''opt out'' of disclosure of private information to unaffiliated companies. But that provision contains a big loophole. It would not apply if a financial institution enters into a joint agreement with an unrelated financial institution to market products or services. That means even corporate entities that have no business relationship with a customer could get private information without the customer's consent.

Privacy advocates have argued that financial institutions should be required to get a customer's consent before they transfer or sell personal information. But the banking lobby contends that getting affirmative authorization is too costly. At the very least, consumers who want to keep their records private should be allowed to opt out of having that information disclosed to others.

President Clinton has supported a strong opt-out provision, but in final negotiations in Congress the administration acceded to the loopholes that narrow the opportunities to opt out. Most consumers do not want their banks to share or sell personal information to other businesses, whether under one corporate umbrella or not. Their concerns about privacy will only grow as the new conglomerates begin to cross-market their products. If President Clinton signs the bill, as expected, he must push for separate privacy legislation that actually gives consumers the right to personal data.

[From the Washington Post, May 4, 1998]

BANKING ON REFORM

The Senate today is scheduled to begin considering a bill that would remake the financial services industry, allowing banks and insurance companies and investment banks and insurance companies and investment firms to merge and compete. Similar legislation is making its way through the House. The thrust of both bills is sound. But while the industries have lobbied hard to shape a law satisfactory to them, the current legislation doesn't adequately protect low-income communities or consumers' privacy. Financial modernization should apply to them, too.

Since the Depression, federal law has sought to keep the banking, insurance and securities industries separate. The idea, in part, was to make sure that federally insured bank deposits didn't wind up somewhere risky and unregulated. But in recent years, even without a change in the law, that separation has eroded. Banks have found ways to offer mutual funds to their customers; investment firms function like deposit institutions; etc. It makes sense now to bring legislation—and regulation—in line with reality.

Congress has been trying to do so, and failing, for more than a decade, and may again. But on the major issues, the administration, the Federal Reserve and Congress have pretty well agreed. They would let the financial services industries meld while for the most part keeping them out of other businesses, a wise decision. They've come up with fire walls and regulatory schemes that, while still not entirely agreed upon, have satisfied most concerns about protecting federally insured deposits.

But there is no consensus yet on safeguarding the interests of underserved communities. Since 1977 federally insured banks have been subject to the Community Reinvestment Act, requiring them to seek business opportunities in poor areas as well as middle-class and wealthy neighborhoods. The law, a response originally to clear evidence of bias in lending, has worked well. It doesn't force banks to make unprofitable loans, but it encourages them to look beyond traditional customers, and it's had a beneficial effect on home ownership and small-business lending.

Sen. Phil Gramm, chairman of the Banking Committee, now wants to scale the law way back. He argues that community groups use it to extort money from banks; there's scant evidence for that. The real danger is that, with financial modernization, banks will gradually escape their community obligations by transferring capital to affiliates that aren't covered by the law. The law should be extended and modernized to keep pace with a changing industry.

Consumer privacy also could be in danger as barriers among industries break down. An example: Should your life insurance medical records be shipped over, without your knowledge, to the loan officer considering your mortgage application? Sen. Paul Sarbanes of Maryland and Rep. Ed Markey of Massachusetts, among others, would give consumers more control over the sale and sharing of personal data. As the financial industry moves into a new era, privacy laws should also keep pace.

Mr. SARBANES. Mr. President, I yield 10 minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. BAYH. Thank you, Mr. President. I thank Senator SARBANES.

Mr. President, I rise to express my strong support in favor of the Financial Services Modernization Act. I do so because of my heartfelt conviction that it will be good for the American economy, it will be good for the financial services sector of the economy, and it will also be good for consumers and the American people for many years to come.

I will begin by expressing my gratitude and respect for the leaders who have brought us here today after so many years. Senator GRAMM has performed admirably in getting this accomplished after so many years in the past it has failed. I salute him and commend him for his efforts.

Quite frankly, there were some questions about the new chairman when he assumed this position: Would he be willing to make reasonable compromises necessary to get the bill passed? Would he take a broader view or be the captive of narrow parochial interests? Would he be flexible? All these questions, I am proud to say, have been answered in the affirmative.

I wish to salute my colleague, Senator GRAMM, for this historic accomplishment. Without his leadership, we would not be here today. It is a masterful bit of work. And I am proud of his accomplishment in this regard.

I also wish to salute my colleague, Senator SARBANES. Also, we would not be here today without his leadership. He has proven to be a tireless advocate and effective spokesperson for those who are less fortunate. He has proven to be a tireless worker in favor of the rights of privacy of America's consumers. We would not have a bill before the Senate today that could pass this body, that the President would sign, or, frankly, one that enjoyed wide support were it not for the tireless efforts of Senator SARBANES. I compliment him as well. He has been a copartner in this historic accomplishment which we recognize today.

This legislation is good for the American economy. The era of global competitiveness in the financial services sector is unquestionably an area in which our Nation is preeminent. The world looks to the United States to lead the way in areas such as banking, insurance, securities, and investment banking.

Financial services contribute annually to a trade surplus for the United States of America at a time when our trade deficit is running into the hundreds of billions of dollars. But we cannot take our current preeminence for granted. I have had some experience in this regard.

My colleagues may not know that Indiana was one of the very last States to adopt not interstate banking but across-State-line banking in the mid-1980s. As a result of the fact we didn't modernize our laws, once the walls came tumbling down, as they inevitably do, almost all of Indiana's financial institutions in the banking sector were gobbled up by institutions from other States.

If we were similarly to hamstring America's financial institutions—banking, insurance, and securities—with antiquated laws that kept them from having the flexibility needed to compete with our foreign competitors, the day might not be too far removed when those from Germany, Japan, Switzerland, and other nations would be gobbling up our financial institutions because they were too weak or incapable of competing. We shouldn't let that happen to our country.

Hundreds of thousands of jobs across our country and tens of thousands of jobs in Indiana depend upon us getting this done. I am proud to say that we

will. It is good for America's economy. It is also good for the broader economy.

Manufacturing, agriculture, and other sectors depend upon access to a vital growing financial services sector. Access to capital is one of the key ingredients for financial success today. Because of this bill, greater efficiency in providing funds for expansion will exist, leading to greater investment, greater productivity, and a rising standard of living for America's working men and women. Access to capital is one of the key ingredients to success in the economy today. This legislation will ensure that the funds keep flowing from America's economy, making it more productive and more efficient for American workers and American shareholders alike.

This legislation is good for consumers. Not only will it be convenient, providing one-stop shopping for working men and women across our country, where they go to a single place and meet their banking needs, insurance needs, security investment needs, and others, but it will also lead to greater efficiency, lower interest rates, and greater access to credit. It will also lead to greater innovation in the new marketplace with greater competition.

I foresee a day not too far removed when services that we can barely imagine today will be provided more conveniently and efficiently to Americans across our country.

Frankly, I approach this bill with some reservations as well. Some issues needed to be resolved or I would not be standing here today to express my strong support for this legislation. Foremost among these was the Community Reinvestment Act, an act that is necessary to guaranteeing access to capital for Americans of every walk of life, regardless of race, creed, or color.

As I said when I previously took the floor to speak on this issue, access to capital today is as important as access to electricity was in the 1930s or access to a telephone was in the 1950s or 1960s. I recognize that issue has been positively resolved in the course of our negotiations.

Second, the emerging issue of privacy is very important. I share the concerns of many Americans about what will happen to their most sensitive information in the new global marketplace.

I am pleased to say that we have taken the first steps in this legislation to guarantee greater privacy for American consumers by requiring clear and plain disclosure about what information will be used within a company, and also allowing American consumers the right to opt out and prohibit companies that they do business with from sharing their financial information with third parties.

This is an issue we have only begun to recognize. We must continue to follow it in the days to come. If it should be the case that greater protections are necessary, I will be one of those who will help to lead the way and look forward to leading the way to ensuring that. For the time being, I am pleased with the provisions currently in the bill and am proud to say we are taking a significant step forward.

In conclusion, for 20 years, we have been laboring to modernize the law that governs financial services that was first enacted in the 1930s. A long string of people who have preceded us in this body have attempted this and have not been successful. But thanks to the leadership of Senator GRAMM and the leadership of Senator SARBANES, the ability of all involved to come together and compromise for the well being of the American economy, the American consumer, and the future of our country, today we celebrate the historic accomplishment.

I intend to vote for this legislation. I urge my colleagues to do the same.

Again, I congratulate all who have brought us to this important accomplishment.

Thank you. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, Senator SARBANES and I have decided, giving people an opportunity to get here, that I will speak, and then Senator SARBANES will speak. Then I will close out.

Mr. SARBANES. Mr. President, will the Senator yield for a moment?

Mr. GRAMM. I am very happy to yield.

Mr. SARBANES. Both sides have tried very hard to canvas their members to see if anyone wishes to speak on this bill. At the moment, we have reached the point where we don't think there is anyone left to speak. The time for voting has been set for reasons of people having been drawn to other responsibilities. But if there is someone out there who wants a few minutes to speak on this legislation, now is the time. Otherwise, it is going to be closed out. We have tried very hard to offer all Members an opportunity to speak, if they wish to do so, on this conference report.

Mr. GRAMM. Mr. President, let me agree with my ranking member to say that we have waited 40 years for this bill. We are not waiting any longer than 3:30. If someone wants to get over here and speak, they had better do it. It is always a little bit risky to try to sum up on a bill such as this that has been in the making for 40 years, a bill that overturns a piece of legislation that Franklin Roosevelt said was the most important bill ever passed by an American Congress.

Having listened to the debate, I have a few points in conclusion. First, there is often such a difference between reality and perception. I listened to some of my colleagues, especially those who oppose the bill, talk about special interests and what this special interest or that special interest got in this bill. In my period of service in Congress, I have never participated in the writing of a bill with less special interests involved than this bill. When Republicans on the committee started in January a series of meetings to talk about why we wanted to modernize the financial laws of the country, why we wanted to repeal Glass-Steagall, why we wanted to restructure the economy in terms of benefit, we set out a theory of financial services modernization and we set out a plan to try to achieve it.

As I listened to all the talk about special interests, I remember Texas bankers and Texas insurance agents both sending a letter which arrived on the same day telling my constituents I had betrayed their particular interests to the other. The insurance agents sent out a letter saying I had sold out to the bankers; the bankers sent out a letter saying I had sold out to the insurance agents.

The bottom line is nobody was sold out in this bill. We started a negotiation to try to deal with a legitimate concern. The concern was this: If someone is going to a bank for a loan, should that bank, while they are in the process of making that loan, have the right to try to sell an individual insurance? We tried to sit down with everybody knowledgeable and come up with a real solution. In the end, I am happy to say, both of these interest groups concluded nobody had sold their interests out and we had put together a good bill.

However, there is a simple test on this bill. If anybody wants to set a marker today to determine whether in 20, 40, or 60 years from now we are going to compare this bill to Glass-Steagall, whether this bill is a success, there is a simple test. That test is, Will this bill generate more diverse products for the American consumer? Will those products better meet the needs of the American consumer? And will they be cheaper? If those things don't happen, this bill fails.

That is what this bill is about. There is nothing in this bill that sets out to benefit big banks in New York. I don't represent New York. I don't have any huge banks in my State. Long ago, other people bought out the big banks in my State. I have sought in this bill, and I believe the vast majority of all of our Members, have sought to promote the interests of the consumer.

This bill is about people who go to work every day and who borrow money on their homes. If someone can improve on their mortgage rate and bring down the interest they pay by even one-quarter of 1 percent, that means thousands of dollars in their pockets over a 30-year period. That is what this bill is about. This bill is about people who want checking accounts and who want services, and they want those services provided on a competitive basis where they are as cheap as can be produced and sold. That is what this bill is about.

This bill is about people who want the ability to do their banking, their insurance, their securities, their retirement on a competitive basis. It is about bringing together those forces.

We have been living with a system that was established during the Great Depression. I don't think there is any reason now to go back and rehash why it happened. But one can make a strong case that the Depression was produced by a failure of the Federal Reserve. Milton Friedman made that case in the ''Monetary History of the United States'' and won the Nobel prize principally for that work.

Congress was frightened. They didn't know what to do. It was an age of demagoguery. Probably the most demagogic statement that has ever been made in American history was made by the President of the United States, Franklin Roosevelt, when during the debate on Glass-Steagall he said:

> The money changers have fled from the high seats in the temple of our civilization.

That statement is reminiscent of statements being made in Central Europe at the same time.

Congress didn't know what caused the Depression. They were frightened. They didn't know what to do so they passed a bill that I think one can argue historically was as punitive as it was prescriptive. It was aimed at one man, in some ways—J.P. Morgan—probably the greatest American of the early 20th century. We don't know a lot about him because he never held public office, but he was probably the greatest American of the early part of this century.

In this era, we had a bill passed that basically forced an artificial separation of the financial sector of our economy. That bill, despite the fact its author within a year had concluded it was a mistake, has been the law of the land. In fact, Time magazine calls it the defining financial legislation of the 20th century.

We came here today to change the defining legislation of the 20th century. We came to bring logic back to the financial sector. We didn't come here today to bring it back to benefit banks or to benefit insurance companies or to benefit securities companies. We came to overturn the most significant financial legislation of the 20th century because it is in the interests of the American consumer that it be overturned.

Let me touch on areas that will be much benefited by this that have had no discussion. The first point, one of the biggest problems we have, is the inability of small businesses to raise capital. Probably the most concentrated part of the American financial sector is securities underwriting.

If a little business in Mexia or College Station, TX, or Cambridge or Easton, MD, or any other of thousands of small or medium-sized towns across America, has a good idea, they will have a hard time raising capital because it is hard to get Wall Street interested in a small business in a little town unless you have one of the great ideas of the century—and even then it takes a long time to prove it.

By letting banks participate in underwriting securities now, every banker in every small town will have the ability to identify a good small business and give them access to capital that has never existed before in the history of this country. That is a benefit which will accrue to literally hundreds of thousands of small businesses over the decades to come as a result of this bill because we will vastly expand the number of securities underwriters, we will make every bank in every city in America a potential underwriter for small business. That is a dramatic and positive change in law.

We dominate the world's financial markets, and we have done it with one hand tied behind us, because we have the greatest economic system in the history of the world.

But we can untie that hand that we have had tied behind us, and we do it in this bill by repealing Glass-Steagall. This bill is going to make America more competitive on the world market, and that is important because it means thousands of jobs, high-paying jobs—not just on Wall Street in New York City, but for every business and every consumer in America. I believe we are too quick to say something benefits Wall Street instead of Main Street. The reality is, Wall Street is the foundation on which Main Street is built. When America is more competitive, every American benefits.

There has been a lot of talk that what we are trying to do is already happening to some degree. And it is because almost immediately after the passage of Glass-Steagall, we had an effort by regulators to begin to bore holes in these walls between insurance and banking, and between securities and banking. We have seen, through regulatory innovation, a successful effort in some areas to get around the law. This has allowed some competition to occur. The problem is, what regulators give, they can take back. So we have created a situation where we have given virtual police power to regulators because they have allowed these innovations to occur and they can take them back at any moment. That creates too much power to be focused in the hands of a very small number of people.

We change that by tearing down the walls, and in the process taking that discretionary power away from the regulators so people are guaranteed in law the right to be engaged in these activities.

My dear colleague from Maryland mentioned yesterday the issue of ''too big to fail.'' That is a real issue. In this bill we start the process of dealing with the issue of too big to fail. We establish a principle, as part of the compromise that was worked out between Treasury and the Federal Reserve, which is not well understood. It is a complicated kind of issue. But what it does is profoundly important because for the first time in American financial law, we require big banks to have subordinated debt. That is debt that only gets paid once the depositors are paid, the creditors are paid, and everything else is paid off. That subordinated debt is a real live thermometer that is constantly telling us how well this financial institution is. It is constantly telling us how safe and how sound these institutions are. It represents, in my opinion, the beginning of our effort to deal with a very real problem that Senator SARBANES talked about, and that problem is the problem of being too big to fail. We don't let banks do anything within the bank unless they have an incredibly high rating on that subordinated debt; that is, that it be rated AAA, AA, or A.

There has been a lot of talk about CRA. The bottom line is we have done several very positive things. First, sunshine is the best disinfectant. How can people be held accountable if we don't know what they have been given money to do, how much money they have been given, and how they spend it. In this legislation, we have set out an ironclad process to guarantee us that information.

Second, there is a regulatory burden problem. Small banks end up being heavily burdened by regulations that often have a relatively nominal effect on big banks. We have dealt with that by giving smaller banks some needed regulatory relief. In terms of privacy, we have heard a lot of discussion, but we need to remember two things: No. 1, we require in this bill, in a provision that was adopted in the conference, offered by Members of the Senate conference, a disclosure in detail of what a bank's privacy policies are. That gives consumers the most powerful tool that exists in a free society in protecting privacy, and that is if you do not like the bank's policy, you can take your business somewhere else.

Second, we give consumers the power to opt out.

So these are important provisions. I thought, as we waited to be sure everyone is here for this vote, that these points needed to be made.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. FITZGERALD). The Senator from Maryland.

Mr. SARBANES. Mr. President, as we come to the closing moments of this discussion of the conference report, I want to recapitulate a few points.

First of all, I think it must be understood that changes are taking place in the financial landscape at the moment. They have been taking place over the last 20 years. In some respects, this legislation is an effort to create a statutory framework which will encompass the changes that have been happening and which it is reasonable to assume will continue to happen, even if we do not have legislation.

So many of the connections and the relationships about which some have expressed concern in the course of the debate—because they see this legislation as permitting them—are happening right now and will continue to happen. But they are happening without a rational legislative framework,

without the Congress, in effect, having made judgments as to what the structure of the system is going to be, without the actors within the system knowing exactly what the rules are, and having the security that comes from knowing they are operating within a defined environment.

I stress that because some have raised it in the course of the debate. Let me say in that respect I think we have had a very good debate on this conference report, if I may say so. I thank those of our colleagues who have spoken because of the depth of the perceptions and understanding they have brought to this debate. I think what transpired last night and today has been in the better traditions of the Senate.

The marketplace in many respects has influenced the need for this legislation. Securities firms have been offering bank-like products. Banks have been offering insurance-like products. Both have been engaged in significant securities activities. This has been taking place out in the marketplace but without a statutory framework within which it clearly functions. These developments have now been going on for more than two decades. We have been wrestling in the Congress for approximately that length of time to see how to revise our laws concerning financial services in order to update them. We are about to accomplish that today.

This will enable the regulators—and of course this bill is very strong on functional regulation—to maintain appropriate oversight as we deal with this evolving marketplace. At the same time, it will enable financial service firms to respond to the needs of their customers. Many assert the customers will receive very significant savings. Others say, no, no, it is going to result in greater costs. In a sense, we will have to see how it plays out.

The administration sent a letter to us from the Secretary of the Treasury. I ask unanimous consent that letter be printed in the RECORD at the conclusion of my remarks.

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

(See Exhibit 1.)

Mr. SARBANES. The administration says the following:

> By allowing a single organization to offer any type of financial product, the bill will stimulate competition, thereby increasing choice and reducing costs for consumers, communities, and businesses. Americans spend over $350 billion per year on fees and commissions for brokerage, insurance and banking services. If increased competition yielded savings to consumers of even 5 percent, they would save over $18 billion per year.

They go on to say:

> Removal of barriers to competition will also enhance the stability of our financial services system. Financial services firms will be able to diversify their product offerings and thus their sources of revenue.
>
> Financial firms will be able to diversify their product offerings and thus their sources of revenue. They also will be better able to compete in global financial markets.

Which, of course, has become an increasingly relevant consideration as we consider our position vis-a-vis those of financial institutions headquartered in countries overseas.

From the very beginning, many of us made it very clear there were important principles we thought had to be addressed with respect to this legislation if we were to support it. We had to face questions, of course, of the safety and soundness of our financial system. We had important questions of CRA, important questions of consumer protection, important questions of the line between banking and commerce, which has been an important principle in the American system.

In the end, we have been able to work these issues in a way that we have addressed those concerns—not entirely in some instances.

People have talked about privacy today. It is my expectation that issue will continue to remain on our agenda because we have not yet fully disposed of it, although I do note this bill put in some privacy protections where none now exists. People should bear that in mind. Those who look at these provisions and say: We want more—and I am essentially with them; I introduced a bill earlier in this session that had more such provisions, and I continue to support those concepts—for those who say they want more, they need to understand we have nothing at the moment. The privacy provisions that are in this bill represent an important step forward.

I also have indicated that the too-big-to-fail issue—and the chairman has also commented on that—is an important matter that still remains before us. It is imperative this study the Federal Reserve and the Treasury are to do jointly come back with recommendations that enable us to address that issue.

This is a risk that is present in the situation. We have confronted it in the past with respect to various financial institutions. We get the moral hazard question: Institutions which assume they have reached the size that they then become too big to fail have less of a constraint upon them in terms of their activities than smaller institutions because they begin to operate on the assumption that no one is going to require them to bear the consequences of their imprudence.

There have been occasions, of course, in the past when regulators have said we simply cannot allow this institution to bear the full consequences of its bad judgments because if we do that, it will have an impact upon the financial system as an entirety; therefore, we need to work out ways in which we can address that question with respect to these large financial mergers and acquisitions which, of course, are going to happen under this legislation. Of course, they were already happening.

What the legislation does is put a framework around this activity which will enable the regulators to exercise much more careful oversight. It is preferable to have a framework developed by the Congress, not on an ad hoc basis by one regulator or another regulator, not in situations where some perceive that regulators are being competitive with one another in terms of how they deal with the financial services sector. If we can have a responsible statutory framework established by the Congress which is contained in this legislation that is now before us, it will contribute to the safety and soundness of the financial system. This legislation better enables us to maintain the separation of banking and commerce.

There are important consumer protections, including some protections about which the Securities and Exchange Commission was concerned, and the legislation that has been developed has the very clear support of the Securities and Exchange Commission.

We have preserved the relevancy of the Community Reinvestment Act, and we have given banks the choice to conduct their expanded activities either through a holding company or, to a limited extent, through a subsidiary. That was the issue that had the Federal Reserve and the Treasury in deep discussions with one another, and in the end I believe they resolved that satisfactorily.

Let me also observe that this rational legislative framework we are putting into place provides for the future evolution of the financial services industry. People will have the security of knowing what the playing field is, something they do not know today with assurance. Nowadays, they go to a regulator and get permission to engage in an activity. The next thing they know, they are in court, and then the case has to wind its way through the court system. They may either be upheld or turned down.

No one is quite sure what they are permitted to do and what they are not permitted to do. People are constantly testing the edges of this. The regulators are in some confusion. In some instances we have overlap, and in other instances we seem to have no overlapping at all—in fact, a vacuum—in terms of overseeing these activities.

With this conference report and this legislation which represents a major change—there is no doubt about that—these are far-reaching and difficult public policy issues. They have not been solved for so long because they are far-reaching and difficult. We have had to address balancing the needs and concerns of the consumers—which, after all, ought to be one of our prime objectives—with a necessity of accommodating to new technology and new ways of doing business and the nature of the competition we are facing from abroad.

In the course of working through this, it has been an extremely interesting process. I take considerable satisfaction from the fact that in working with the chairman and with many others, we have been able to go from a position where we had a bill that, when it

left the Senate, was vehemently contested to where we now come back with a conference report that most of us, if not all, can join in supporting and commending to our colleagues.

I recognize some of the points that were made here by some who were apprehensive about the future. I think those are reasonable arguments. They are arguments we considered. They were factors with which we had to wrestle. But I am hopeful that what we are doing here will represent a very important step forward in the workings of the financial services industry, in the protections for our consumers, in giving us a rational statutory framework, and in enabling the regulators to do their job.

It sustains the relevancy of the Community Investment Act, which has been so important for some of the movement of capital into low- and moderate-income communities in this country. It has made such a difference. It is a very important first step, an important first step on the privacy issue. We have tried to safeguard the ability of State regulators to participate. On privacy, States can continue to enact legislation of a higher standard than the Federal standard. State insurance regulators will continue to play the role they have traditionally played with respect to State regulation of insurance.

So I think, all in all, we have put together a good and balanced package. I commend it to my colleagues as we move to final passage. I thank the chairman of the committee.

I yield the floor.

EXHIBIT 1

DEPARTMENT OF THE TREASURY,
Washington, DC, November 3, 1999.

Hon. TOM DASCHLE,
U.S. Senate,
Washington, DC.

DEAR TOM: The Administration strongly supports passage of S. 900, the Gramm-Leach-Bliley Act of 1999. This legislation will modernize our financial services laws to better enable American companies to compete in the new economy.

The bill makes the most important legislative changes to the structure of the U.S. financial system since the 1930s. By allowing a single organization to offer any type of financial product, the bill will stimulate competition, thereby increasing choice and reducing costs for consumers, communities and businesses. Americans spent over $350 billion per year on fees and commissions for brokerage, insurance, and banking services. If increased competition yielded savings to consumers of even 5 percent, they would have over $18 billion per year.

Removal of barriers to competition will also enhance the stability of our financial services system. Financial services firms will be able to diversify their product offerings and thus their sources of revenue. They also will be better able to compete in global financial markets.

The President has strongly supported the elimination of barriers to financial services competition. He has made clear, however, that any financial modernization bill must also preserve the vitality of the Community Reinvestment Act, enhance consumer protection in the privacy and other areas, allow financial services firms to choose the corporate structure that best serves their customers, and continue the traditional separation of banking and commerce. As approved by the Conference Committee, S. 900 accomplishes each of these goals.

With respect to CRA, S. 900 establishes an important, prospective principle: banking organizations seeking to take advantage of new, non-banking authority must demonstrate a satisfactory record of meeting the credit needs of all the communities they serve, including low and moderate income communities. Thus, S. 900 for the first time prohibits a bank or holding company from expanding into newly authorized businesses such as securities and insurance underwriting unless all of its insured depository institutions have a satisfactory or better CRA rating. Furthermore, CRA will continue to apply to all banks, and existing procedures for public comment on, and CRA review of, any application to acquire or merge with a bank will be preserved. The bill offers further support for community development in the form of a new program to provide technical help to low- and moderate-income micro-entrepreneurs.

The bill includes other measures affecting CRA that have been narrowed significantly from their earlier Senate form. The bill includes a limited extension of the CRA examination cycle for small banks with outstanding or satisfactory CRA records, but expressly preserves the ability of regulators to examine a bank any time for reasonable cause, and does not affect regulators ability to inquire in connection with an application. Finally, the bill includes a requirement for disclosure and reporting of CRA agreements. We believe that the legislation and its legislative history have been constructed to prevent undue burdens from being imposed on banks and those working to stimulate investment in underserved communities.

In May, the President stressed the importance of adopting strong and enforceable privacy protections for consumers financial information. S. 900 provides protections for consumers that extend far beyond existing law. For the first time, consumers will have an absolute right to know if their financial institution intends to share or sell their personal financial data, and will have the right to block sharing or sale outside the financial institutions' corporate family. Of equal importance, these restrictions have teeth. S. 900 gives regulatory agencies full authority to enforce privacy protections, as well as new rulemaking authority under the existing Fair Credit Reporting Act. The bill also expressly preserves the ability of states to provide stronger privacy protections. In addition, it establishes new safeguards to prevent pretext calling, by which unscrupulous operators seek to discover the financial assets of consumers. In sum, we believe that this reflects a real improvement over the status quo; but, we will not rest. We will continue to press for even greater protections—especially effective choice about whether personal financial information can be shared with affiliates.

We are pleased that the bill promotes innovation and competition in the financial sector, by allowing banks to choose whether to conduct most new non-banking activities, including securities underwriting and dealing, in either a financial subsidiary or an affiliate of a bank.

The bill also promotes the safety and soundness of the financial system by enhancing the traditional separation of banking and commerce. The bill strictly limits the ability of thrift institutions to affiliate with commercial companies, closing a gap in existing law. The bill also includes restrictions on control of commercial companies through merchant banking.

Although the Administration strongly supports S. 900, there are provisions of the bill that concern us. The bill's redomestication provisions could allow mutual insurance companies to avoid state law protecting policyholders, enriching insiders at the expense of consumers. The Administration intends to monitor any redomestications and state law changes closely, and return to the Congress if necessary. The bill's Federal Home Loan Bank provisions fail to focus the System more on lending to community banks and less on arbitrage activities short-term lending that do not advance its public purpose.

The Administration strongly supports S. 900, and urges its adoption by the Congress.

Sincerely,

LAWRENCE H. SUMMERS,
Secretary of the Treasury.

Mr. GRAMM. Mr. President, it would be my objective to speak and end by 3:30 and we would have the vote.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, success is claimed by a thousand parents. And today there are a lot of people who can claim parenthood. I am very happy to have played a part in delivering the bill before the Senate today.

I think it represents the American legislative process at its best. It has resulted more from an effort to reach a logical conclusion than to satisfy various special interest groups. In that way, it is not unique but it is different.

But the question is not how proud we are of this bill today. The question is, How will it look 50 years from now when it has gone from infancy to maturity?

Obviously, after setting out a dramatic change in public policy, it is fair to set out a test for determining its success. How will people judge whether we were successful in passing this bill today? My test is, What are we trying to do in the bill? Are we trying to benefit banks or insurance companies or securities companies, or are we trying to benefit consumers and workers? The test that I believe we should use—the test I will use, the test I hope people looking at this bill years in the future will use—is, Did it produce a greater diversity of products and services for American consumers? Were those products better? And did they sell at a lower price? I think if the answer to those three questions is yes, then this bill will have succeeded.

The world changes, and we have to change with it. Abraham Lincoln used to tell the story about how Government had to change all outmoded laws because they did not fit anymore, much as it would be unreasonable to expect a man to wear the same clothes he wore as a boy; that there is a nature to things and to society, and as they change, Government has to change to recognize the new reality.

I believe today we are changing financial services in America to reflect that we do have a new century coming and we have an opportunity to dominate that century the way America dominated the last century.

Ultimately, the final judge of the bill is history. Ultimately, as you look at

the bill, you have to ask yourself, Will people in the future be trying to repeal it, as we are here today trying to repeal—and hopefully repealing—Glass-Steagall? I think the answer will be no. I think it will be no because we are doing something very different from Glass-Steagall. Glass-Steagall, in the midst of the Great Depression, thought Government was the answer. In this period of economic growth and prosperity, we believe freedom is the answer.

This is a deregulatory bill. I believe that is going to be the wave of the future. Although this bill will be changed many times, and changed dramatically as we expand freedom and opportunity, I do not believe it will be repealed. It sets the foundation for the future, and that will be the test.

So I am proud to have been part of this. I am proud to have worked with everybody as part of the process. It has been interesting and Government at its best. I think one of the reasons we run for public office is to get a chance to do things such as this. I am glad to have had an opportunity to play a part and urge all of my colleagues to support this dramatic move into the future.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. SARBANES. Mr. President, is there time remaining? I yield the Senator 2 minutes if there is.

The PRESIDING OFFICER. There is time until 3:30.

Mr. KERREY. Mr. President, I will be done by 3:30.

I intend to vote for this legislation. I congratulate the parents of the bill: Senator GRAMM, Senator SARBANES, and others, who worked very hard. This was not easy to do.

I agree, it is Government at its best. I believe this is very much proconsumer. There is nothing more frustrating than trying to do a financial transaction and being told: I would like to be able to do it, but I can't. We have been limiting our individual capacity to develop our economy, to pursue the American dream, and do all other sorts of things that make America such a great country.

I appreciate very much the effort made to make certain there is still good regulatory oversight. I have no doubt that safety and soundness considerations will be taken into account. I think the concerns that we are going to have a meltdown such as we had in 1929 are concerns that are dramatically overblown, given the strength both of the Treasury and the Federal Reserve in this legislation.

So I appreciate very much the hard work and diligence of the chairman and the ranking member because I believe our economy and our people will benefit from it.

I am grateful as well—I do not know if the Senator from Texas is—that the unitary thrift provision is limited in this legislation. The Johnson-Kerrey amendment that passed on the floor might have been a bit difficult, but I think it is an important provision. I like the provisions for community reinvestment. I think it is a terrific compromise. My small banks have been asking for regulatory relief that provides it. I think the sunshine provisions are quite exciting. I look forward to seeing where this money and how this money is being spent.

On the issue of privacy, you have improved current privacy protections, better than what we have under existing law. I must say, I had my own interest in privacy, and my concern about privacy increased as a consequence of examining this bill. I hope to participate in a bipartisan effort to give the American people the kind of privacy protections that American citizens both expect and deserve.

Again, I congratulate and thank very much the chairman and ranking member. It is a very important piece of legislation. People were predicting you were not going to be able to get the job done. I hope you enjoyed the pizza that night when you stayed up very late to finish your work. I am grateful you went the extra mile. There is no doubt in my mind there is going to be a positive cause and effect between this bill being law and the health of the U.S. economy.

Mr. DASCHLE. Mr. President, this legislation has been a long time coming. Many, including this Senator, consider it long overdue. It is historic in magnitude.

It has been described, appropriately, as a new ''Constitution'' for financial services for the 21st Century. Because of its importance, it has been hard fought. But we can be proud of the final product. It will foster a continuation of the extraordinary economic growth this nation has seen in the last several years.

Most importantly, it offers new opportunities and benefits for American consumers. It allows for ''one-stop shopping'' for an array of financial services. Americans will be able to conduct their banking, insurance and investment activities under one roof, with all the convenience that entails.

By allowing a single company to offer an array of financial products, this bill will stimulate competition, leading to greater choices and reduced fees for consumers and businesses alike. New companies will create innovative new products for consumers.

It is important to remember how far we have come to reach this historic moment. Congress has been trying to pass a bill along these lines for 20 years. We came extremely close in the last Congress, but it fell apart in its waning moments over disagreements about the Community Reinvestment Act.

Again in this Congress, the bill saw some tough moments. In the Senate, it passed by party-line votes both in committee and on the floor.

Because of the deep commitment of Democrats to enactment of this legislation, we did not give up. We introduced an alternative bill that could garner bipartisan support. And I am proud to say that this conference agreement embodies all of the principles that we advocated in our alternative bill.

We do not need to surrender our beliefs to support of this bill, because it adopts our positions on every major issue. Best of all, these victories mean that the President can sign this bill into a law, so it can improve the delivery of financial services for many years to come.

Our positions prevailed right down the line.

Our position prevailed on banking and commerce: this bill strictly limits the ability of thrifts to affiliate with commercial companies, closing a loophole in current law.

Our position prevailed on operating subsidiaries: the bill allows banks to choose whether to conduct new activities in either a financial subsidiary or an affiliate. They can choose whatever form best suits their customers' needs.

Our position prevailed on consumer protections: the SEC retains the ability to protect consumers when banks sell securities products, which was a major concern of SEC Chairman Levitt. The agreement also preserves important state consumer protection laws governing insurance sales, and prohibits coercive sales practices.

Our position prevailed on the Community Reinvestment Act: CRA is preserved under this bill. The agreement addresses our greatest concern by requiring that banks have a good track record on lending within their own communities before they can expand into newly authorized businesses.

We can be proud of these achievements, and proud to support this bill.

At the same time, we can be disappointed the bill does not go further to protect consumers' financial privacy. The bill does contains some important provisions requiring financial institutions to give customers notice about their privacy policies. But these companies retain extraordinary latitude in sharing a customer's most sensitive, personal information without the customer's consent and without even giving the customer the right to object. We have to do better. This issue is far from over, and we will have to revisit it next year.

Despite these shortcomings, which also exist in current law, this legislation will benefit consumers, businesses and the economy, and deserves our support. Through this bill, Congress is finally reforming our outdated financial services laws to recognize new realities in the marketplace.

I would like to commend our many colleagues, administration officials, and outside institutions that have worked so long and so hard to bring us to this point. We must especially recognize the leadership of the ranking member of the Banking Committee, Senator SARBANES, for his dogged determination to ensure that this final

product upheld the public's best interests. The Secretary of the Treasury, Larry Summers, and his predecessor, former Secretary Rubin, also played key roles in ensuring that this legislation protected the interests of American consumers.

I must also commend the Chairman of the Banking Committee, Senator GRAMM, for his recognition of the need for compromise and bipartisanship in producing a bill that deserves the signature of the President of the United States.

Mr. President, this legislation deserves the support of an overwhelming bipartisan majority of our colleagues, and I urge them to vote for it today.

The PRESIDING OFFICER. The hour of 3:30 having arrived, the question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

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

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) is necessarily absent.

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

The result was announced—yeas 90, nays 8, as follows:

[Rollcall Vote No. 354 Leg.]

YEAS—90

Abraham	Enzi	Lott
Akaka	Feinstein	Lugar
Allard	Frist	Mack
Ashcroft	Gorton	McConnell
Baucus	Graham	Moynihan
Bayh	Gramm	Murkowski
Bennett	Grams	Murray
Biden	Grassley	Nickles
Bingaman	Gregg	Reed
Bond	Hagel	Reid
Breaux	Hatch	Robb
Brownback	Helms	Roberts
Bunning	Hollings	Rockefeller
Burns	Hutchinson	Roth
Byrd	Hutchison	Santorum
Campbell	Inhofe	Sarbanes
Chafee	Inouye	Schumer
Cleland	Jeffords	Sessions
Cochran	Johnson	Smith (NH)
Collins	Kennedy	Smith (OR)
Conrad	Kerrey	Snowe
Coverdell	Kerry	Specter
Craig	Kohl	Stevens
Crapo	Kyl	Thomas
Daschle	Landrieu	Thompson
DeWine	Lautenberg	Thurmond
Dodd	Leahy	Torricelli
Domenici	Levin	Voinovich
Durbin	Lieberman	Warner
Edwards	Lincoln	Wyden

NAYS—8

Boxer	Feingold	Shelby
Bryan	Harkin	Wellstone
Dorgan	Mikulski	

ANSWERED ''PRESENT''—1

Fitzgerald

NOT VOTING—1

McCain

The conference report was agreed to.

Mr. SARBANES. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. SANTORUM. I ask unanimous consent there be a period of 30 minutes for morning business, with the first 10 minutes allocated to the Senator from Washington and the second 5 minutes to the Senator from Mississippi.

Mr. GRAHAM. Mr. President, I ask unanimous consent the third period be allocated to the Senator from Florida.

Mr. SANTORUM. Fifteen minutes for the Senator from Florida.

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

WASHINGTON STATE TRAGEDY

Mrs. MURRAY. Mr. President, this is a difficult day for the people of my home State of Washington. I spent a lot of time last night talking with my neighbors, my family members, and local officials in Seattle. Like me, they are all trying to make sense out of something that makes no sense—yesterday's act of violence which killed two people, injured two more, and brought fear to my own neighborhood.

I wasn't sure if I should come to the floor today because I kept asking myself, What is there left to say? That once again, Americans are mourning after yet another deadly shooting? That once again, our families and our neighbors are gripped with fear because someone with a gun has decided to act violently? That once again, these outbreaks of violence aren't going away—they are just becoming too common?

I decided I should come to the floor to offer first my condolences to the families who have been involved and to talk to the people of my State and to thank the law enforcement officials who have responded and to talk to my colleagues about what we can do. My heart goes out to everyone who walks along the Burke-Gilman Trail, a trail I have walked on so many times. My heart goes out to every child who was held in school until they got home safely last night and into their parents' arms. My heart goes out to everyone who works and lives and knows this neighborhood. On Tuesday, it was safe. Today, it is gripped with fear.

Do we see what is happening? Or have these crazy acts become so common that we think we just cannot do anything about them? Can't we see it was someone else's neighborhood yesterday? It was my neighborhood today. Tomorrow it could be your neighborhood. What can we do? Why haven't we done something already? Are we too gripped with partisanship? Are we too tied to special interests to act? Are we too afraid to change the status quo or to even question our own rhetoric? Are we asking the right questions? Are we really posing the right answers?

I know it is in our spirit as Americans to hope for the best and to believe things will get better. That is usually the way it is. But how many shootings will it take before we realize things aren't getting better on their own? They are getting worse, and it is up to us to take action.

It seems to me we, as a nation, have not dealt with the mentally ill. We don't want to pay for costly services. But don't we all end up paying later at a far higher cost? It seems to me, as a nation, we have not spoken out against violence in a strong and consistent manner. Can't we find a way to speak out without violating our freedom of speech? Can we have this conversation without falling into the traps of the far right and the far left?

Every time we turn on the news and we are gripped by fear, guns are involved. What tragedy will it take before we act? How many people have to die? How many shootings is it going to take? How close to home do they have to strike?

We had a shooting here in the Capitol, in the heart of democracy, and we still have not acted. Can't we make commonsense rules about keeping guns away from those who shouldn't have them?

I personally am tired of the old rhetoric. From the far left they say: Take all the guns away. From the far right they say: It is not the guns, it is lax law enforcement.

Give me a break. We are the greatest nation in this world; can't we come up with some commonsense ideas about how to protect our own people? I think we can.

This Congress has failed miserably. Here we are, in the same year as the Columbine tragedy, with no juvenile justice bill, no background checks for guns sold at gun shows, no resources for our communities to help those who are mentally ill, and no afterschool activities for our kids. That is shameful.

I hope my colleagues will stop and think for a minute and realize this is not happening to someone else. It is happening to all of us. It was Hawaii on Tuesday. It was Washington on Wednesday. It could be your State today. Those are just the mass shootings that get a lot of media attention. We should not forget, on the average, 12 children a day die from gunfire.

I say to my colleagues, I would love to work with anyone from either side of the aisle who wants to take the time to really talk about what our country is facing. There are many factors. People are overstressed; violence is pervasive; weapons are easy to get. It is a flammable combination that has exploded too often.

Our country is looking for leaders who will work together on this. I say it is time to try. I invite anyone who wants to work with me to let me know.

I certainly am one mom who has had enough.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

NATIONAL MISSILE DEFENSE AND THE ABM TREATY

Mr. COCHRAN. Mr. President, recent comments by several Russian Government officials about the Anti-Ballistic Missile Treaty and our plans to deploy a national missile defense are very troubling to me. For example, the Russian Foreign Minister, Mr. Ivanov, was quoted last week as saying:

> There . . . cannot be any bargaining with the Americans over the anti-ballistic missile defense.

This may be a clever negotiating tactic, but it is not a very productive one. It unnecessarily pushes the United States to make a choice between defending ourselves against limited ballistic missile threats and withdrawing from the Anti-Ballistic Missile Treaty. We have already decided, by the adoption of the National Missile Defense Act, that we will defend ourselves as soon as technologically feasible against limited ballistic missile attack. We should not be forced to withdraw from the treaty.

The Russians should understand that our system is directed at rogue threats and will not jeopardize their strategic deterrent force. We have an opportunity to work cooperatively to ensure that we are protected, both Russia and the United States, against emerging ballistic missile threats without undermining strategic deterrence.

The ABM Treaty needs to be changed to permit the deployment of defenses against limited ballistic missile threats and to allow the parties to utilize new defensive technologies. There should be no restrictions, for example, on the use of sensor capabilities such as the space-based infrared system and cooperative engagement capability. We should also be able to take advantage of new basing modes and advanced technologies such as the airborne laser.

The ABM Treaty must be interpreted to allow the parties to use the best technologies that are available in their own defense against rogue threats. The strategic deterrent of each nation can be preserved at the same time limited missile defenses are permitted and considered acceptable under the ABM Treaty.

Another Russian Foreign Ministry spokesman said last week:

> Russia does not see as acceptable such an ''adaptation'' of this treaty. Russia will not be a participant in destroying the ABM Treaty.

The Russian Government's contention that adapting the ABM Treaty to modern realities is akin to destroying it is unfortunate. In fact, the opposite is true. To refuse to adapt this treaty to the new realities is to guarantee its irrelevance.

One reality is the new ballistic missile threat. The other is that the United States is going to respond to this threat and protect itself by deploying a missile defense system. The sooner the Russians understand our commitment to defend ourselves, the more likely it is we can agree to sensible modifications of the ABM Treaty for our mutual benefit and safety.

The PRESIDING OFFICER. The Senator from Florida is recognized for 15 minutes.

Mr. GRAHAM. Mr. President, I ask unanimous consent for an additional 5 minutes in morning business.

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

SAVING THE SOCIAL SECURITY SURPLUS

Mr. GRAHAM. Mr. President, the beginning of this congressional session was filled with hope and promise. A strong economy and improvements in the Federal budget gave us a wonderful opportunity to make important investments in our Nation's future. A portion of these surpluses could be used to extend the solvency of the Social Security program. A portion of the surplus could be used to restore solvency to Medicare and to modernize its benefit structure to reflect current medical practices. A portion of the surplus could be used, as was urged in the full-page ad in the Washington Post of October 28, ''to use this opportunity to preserve our parks and open spaces forever.'' This could be accomplished by such things as fully funding the Land and Water Conservation Fund, and a portion of the surplus could be used to fund tax relief and economic stimulation.

Instead of devoting the surplus to these important matters, Congress is dribbling away the surplus with a combination of get-out-of-town spending and budgetary trickery. Our actions—emergency spending, scorekeeping adjustments, administrative directives—have one simple result: They are spending our surplus. Once current revenues are spent, the non-Social Security surplus will be spent and the Social Security surplus will be spent. If Congress continues on this gimmick-potholed path, we will be harshly judged by the American people for our shortsightedness.

On October 4 of this year, the Washington Post ran an article on the 10-year anniversary of the reunification of Germany. In that article, Wolfgang Schaeuble, the Christian Democratic leader and Chancellor Kohl's most trusted adviser, lamented the fact that Germans had avoided making the tough political choices 10 years ago that would have made their country stronger today. The spirit of reunification created an atmosphere for reform. The Germans could have used that spirit to make fundamental changes to their overly generous social contract that all acknowledged was unsustainable. They deferred, and the result was a tripling of the national debt in less than a decade.

We face the same choice today. Our positive economic outlook creates a similar potential for the United States. The budget surplus gives us the resources to convert a substantial part of that potential to reality.

At the beginning of the year, the Congressional Budget Office estimated we would have a non-Social Security surplus of $21 billion. What have we done in the last 10 months? The combination of excessive spending and the budget trickery designed to disguise even greater spending have placed the on-budget surplus in serious jeopardy and threatened to undermine the Social Security surplus. These actions—spend and then hide—have occurred in waves throughout 1999. As with our coastline, no single wave erodes our beaches. Rather, it is a succession of waves that erodes the sand. These spending waves have eroded our surplus, eroded our opportunities, eroded our vision of what could be accomplished.

In May of 1999, the Congress passed a supplemental appropriations bill which provided for $15 billion for everything from reconstruction aid for Central America and the Caribbean to farm loan assistance. Much of the May supplemental bill was designated as an emergency. No spending cuts or revenue increases were enacted to offset the emergency spending contained in that May 1999 supplemental appropriation. The consequence? A $15 billion reduction in the non-Social Security surplus.

The May supplemental appropriations lowered for 1999 the surplus by $4 billion. That was a significant number because without that additional $4 billion of unpaid-for spending, we would have actually ended 1999 with an on-budget surplus. But because of it, we have ended 1999 with an on-budget deficit of $1 billion.

The May supplemental will lower the current fiscal year 2000 on-budget surplus by $7 billion. It will lower the next fiscal year 2001 by $2 billion; 2002 by $1 billion; and 2003 by $1 billion.

By this action, we not only adversely affected the fiscal status of the year in which the action was taken but for 4 years into the future.

This chart shows we started with a $21 billion on-budget surplus; as a result of that portion of the supplemental appropriations which was applied to fiscal year 2000, we reduced it by $7 billion. So now we only have a $14 billion on-budget surplus.

The next wave hit in August of 1999, the Agriculture Appropriations Act: $8 billion of emergency spending, again, none of which was offset by reductions in spending elsewhere or increased revenues. So we have reduced the on-budget surplus by another $8 billion from $14 billion to $6 billion.

In October of 1999, the Defense appropriations bill included more than $7

billion in emergency spending, of which $5 billion reduces this year's on-budget surplus. So our $6 billion on-budget surplus is now down to $1 billion.

Also, in October of 1999, the Commerce-State-Justice appropriations bill designated $4.5 billion of spending for the emergency of the decadal census. More than $4 billion of that amount will come directly out of the 2000 on-budget surplus and, thus, as a result of that, we have exhausted our on-budget surplus, and we have reduced the Social Security surplus from $147 billion to $144 billion.

What have we done thus far? We have initiated a series of waves of unfunded spending which have gone through all of our regular revenue for the year 2000 and now have gone through all of the on-budget surplus and have eaten into the Social Security surplus by $3 billion.

That was not all. In addition to this spending, we have also had a series of accounting tricks. In the summer of 1999, to give the appearance of meeting the discretionary spending caps established as part of the Balanced Budget Act of 1997, the Budget Committee directed the Congressional Budget Office to alter its estimates of spending included in several of the appropriations bills. These so-called scorekeeping adjustments which total $17 billion make it look as if we are spending less in the current year than is actually the case.

The Budget Committee justifies these directions by claiming they are more in line with those used by the Office of Management and Budget.

What is happening is we are cherry picking. For example, the Office of Management and Budget spending estimate for the year 2000 for the Department of Defense is lower than the Congressional Budget Office. Therefore, the Budget Committee says: Use the Office of Management and Budget. But guess what. When we turn to the energy and water appropriations bill where the reverse is true—that is where CBO's spending is lower than the Office of Management and Budget—they said: Use the Congressional Budget Office estimate.

It is a case of trickery: Pick the lowest estimate of spending and force that lower estimate to be the one used to assess whether or not we have eaten into the Social Security surplus. The analogy would be a business which used two sets of books. The difference is that the business man or woman who did that would go to jail.

No Halloween mask can hide our identities as we engage in these trick-or-treat charades. When these scorekeeping adjustments are added to the emergency spending listed previously, Congress will have spent the entire amount of its current revenue, the entire amount of its on-budget surplus, and will have spent at least $20 billion of Social Security surplus for fiscal year 2000.

The trickery does not end there. Another bit of trickery is directed at administrative action. In an effort to avoid paying for additional spending, congressional leaders have asked the administration to make changes in the Medicare rules allowing for higher reimbursement levels to Medicare health care providers. These payments, anticipated to be approximately $4.5 billion over the next 5 years, will not show up in any action taken by Congress, but they will certainly result in higher spending and smaller surpluses.

The analogy is to a family which sends a son or daughter to college and gives him or her a credit card to pay for college expenses. The credit card receipts may not be signed by the parents, but they are ultimately going to be responsible. At the day of reckoning, they will have to pay for them and reduce their bank account in so doing.

The threat to the on-budget and Social Security surpluses are not confined to the current fiscal year. There are other waves that have yet to hit the beach but are forming on the ocean's horizon.

As an example, we are proposing paybacks, additional reimbursement to Medicare providers for the current fiscal year of $1 billion; for the fiscal year 2001, $5 billion; and over the next 10 years, $15 billion. None of those are currently proposed to be offset by either spending reductions or revenue increases. In the House of Representatives, they are proposing to marry a minimum wage increase with tax cuts. Those tax cuts over 10 years will total $95 billion. They are not proposed to be offset by either spending cuts elsewhere or revenue increases.

Mr. President, $5 billion of the discretionary spending authorized in the last few months will not occur in the current fiscal year but, rather, have been pushed into 2001, and another $2 billion has even been pushed into the year 2002. The spending limits of fiscal years 2001 and 2002 are even more restrictive than this year's limit. The spending cap for 2000 was set in 1997 at $579 billion. We are probably going to spend in excess of $610 billion before this session concludes. We have blown through the spending cap for this year by some $31 billion.

The problem gets worse because in fiscal year 2001, we have set ourselves a spending limit of $575 billion, $35 billion below what we are spending this year. In the fiscal year 2002, the spending cap is $569 billion, another $6 billion below current year spending.

Given the fact that Congress cannot pass spending bills within this year's limit of $579 billion, it is wholly unrealistic to believe Congress will have even greater success with the significantly lower—$35 billion next year and $41 billion 2 years out—limits than we have today. Spending above those limits will further threaten the Social Security surplus.

In fiscal year 2000, we will spend all of the tax revenue we collect, we will spend all of the on-budget surplus, and we will dip into Social Security by about $20 billion. In the year 2001, we will spend all the revenue we collect, and at this rate, we have already spent all but $3 billion of the on-budget surplus.

Why is this recounting of the reality of our spendthrift year of 1999 important? Some say it does not matter if we spend the Social Security surplus; we have done it for 30 years, so why not 1 more year? Why stop the spend-and-borrow party today? Spending the Social Security surplus is stated to be good for the economy.

I argue just the opposite, that preserving the Social Security surplus is intricately linked to a strong American economy. Most economists agree that increasing national savings is important to maintaining a strong economy. Greater savings results in greater investment in plant and equipment, which creates jobs and raises productivity. Greater productivity translates into a higher standard of living. The surest way to increase national savings is to reduce the Federal debt.

The Finance Committee even has a subcommittee dedicated to this proposition. It has a subcommittee with the title, Long-Term Growth and Debt Reduction. We have denominated one of our very institutions to the proposition of the relationship between economic growth and debt reduction.

Alan Greenspan, the Chairman of the Federal Reserve Board, told the Senate Finance Committee earlier this year:

> Increasing our national saving is critical. The President's approach to Social Security reform supports a large unified budget surplus. This is a major step in the right direction in that it would ensure that the current rise in government's positive contribution to national saving is sustained.

I would say that quotation is even more relevant today, as we have just gotten the latest monthly report on the national personal savings rate and it is virtually at an all-time low. It is, in fact, the savings that are occurring at the national governmental level that are providing most of the savings which are available in our economy.

Reducing the Federal debt frees capital for use in the private sector. Lowering the public debt reduces the Federal Government's interest costs, freeing scarce resources for other important public investments.

The Office of Economic Policy reported in August that over the last 7 years, because of the greater fiscal discipline that has been practiced at the national level, we have saved for the American taxpayer $189 billion in interest costs—$189 billion which is now available for other constructive public uses, including financing tax relief for American taxpayers.

Reducing the Federal debt also has a positive effect on individual American families. When the Federal Government decreases its borrowing, it results in greater availability of capital for all other borrowers. The same Office of Economic Policy estimates that a typical American family with a $100,000

mortgage on their home will save about $2,000 a year in mortgage payments if interest rates are reduced 2 percent as a result of the Federal Government's more austere fiscal policy.

So saving the Social Security surplus is important in the economic life of our Nation and for individual American families today. It also will be a critical factor in the challenge we are going to be faced with in the next two decades as Social Security begins to meet the demands of the baby boom generation.

Demographic changes taking place in our country will dramatically alter the Social Security program. An aging post-World War II generation, declining birthrates among young- and middle-aged adult Americans, and increasing life expectancies will quickly deplete the assets which are currently accumulating in the Social Security trust fund.

By law, surpluses generated by Social Security may only be invested in U.S. Government or U.S. Government-backed securities. The Social Security surpluses being generated today were planned as part of the changes made to the program in 1977 and then in 1983. The surpluses were created for the express purpose of prefunding the retirement benefits of the baby boom generation. It is much like the biblical principle of saving during 7 good years to prepare for 7 lean years.

Mr. President, I ask unanimous consent for an additional 5 minutes to complete my remarks.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. GRAHAM. I thank the Chair and my colleagues.

Under current projections, these surpluses will reverse in the year 2014 when the baby boom generation begins to retire. Their demand for retirement benefits will outpace the revenue collected from payroll taxes after the year 2014. These shortfalls will require that the assets, the Federal Government's securities which have been accumulated by the Social Security trust fund, be redeemed.

In essence, the Social Security trust fund, with a large pile of several trillion dollars' worth of Federal securities, will now be going to the Federal Treasury and saying: We are going to turn these pieces of paper back to you, and we need the cash they represent in order to meet the current obligations to Social Security beneficiaries.

The most effective way to plan for the demands that will be created by the baby boomers' retirement is to utilize the current Social Security surpluses in a very thoughtful and prudent manner, in a manner to reduce that portion of the national debt which is held by the public.

Lowering our outstanding debt today will put the United States in a much stronger financial position should we need to borrow funds to redeem the U.S. Treasury securities currently held by the Social Security trust fund. The cash obtained from redeeming those assets will be used to pay benefits when the baby boom generation retires.

The Social Security surplus can lower the debt held by the public by $2 trillion if we do not waste it. That $2 trillion reduction in debt held by the public will serve as a critical cushion to meet our Social Security obligations.

In summary, we are about to lose a great opportunity to address the long-term fiscal challenges facing our country. Instead of preserving both the on-budget and the Social Security surpluses for uses in saving Social Security, Medicare, investing in America, or returning it to the taxpayers in the form of tax relief, Congress is frittering the money away.

We have spent the fiscal year 2000 on-budget surplus, and we have spent at least $20 billion of this year's Social Security surplus. The outlook for 2001 and 2002 is not any better. We should stop these actions now, pay for the spending we enact, and avoid the use of accounting gimmicks.

We stand at a unique point in history. Two months from now, we will move into a new century and, indeed, a new millennium. Instead of taking a ''get the appropriations bills done and get out of here approach,'' we should direct our sights to larger goals. We should be prepared to act boldly. We can seize upon this opportunity provided for us by a strong economy and an improved financial state of affairs and embark on a fiscal agenda that will pay rich dividends for decades to come.

Our predecessors, at the beginning of the 19th and 20th centuries, faced similar opportunities and challenges. Each chose the bold approach. The Louisiana Purchase in 1803 and the building of the Panama Canal in 1904 were emblematic of a proud, vigorous, bold new nation at the beginning of a new century. Although controversial in their day, the Louisiana Purchase and the building of the Panama Canal are examples of courageous endeavors that have stood the test of time.

The question facing this Congress is whether we will live up to the example of the 19th century and the 20th century as we commence the 21st century or whether we will squat in the narrow, visionless box built for parliamentary pygmies. Will we validate Proverbs 19:18, wherein it says: ''Where there is no vision, the people perish''?

Thank you, Mr. President.

Mr. WYDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I ask unanimous consent to speak for up to 15 minutes as in morning business.

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

PRESCRIPTION DRUG COVERAGE FOR SENIORS

Mr. WYDEN. Mr. President, I have been coming to the floor over the last few days in an effort to win support for bipartisan legislation to secure prescription drug coverage for the Nation's older people. As part of that effort, I have been urging seniors, as this poster says, to send in copies of their prescription drug bills to each of us in the Senate in Washington, DC.

In addition to getting copies from seniors of their prescription drug bills, I am now hearing from seniors who are sending me copies of prescriptions they cannot afford to get filled. This is a prescription that was written for an older gentleman at home in Beaverton, OR. He is using 21 prescriptions at this point. He has already spent almost $1,700 this year on his prescriptions. Here we have three he cannot afford to get filled: Glucophage is a drug that one takes to deal with diabetes; Tagamet; Prilosec—three very common prescriptions older people in our country need and use. This is an example of what he sent me, prescriptions his doctor wrote out, and he can no longer afford to actually get them filled.

This is the kind of account I am hearing from seniors across the country. We have asked them to send in copies of their prescription drug bills. I have a whole sheaf of those, all kinds of bills we are receiving in that area. But now we are actually hearing from seniors and getting copies of their prescriptions their physicians are writing for them that they cannot even take to a drugstore and get filled.

In the last 24 hours, we in the Senate have been watching the news reports about the dueling press conferences involving prescriptions. There has been an awful lot of finger pointing one way or another. Frankly, each one of them has some reasonable points to make. What is so frustrating is that instead of these dueling press conferences and going back and forth, having all this finger pointing, the Senate ought to be working on bipartisan legislation.

There is one bipartisan bill now before the Senate. It is the Snowe-Wyden legislation. The Senator from Maine and I have teamed up over the last few months to put together a bipartisan bill to get prescription drugs covered for older people on Medicare. We have 54 Members of the Senate already on record as voting for a specific plan to fund this program. A majority of the Senate is now on record for a bipartisan proposal to pay for prescriptions.

Here we are, with the session only having a few more days to go, Senators—I am sure I am not the only one—getting copies from seniors of prescriptions that they cannot actually afford to have filled. We have asked them in recent days to send us copies of their prescription drug bills. They have been doing that. Now they are sending us copies of prescriptions they cannot afford to take to their neighborhood pharmacy and get covered.

It is so sad to see these dueling press conferences, and then we don't have a response, to have seniors telling us the sad and often tragic stories about how

they can't afford to take their medicine. Their doctor tells them to take three pills. They don't do that. They start taking two. They start taking one. Eventually they get much sicker.

The Snowe-Wyden legislation is bipartisan. It uses marketplace forces. We don't have a Federal price control regime. We don't have a one-size-fits-all health care policy. We have the kind of approach that works for Members of Congress and their families.

Our bill, called SPICE, the Senior Prescription Insurance Coverage Equity Act, is a senior citizens version of the kind of health plan that Members of Congress have. We incorporated recommendations from consumer groups. Families USA, for example, has made some excellent recommendations on consumer protections that older people need.

We have also listened to the insurance sector and the pharmaceutical sector, making sure there would be adequate incentives for research and the initiatives that are underway to help us find a cure for Alzheimer's and all of the illnesses that are so tragic, for which every Member of the Senate wants to see a cure.

I will keep coming to the floor. I want to cite a couple more examples before we wrap up. I know other colleagues want to speak.

I heard recently from a senior citizen in Forest Grove that in recent months she spent almost $1,500 on her prescription drugs. Another older person from the Portland metropolitan area reported that in a few months, she spent over $600 for her medications. She is now taking more than seven medications on an ongoing basis.

Very often the families have to go out and try to find free samples to compensate for some of the drugs the older people can't afford. Families have to chip in when it is hard for them to afford medicine. They are all asking, is the Senate going to just bicker about this issue or is the Senate going to come together in a bipartisan way and actually do something about these problems? We have more than 20 percent of the Nation's older people spending over $1,000 a year out of pocket on their medicine.

I am very often asked: Can this Nation afford to cover prescription drugs? My response is, we cannot afford not to cover these prescriptions. As I have cited several times during these presentations, a lot of these drugs help us to hold down costs. They help us to deal with blood pressure and cholesterol. The anticoagulant drugs are absolutely key to preventing strokes. I cited an example of one important anticoagulant drug where for $1,000 a year, in terms of the cost to the senior, they are able to save $100,000 in expenses that they would incur if they suffered a debilitating stroke when they couldn't get these medicines.

It is absolutely essential that we secure this coverage for the Nation's older people. It seems to me now a question of political will. Can we set aside some of the partisanship on this health care issue, some of the bickering that has gone on back and forth? I believe the Snowe-Wyden legislation—a majority of the Senate has already voted for in terms of its funding plan—is the way to go. But I know colleagues have other ideas.

What we ought to do is resolve to deal with this issue in a bipartisan way. I hope seniors will continue to send us copies of their prescription drug bills, as the poster says, to their Senator in Washington, DC.

I hope in the days ahead we won't see a whole lot more of these tragedies such as the one I have cited today. It is one thing for a senior to send in their bills and say, I am having difficulty paying for this; I hope you will cover it. But it is quite another for a senior citizen to send me, as this older person did from Beaverton, a copy of his prescriptions saying—it says it right down in the margin—''can't afford to get filled.'' Prescriptions his doctor ordered, in effect the prescriptions go unfilled. These are important medicines. If you don't take Glucophage and you have diabetes, you can have some very serious health problems.

I am hopeful the Senate will look to get beyond the dueling press conferences, look beyond some of the issues that have surrounded this discussion in a partisan way and say: We are going to come together and go to bat for seniors and their families. It is time to do it.

I intend to keep coming back to the floor until we secure this coverage. It was important for seniors back in the days when I was director of the Gray Panthers. It is even more important now because these drugs can help us to save bigger health care bills down the road. I will be back on the floor continually calling for a bipartisan approach to this issue, one that uses marketplace forces to deal with the challenge of health care costs.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, I ask unanimous consent to speak for up to 15 minutes as in morning business.

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

(The remarks of Mr. GRAMS pertaining to the introduction of S. 1860 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

REMARKS BY U.S. TRANSPORTATION SECRETARY RODNEY SLATER ON THE PASSING OF SENATOR JOHN CHAFEE

Mr. WARNER. Mr. President, today, as we gather together to witness LINCOLN CHAFEE take the oath of office to serve as the Senator from Rhode Island, I am reminded of my conversation last week with Transportation Secretary Rodney Slater.

We shared fond memories of our friend and spoke of his many contributions to transportation safety. Secretary Slater worked closely with Chairman Chafee on transportation issues that came before the Committee on Environment and Public Works.

I ask unanimous consent to print in the RECORD the remarks made last week by Transportation Secretary Rodney Slater on the passing of our colleagues, Senator John Chafee.

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

STATEMENT OF U.S. TRANSPORTATION SECRETARY RODNEY E. SLATER ON THE PASSING OF SENATOR JOHN CHAFEE

We are deeply saddened by the death of Senator John Chafee. He served the people of Rhode Island and of this nation long and well, and leaves a legacy of accomplishment that will endure for generations.

As chairman of the Senate Environment and Public Works Committee, Sen. Chafee realized that the highway system is more than concrete, asphalt and steel, and was an early champion of a safer, more balanced, environmentally sensitive transportation system. As a key author of the groundbreaking Intermodal Surface Transportation Efficiency Act of 1991, he possessed a vision of how much better and stronger our surface transportation system could be. He then worked tirelessly to preserve and build on those gains in the 1998 Transportation Equity Act for the 21st Century. He cared deeply about health care, and fought hard for critical highway safety improvements and against drunk and drugged driving.

Sen. Chafee was responsible for the creation of the Congestion Mitigation and Air Quality Improvement Program and transportation enhancement activities. He insisted that the highway system not be looked at alone, but rather as a comprehensive network which includes trains, planes, buses, ferries, bicycles and pedestrain paths.

Sen. Chafee also was a protector of our marine environment, playing a major role in the passage of legislation to prevent oil spills and prohibit ocean dumping. He also was instrumental in the passage of the 1990 Clean Air Act. He always worked in a bipartisan manner with President Clinton and this administration in order to get things done.

Here at the U.S. Department of Transportation, we will work to carry forward his legacy as we continue to build the transportation system of the next century.

OMBUDSMAN REAUTHORIZATION ACT OF 1999

Mr. ALLARD. Mr. President, in the Summer of 1998, I met with a group of concerned citizens from the Overland Park neighborhood, which is located in southwest Denver. The dozen or so residents had requested a meeting with me to discuss an issue that had taken up more than six years of their lives and had driven them to distrust anything the Environmental Protection Agency had told them about a Superfund site located in their neighborhood called Shattuck.

The story surrounding the Shattuck Superfund site and what the EPA did to this community will have a lasting impact not only on the residents of the

Overland Park neighborhood, but on each and everyone of us who look for the EPA to be the guardian of our nation's environmental health and safety.

For those who have not followed the Shattuck case, these are the facts that have been uncovered thus far. In 1991, the local Region 8 EPA office and the Colorado Department of Health began to look at possible remedies for the cleanup of the old S.W. Shattuck Chemical Company located on South Bannock Street in Denver. Initially, it was determined that the safest and most effective cleanup was removal of the radioactive waste to a registered storage facility in Utah. But following a secret meeting between Shattuck's attorneys, EPA and the Colorado Department of Health the decision was made to store the waste on-site. Residents in the area were never told that the remedy chosen by the EPA had never been used before anywhere in the United States, and more importantly documents calling into question the reliability of the remedy were kept from the public. In 1993, the EPA signed the Record of Decision (ROD) and the radioactive waste at the Shattuck Superfund site was entombed on-site.

Over the next five years the citizens of Overland Park fought to get their neighborhood back. They petitioned the EPA for a review of the decision and were denied. They attempted to submit new information about the safety of the remedy selected and were told by the EPA the remedy was safe. Finally, last summer the residents concerns were brought to my attention. After meeting with area residents and business owners, I determined their questions deserved answers and together we began a journey to find the truth about Shattuck.

Last October, I asked the EPA to meet with the community to answer their questions and was informed they would not conduct such a public meeting. Outraged by their answer, I exercised my right as a U.S. Senator to hold up Senate confirmation of a key EPA official. The move resulted in the EPA agreeing to my request for an independent investigation of Shattuck by the National Ombudsman. Earlier this year he began his investigation and quickly determined the claims made by residents were not only meritorious, but that EPA officials had engaged in an effort to keep documents hidden from the public.

In fact, the Ombudsman was so successful at uncovering the facts surrounding Shattuck, his investigation has resulted in EPA officials now looking at eliminating his office. A meeting was recently held among all ten EPA regional administrators and staff from EPA Administrator Carol Browner's office to discuss eliminating the Ombudsman position. This can not be allowed to happen! Nor will I allow it to happen. Without the Ombudsman's investigation on Shattuck the residents of Overland Park would have never learned the truth. The Ombudsman's investigation brought integrity back into the process.

The EPA's efforts to curtail the Ombudsman's independence is an attempt to seek revenge for the on-going Shattuck investigation and to intimidate citizens who dare question the answers they are given by the EPA. I have recently introduced Senate Bill 1763, the ''Ombudsman Reauthorization Act of 1999,'' which will preserve the office of the National Ombudsman. The battle to enact this legislation could be tougher than getting the EPA to admit they made a mistake at Shattuck.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, November 3, 1999, the Federal debt stood at $5,654,990,773,682.18 (Five trillion, six hundred fifty-four billion, nine hundred ninety million, seven hundred seventy-three thousand, six hundred eighty-two dollars and eighteen cents).

One year ago, November 3, 1998, the Federal debt stood at $5,553,893,000,000 (Five trillion, five hundred fifty-three billion, eight hundred ninety-three million).

Five years ago, November 3, 1994, the Federal debt stood at $4,723,729,000,000 (Four trillion, seven hundred twenty-three billion, seven hundred twenty-nine million).

Ten years ago, November 3, 1989, the Federal debt stood at $2,864,340,000,000 (Two trillion, eight hundred sixty-four billion, three hundred forty million) which reflects a doubling of the debt—an increase of almost $3 trillion—$2,790,650,773,682.18 (Two trillion, seven hundred ninety billion, six hundred fifty million, seven hundred seventy-three thousand, six hundred eighty-two dollars and eighteen cents) during the past 10 years.

JOHN H. CHAFEE

Mr. MOYNIHAN. Mr. President, on the day that his son, LINCOLN, succeeds him in the Senate I would ask to have printed in the RECORD what I believe to be John H. Chafee's last formal address. It was given at the National Cathedral on the occasion of the Fiftieth Anniversary Celebration of the National Trust for Historic Preservation. They reflect the great beauty of the man, who loved his country so, and gave so much to it.

I ask unanimous consent the address be printed in the RECORD.

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

REMARKS OF SENATOR JOHN H. CHAFEE FOR FIFTIETH ANNIVERSARY CELEBRATION OF THE NATIONAL TRUST FOR HISTORIC PRESERVATION, OCTOBER 21, 1999

Thank you, Dick, for your generous introduction. Secretary Babbitt, Mayor Williams, Commissioner Peck and friends, it is an honor to join you today.

Every so often there occurs an event so cataclysmic, so egregious, that it sparks a demand for national action. For example, in the 60's and early 70's, many in our nation were disturbed about the foul condition of our natural waters—our lakes, streams, and rivers—where fish could no longer survive and filth was obvious to all who would look.

There were those who said a national response was required, but other demands on the federal treasury took precedence. Until one day the Cuyahoga River in Cleveland, polluted with oil and grease, caught fire. That's right—a river burst into flames in 1969.

That was the final indignity—that was what brought about the Clean Water Act of 1972. This led to an eventual expenditure of $70 billion by the federal government for waste water treatment plants and an even greater outlay by private industry and local communities to comply with new discharge standards.

A desperate call for national action to preserve the historically and architecturally important buildings across our land was heard in 1963. Out of a single event—the destruction of magnificent Penn Station in New York City—arose a national outcry.

Modeled in part after the Baths of Caracalla, Penn Station was an awe inspiring building the likes of which will never again be built.

A line from an editorial in the New York Times, published soon after the commencement of the station's demolition, expressed the sentiment of the day. It read:

''We will probably be judged not by the monuments we build but by those we have destroyed.''

Fortunately, there was in existence an organization—The National Trust for Historic Preservation—that was trying to sound the alarm to our nation that we must save the Penn Stations and other grand buildings. And that organization is doing a superb job and we are fortunate it exists on this, its 50th birthday.

There are three points I'd like to leave with you today. They are:

First, as supporters of the National Trust, you are engaged in extremely important work for our country.

Second, you are on the cutting edge of the environmental movement.

Third, some suggestions I have that could make your efforts even more effective.

Let me exemplify point one. You are engaged—as supporters of the National Trust for Historic Preservation—in work that is extremely important to our country. You are preserving what British novelist D.H. Lawrence once referred to as the ''spirit of place.'' Expressing his anxiety about the quiet exchange of quaint English hamlets for the faceless infrastructure of the industrial age, he wrote:

''Different places on the face of the earth have different vital effluence, different vibration, different chemical exhalation, different polarity with different stars: call it what you like. But the spirit of place is a great reality.''

All across our land, your actions are preserving that spirit of place.

You are doing far more than trying to save the Penn Stations of our land. You are fostering an urban revitalization of whole sections of some of our older cities. By encouraging tax credits for rehabilitation of older buildings, by promoting smart-growth initiatives, and the conservation of open space, you are making whole sections of our older cities more livable, more attractive to home buyers.

This all makes such sense. By promoting city dwelling we reduce expenditures on brand new roads, sewer pipelines, gas, electric, and phone lines, thus assisting our town and country treasuries. For within historic districts exists the needed infrastructure.

None of it has to be built—it is already in place because of the past exodus of residents. Washington, DC is typical of our older cities where the population has gone from 800,000 in 1950 to 540,000 today—a 32 percent drop.

And, there are tremendous economic benefits to what you are doing. Studies have shown that dollar for dollar, historic preservation is one of the highest job-generating economic development options available. In other words, one million dollars spent on rehabilitation creates more permanent jobs, does more for retail sales, and does more for family incomes in a community than a like amount spent on new construction.

Because of efforts of the members of the National Trust over the years, and the leadership it has given, my state is a microcosm of what is taking place across our nation. Many of our magnificent marble palaces in Newport were saved from being subdivided into a series of apartments and instead were preserved as originally built. Now, they are by far the largest tourist attractions in our state, and extremely important to the economy of Newport.

Likewise, historic districts are flourishing and home owners are eager to buy turn of the century homes that were so soundly built.

This didn't just happen. It came about with the consent inspiration and guidance from the National Trust.

Let me move to point two. You are on the cutting edge of the environmental movement.

Why do I say that? If we can be successful in enticing a goodly portion of our citizens to live within our cities, we have helped stanch the flow of what we've come to know as urban sprawl. We are losing our farmland at a frightening rate—two acres every minute of every day, according to estimates of the American Farmland Trust.

There is no question that every new home that is built in our suburbs or every new housing development that is created, affects some creature's habitat. I have long held that if we give nature half a chance, it will rebound. But we must give it that half a chance. Regrettably, in too few areas are we doing that. The National Trust is at the forefront of environmental action by making our cities more attractive, thus reducing the paving and development of our countryside.

Few environmental challenges equal that of global warming, and the principal culprit in that area is the automobile. If people remain within cities, there are indeed fewer autos on the road, which means less pollution, less global warming.

Now for point three: some suggestions to make your efforts even more effective.

Do all you can to make the federal government a leader in historic preservation. When we do something really good, cheer us on. For example, we can all be delighted and encouraged by the inclusion of large sums of money in transportation legislation for so-called enhancements. These substantial moneys can be used, among other things, to restore historic buildings. Senator Pat Moynihan deserves the principal credit for the Enhancement Program, which we first did in the 1991 Highway Bill and continued in the 1998 Transportation Bill known as TEA–21. This was a radical departure from previous highway bills and Senator Moynihan deserves tremendous credit.

We in the federal government can also lead by example by restoring post offices and courthouses rather than abandoning them and moving their activities to the suburbs.

Let me give you an example of a courthouse we managed to save that was historically and architecturally important. Almost a decade ago, I visited the traditional home of the federal judiciary in Old San Juan, Puerto Rico—a court house that had fallen into disrepair. It was a shambles, and there was a movement underway to abandon the structure in favor of constructing a new one in the suburbs. But the building's historic significance coupled with such architectural flourishes as a beautiful two-story loggia overlooking the harbor, warranted its preservation.

Thanks to the General Services Administration's preservation efforts, and a $35 million restoration, this beautiful courthouse has been saved and will be dedicated next spring.

The restoration of the Courthouse should spur a renaissance in San Juan's historic quarter. Lawyers doing business at court will frequent nearby restaurants and shops. Hotels and other businesses may spring up as more people visit the area.

We can create incentives in the tax code to promote restoration. As many of you know, those who restore historic buildings for commercial purposes re already eligible for tax credits. Since these provisions have been in place, $18 billion dollars have been generated in private investment. You should be proud of these numbers, for they didn't happen of their own accord. They came about with the constant inspiration and guidance from the National Trust.

I have long hoped to extend these credits to homeowners through legislation called the Historic Homeownership Act. It would allow homeowners who rehabilitate homes in historic areas to take a tax credit equal to 20 percent of the project's cost. This credit could be used toward one's tax liability or in the form of a mortgage credit certificate. Because of this flexibility, these provisions would be attractive to low and middle income homeowners, not just those in the top tax brackets.

There has been overwhelming support for this legislation across the political spectrum. Earlier this year, we enacted a version of it as part of the tax bill approved by Congress. That was the bill the President subsequently vetoed. The prospects for enacting that homeownership tax credit bill this year are dim. Hopefully, next year we can do it. Before I go, I want to get this done! You can help by pestering your Senators and Representatives to support the Historic Homeownership Act.

Another major way you can lend a hand is by giving vocal support to efforts states, counties, and towns are making to preserve open spaces. If the land is going to be saved, then homes are not going to be built there.

Clearly, open space conservation and historic preservation go hand in hand. In fact, Senator Joe Lieberman and I are pressing for legislation that would accomplish both goals. It is called the Natural Resources Reinvestment Act. It would fully fund the Historic Preservation Fund at 150 million dollars per year and encourage states to set aside open space. While we may be addressing these concerns at the federal level, the time is ripe to promote ballot initiatives in your own towns and counties.

Last year, voters approved the vast majority of the 200 ballot initiatives for open space purchases to curb urban sprawl at state and local levels.

With such wide-ranging support, evidently these measures are not just the province of the elite. No, the rich and poor alike support them, because they benefit everyone.

One of the biggest successes occurred in New Jersey where voters, in 1998, set aside $98 million to buy open space.

And, just last week, two local anti-sprawl initiatives made news in the Washington area. In Montgomery County, planners proposed to spend $100 million over the next decade to preserve historic properties and undeveloped land. In addition, the city council in Rockville, Maryland approved a six-month development moratorium on single-use retail stores of 60,000 square feet or more.

There are many ways that we can encourage historic preservation at the federal level. But absent your cooperation, none of the preservation work would get done. So the rest is up to all of you. And I trust that you will carry out these initiatives with purpose and enthusiasm. Do what you can to recruit others to join your ranks.

Naysayers may ask: What difference does saving one train station or post office truly make in the future of America? My response is this: preservation is not just about conserving brick and mortar, lintel and beam. It is about the quality of life, and the possibility of a bright future. Carl Sandburg expressed the danger of losing touch with our past when he said:

''If America forgets where she came from, if people lose sight of what brought them along, . . . then will begin the rot and dissolution.''

Who could say it better!

On behalf of the city of Providence and Rhode Island, we look forward to sharing our historic treasures with you during your 2001 conference. Keep up the good work. Thank you.

THE AFRICAN GROWTH AND OPPORTUNITY ACT

Mr. LEAHY. Mr. President, yesterday the Senate voted on a modest package of trade bills which included the African Growth and Opportunity Act and the Caribbean Basin Trade Enhancement Act. As a long time supporter of expanding trade opportunities for Vermonters and all Americans, as well as people in developing countries, I reluctantly cast my vote against this bill.

Exports are a key component of Vermont's economy. As a small state, we must promote our products beyond the Green Mountains. Vermonters are reaping the benefits of more open markets around the world and these markets are creating new jobs here at home. Not long ago, I led a Vermont trade delegation to Ireland which has one of the fastest growing economies in Europe.

Having said that, trade is about more than financial statistics. It is about more than increasing market opportunities for American products, as important and laudable a goal as that is. In our increasingly inter-connected world, trade involves a broad range of issues and concerns. As the wealthiest nation, we also have a responsibility to do what we can to ensure that the benefits of the global economy are enjoyed by people from every walk of life, here and abroad. And when we vote, we have a responsibility to ensure that legislation entitled the ''African Growth and Opportunity Act'', actually benefits African workers and protects their families' health and welfare, and the natural environment. The bill that was passed yesterday will not do that.

I have felt for some time that our relationship with Africa needs to change. It cannot continue to be based almost exclusively on aid, when the real engine of development, as we have seen

elsewhere in the world, is investment and trade. However, in developing a trade policy toward Africa—where poverty is deeply rooted and protections for the environment and the rights of workers are virtually non-existent—precautions must be taken to ensure that it is a sound policy that responds to Africa's unique and urgent needs.

It used to be that workers' rights and environmental concerns were treated separately from trade considerations, or not at all. Fortunately, that has begun to change. One of the reasons I voted for NAFTA was because it contained side agreements on labor and environmental issues.

However, while those agreements were a step forward, time has shown that they did not go far enough. Unfortunately, even the modest labor and environmental agreements that we fought hard to include in NAFTA were not included in the African Growth and Opportunity Act and virtually every amendment to add similar provisions was defeated. Such a step backward makes absolutely no sense.

The African Growth and Opportunity Act's provision on workers' rights, which has been included in other trade legislation, has routinely allowed countries notorious for abuses to escape without penalty. Unions have rightly criticized this provision for being vague and unenforceable. It is an invitation for exploitation of cheap African labor.

The African Growth and Opportunity Act does not include a single provision related to environmental concerns. Multinational corporations, especially mining and timber companies, have a long history of taking advantage of Africa's weak environmental laws and contributing to pollution, deforestation and the uprooting of people. If barriers to foreign investment are lowered or eliminated—as the Act calls for—and meaningful, enforceable environmental protections are not put in place, these problems will only get worse.

Like the NAFTA debate, however, the rhetoric on both sides of this issue was overblown. The African Growth and Opportunity Act is not, as some of its supporters claimed, an historic step toward integrating Africa into the global economy. At best, this Act will have a modest impact. It simply offers limited market access to African countries under the Generalized System of Preferences and establishes a U.S.-African trade and economic forum.

On the other hand, the African Growth and Opportunity Act will not, as some of its opponents claimed, force African countries to cut spending on education and health care, and to adhere to stringent International Monetary Fund conditions. It rewards African countries that are taking steps toward economic and political reforms, as most African countries are already doing, but it does not force them to do anything.

In all my time in the Senate, this is the first attempt that has been made to redefine our relationship with Africa from one of dependency to one which begins to promotes economic growth and self-reliance. This is long overdue, and the opportunity to address these issues is not likely to come again soon. I had hoped that when the African Growth and Opportunity Act reached the floor it would have provided for expanded export opportunities for both Africans and Americans while protecting African workers and the environment.

Many of my concerns about the African Growth and Opportunity Act, also hold true for the Caribbean Basin Trade Enhancement Act. I fully support efforts to expand U.S. trade with Caribbean Basin countries and to provide these countries with trade benefits that will help them compete in the global economy. However, again, it is vitally important that the trade benefits included in this Act actually benefit those who often need them the most—workers and their families. Virtually every amendment that would have required Caribbean companies to institute fair and enforceable labor standards before they could be eligible for trade benefits under the Caribbean Basin Trade Enhancement Act was defeated, and crucial protections were therefore not included.

Mr. President, it is disappointing that given the opportunity to simultaneously redefine our relationship with Africa, re-examine our trade policy toward the Caribbean Basin and expand international economic opportunities for Americans, that the approach and the outcome was so flawed.

FOURTH ANNIVERSARY OF ISRAELI PRIME MINISTER YITZHAK RABIN'S ASSASSINATION

Mr. MOYNIHAN. Mr. President, Today is the fourth anniversary of the assassination of Israeli Prime Minister Yitzhak Rabin. On October 25, 1995, ten days before his assassination, Prime Minister Rabin spoke in the Rotunda of the capitol at a ceremony celebrating the passage of the Jerusalem Embassy Act of 1995. The honor of introducing him fell to me. I said, ''History will honor him as the magnanimous leader of a brave people—brave enough to fight daunting odds—perhaps even braver still to make peace.'' Four years later as Israel and the Palestinians prepare to begin final status negotiations, I think it appropriate to remember the man who helped lead his people down this road to peace. I ask unanimous consent to have printed in the RECORD my remarks on that occasion.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR DANIEL PATRICK MOYNIHAN ON THE PASSAGE OF THE JERUSALEM EMBASSY ACT OF 1995, UNITED STATES CAPITOL ROTUNDA, OCTOBER 25, 1995

My pleasant and most appropriate task this afternoon is to introduce one of Jerusalem's most illustrious sons.

History will acknowledge him as the unifier of the City of David—the Chief of Staff whose armies breached the barbed wire and removed the cinder blocks that has sundered the city of peace.

History will honor him as the magnanimous leader of a brave people—brave enough to fight against daunting odds—perhaps even braver still to make peace.

History will remember him as the last of the generation of founders—the intrepid children of a two thousand year dream. Almost certainly, the last Israeli Prime Minister to play a leading role in the War for Independence, he was also the first—and to this day the only—Prime Minister to be born in the Holy Land.

He is a proud son of Jerusalem. As a young man he dreamed of a career as an engineer. But destiny had other plans and he fought and led for almost half a century so that his people could live in peace and security.

Nobel Laureate, statesman, military hero, friend of our nation where he served with distinction as an ambassador in this very city, he honors us today by joining us in our festivities—the Prime Minister of Israel, the Honorable Yitzhak Rabin.

AMENDMENT TO REQUIRE A WTO MINISTERIAL REPORT

Mr. BYRD. Mr. President, I am pleased that yesterday the Senate adopted my amendment to H.R. 434, the African and Caribbean trade legislation, regarding the upcoming World Trade Organization (WTO) Ministerial Conference in Seattle, Washington, from November 30 to December 3, 1999.

My amendment is straightforward. It expresses the sense of the Congress on the importance of the new round of international trade negotiations that will be launched at the WTO Ministerial Conference, and would require the United States Trade Representative (USTR) to submit a report to Congress regarding discussions at the Ministerial on antidumping and countervailing duty agreements. My amendment sends a message from the Congress that these talks are significant and that we will be examining these discussions closely. Specifically, it sends a message to our trading partners that we have no intention of allowing the antidumping and countervailing duty agreements to be nonchalantly relinquished, and that we will be keeping an official record of any discussions on these topics.

I am strongly opposed to opening the antidumping and countervailing duty agreements to negotiation, and, therefore, I am very pleased that the Administration reports that it will put forth a U.S. trade agenda that reaffirms trade remedy laws, and, specifically, U.S. rights to enforce antidumping and countervailing duty measures. Nevertheless, we should expect that certain WTO member governments will attempt to weaken the current antidumping and countervailing rules during the next round of talks. Certain WTO member governments will likely attempt to use the antidumping and countervailing rules as leverage against other U.S. priority issues, thus, pitting U.S. industries against one another.

Without the antidumping and countervailing duty agreements, I believe that many of our trading partners would not hesitate to flatly dismiss their WTO obligations in order to maximize their own profits. Antidumping and countervailing duty rules offset foreign countervailable subsidies and below-cost pricing schemes intended to harm a U.S. industry. Prohibiting these unfair trade practices is the essence of our most basic trade agenda, and laws to thwart and penalize this behavior were enacted as early as 1897. As in 1897, antidumping and countervailing measures are a vital tool to combat unfair trade.

My amendment would help the Administration put forth a U.S. trade agenda at the Seattle talks that reaffirms U.S. rights to enforce antidumping and countervailing duty measures, and that protects these codes from any negotiation. Undermining the right of the U.S. to respond to unfair trade practices will hinder the ability of many U.S. manufacturers, including U.S. steel mills, to fight against unfair trade. It would also undermine a century of work to build a straightforward and responsive international trade system.

The PRESIDING OFFICER. The majority leader.

MAKING FURTHER CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 2000

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H.J. Res. 75, the continuing resolution received from the House. I further ask unanimous consent that the joint resolution be read a third time, passed, and the motion to reconsider be laid upon the table.

This has been cleared with the Democratic leader.

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

The joint resolution (H.J. Res. 75) was read the third time and passed.

ORDER OF BUSINESS

Mr. LOTT. Mr. President, the Senate, then, has just passed the continuing resolution to the 10th of November. Progress is being made every hour on the appropriations process—some hours more than others. I hope Members will continue being patient while the final must-do legislation is completed.

I want to say again that I think the last 2 days have been phenomenal when you stop and look at all the difficulty that was involved—the fact that we passed major trade legislation by a vote of 75 or 76 to 23 last night, and today we passed the biggest reform of the banking and securities financial services industry in several decades with 90 votes. It is incredible.

We are going to continue to work to move vital legislation. We have other conferences that we hope to get agreed to. We need to get agreements. In fact, we must get an agreement on the FAA reauthorization bill. We are very close to getting an agreement on the satellite conference report. We are very close on the work incentives conference report.

There are three or four major conferences that are very close to being completed. When they are completed, we will take them up as soon as possible.

In addition, if agreements are reached on appropriations bills, of course, we would set everything aside for that. It seems to me that District of Columbia and perhaps the foreign relations conference reports could be ready as early as tomorrow. Certainly, if they are, we will vote on them.

The Senate hopefully also will reach, in just a very few minutes, an agreement on how to proceed on the bankruptcy bill. Senator DASCHLE and I have been working on this for weeks actually. I think we are very close to having an agreement. We are exchanging amendments so each side will know what is in our amendments both tonight and again tomorrow by noon. I hope Members who have relevant amendments on the underlying bankruptcy bill will come to the floor and offer them yet today.

We are in what I hope are the final days of the session. Members must be willing to work into the night in order to complete this legislation. I know there are some relevant amendments that are controversial and they will have second-degree amendments. Members should come to the floor and offer them.

Members could also expect votes during tomorrow's session. One could come with regard to appropriations. We could have votes on amendments with regard to the bankruptcy bill.

Members should expect that on Monday there will be recorded votes beginning at 5:30.

Also, votes will be ordered on the bankruptcy consent, calling for two votes with respect to minimum wage and business cost issues at 10:30 on Tuesday morning.

I am announcing that we may have to have votes tomorrow. We will have votes at 5:30 Monday. We will have votes at 10:30 on Tuesday.

We hope within the next few minutes to be able to enter the agreement on the bankruptcy bill.

I yield the floor.

Ms. LANDRIEU. Will the majority leader yield?

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I defer.

Ms. LANDRIEU. Mr. President, does the majority leader have any information regarding the Interior appropriations bill? That is one of the bills that is continuing to be negotiated.

Maybe I should wait to get his attention.

Will the majority leader yield for a moment?

Mr. LOTT. Mr. President, if I could respond to the Senator from Louisiana, I apologize for not directing my attention to her question. I was visiting with the Senator from Maryland with respect to possible votes tomorrow.

The Interior appropriations conference report is being worked on while negotiations have been going forward on the foreign operations appropriations conference report. I have information that real progress has been made today on the foreign operations appropriations report, but they will not get to the point of wrapping up Interior until the foreign operations bill is done.

I know the Senator from Louisiana has a real interest in that Interior bill, particularly provisions that could affect coastal areas such as hers and mine. Oil and gas revenues have been going in the Land and Water Conservation Fund for years and to lands out west, which is well and good. However, we take the risks in our area and we have not been getting any money. I don't think that is fair. We have beach erosion problems; we have estuary replenishment with which we need to deal. I am very sympathetic to the concerns of the Senator from Louisiana.

No final agreement has been reached on Interior. The Senator still has time to weigh in mightily with the Senators involved, and the administration, and needs to talk to them. I know the Senator has Senator DASCHLE working feverishly in her behalf.

Ms. LANDRIEU. If I could respond, both have been very helpful and supportive as we worked toward a bipartisan compromise on some of these issues.

I particularly thank the majority leader for his efforts as a cosponsor of one particular piece of legislation, but there have been different versions filed. However, there is a tremendous amount of interest.

Perhaps I should ask Senator GORTON—I said I will say this publicly—if tomorrow at his convenience, maybe through the majority leader or directly, he can give Members some idea of some of the things that perhaps are being discussed in terms of riders that were very controversial when this bill passed, as well as some of the specific ways we may be funding some of these projects.

We want to work out a bipartisan solution that is reflective of what many Members have worked on now for over 2 years. Maybe there could be an appropriate time tomorrow for discussion. Senator DASCHLE may have something to add.

I certainly want to be supportive of progress we are making on bankruptcy, but I think there are some other important issues, too, that should be dealt with in the next few days.

Mr. DASCHLE. Mr. President, I couldn't agree more with the distinguished Senator from Louisiana. This is an important issue. While we need to stay focused on the appropriations bill

and on bankruptcy, she has been working on this matter for a long, long time and has made great progress.

I share the view expressed by the majority leader that this is an issue that has great impact not only in her region of the country but in regions throughout the country. I hope we can resolve this satisfactorily and she can be satisfied with the final product. I will do all I can to work with the majority leader to see that happens in the remaining days of this session.

I commend the majority leader for getting the Senate to this point. I think we are very close to reaching an agreement. As I understand, we have not yet had the opportunity to exchange amendments, but we will be doing that shortly. He and I have both worked with our colleagues to ensure we can work through this agreement. I think this is a win-win. I think it is an opportunity to finish an important piece of legislation, an opportunity to deal with some issues that both sides think are important. I think it is a very appropriate vehicle with which to get our work done. I am hopeful we will get total cooperation procedurally to allow the Senate the opportunity to finish this work.

I am fully expecting before the end of the day we will have an agreement that will allow the Senate to go through the next couple of days in expectation of finishing this legislation.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

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

Ms. LANDRIEU. Mr. President, I ask unanimous consent for 15 minutes to speak in morning business.

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

OFFSHORE OIL AND GAS REVENUES

Ms. LANDRIEU. Mr. President, a few minutes ago I posed a few questions to the majority leader about a very important piece of legislation, an appropriations bill that is still pending. As we know, there are several important appropriations measures being debated and negotiated, and that is the process. Some of that happens, a lot of it, behind closed doors, which is the way it has worked for many, many years and will probably continue to work that way.

However, there are some questions I want to raise or some points I want to bring up. There are a great number of Members—Senators from the South, the East, the North, and the West, Democrats and Republicans, a great group of House Members, led by DON YOUNG of Alaska and GEORGE MILLER of California, CHRIS JOHN from Louisiana, BILLY TAUZIN from Louisiana, a Democrat and Republican respectfully, and Representative UDALL in the House—who have worked very hard to come to some bipartisan agreements about a new way to spend offshore oil and gas revenues in a way that is fair to all the coastal States, particularly those States including Louisiana, Mississippi, Texas, and Alabama to a certain degree, that produce these offshore oil and gas revenues. Without our States acting as a platform, this industry would not exist.

Many Members have worked on a bipartisan redirection of some of those revenues to come back to the States and local governments instead of going into the Federal Treasury as they do now, and as they have been since 1955, redirecting those revenues back to help the coastal restoration programs, to help restore our coastlines particularly in Louisiana, which is so fragile, and the Florida Everglades, which need a tremendous amount of help.

In addition, we have the idea these moneys could be permanently allocated to fully fund the Land and Water Conservation Fund which has been funded intermittently—hit and miss—through the decades.

We think the American people should have something to count on, so they know every year their Federal Government is going to take a very small portion, but an important portion, of money for land purchases and acquisitions and conservation easements to help expand our park system, both at the Federal level and to improve our park system, as well as giving Governors and mayors and county officials the ability to create recreational opportunities. As a Governor, Mr. President, you know how important that is to the people of your State and my State. They believe strongly in recreation and access to the outdoors.

In addition, this bipartisan group believes it can also take a portion of those moneys and expand the very successful Pittman-Robertson, which is one of the most successful Federal programs, working in partnership with local outdoors enthusiasts—hunters, fishermen and women, conservationists in those areas—and to fully fund historic preservation and urban parks, to name just a few. It is a very comprehensive approach. It is an innovative approach.

Although we do not have a bill out of either House yet, we do have a great markup that I want to share with the Members, Chairman Young's markup that came out this morning. Their bill, which is reflective of some of the things I have said, will be considered next week. It would be a tremendous accomplishment for this administration and for this Congress to come together in a bipartisan way to make at least a downpayment this year. If we cannot fully fund what I have generally just described, let us at least make an effort this year to fund, for 1 year, these programs that are currently already authorized, that have been in existence for many years, to actually put some money where our mouth is—within the budget caps and the balanced budget agreement we have reached—so we could perhaps build on this year and, over the next several years, fully fund the programs I have talked about.

I will ask to have printed in the RECORD today a letter I received from 800 individuals and organizations supporting this initiative. It is signed by 800 of some of the leading environmentalists and activists in the country today, groups representing all different aspects of the environmental community from the east coast to the west coast, from south to north. They have submitted a letter to us today supporting the efforts I have just articulated.

I ask unanimous consent the letter, dated November 1, 1999, as well as a table of Federal offshore mineral revenue collections for 1989–1999 and projects for 1999–2000, be printed in the RECORD.

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

NOVEMBER 1, 1999.

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

DEAR SENATOR/REPRESENTATIVE: As the twentieth century draws to a close, Congress has a rare opportunity to pass landmark legislation that would establish a permanent and significant source of conservation funding. A number of promising legislative proposals would take revenues from non-renewable offshore oil and gas resources and reinvest them in the protection of renewable resources such as our wildlife, public lands, coasts, oceans, cultural treasures, and outdoor recreation. Securing this funding would allow us to build upon the pioneering conservation tradition that Teddy Roosevelt initiated at the beginning of the century.

The vast majority of Americans recognize the duty we have to protect and conserve our rich cultural and natural legacies for future generations. A diverse array of interests, including sportsmen and women, conservationists, historic preservationists, outdoor recreationalists, the faith community, business interests, state and local governments, and others, support conservation funding legislation because they recognize it is essential to fulfill this obligation.

We call upon you and your colleagues to seize this unprecedented opportunity. Pass legislation that would make a substantial and reliable investment in the conservation of our nation's wildlife, public lands, coastal and marine resources, historic and cultural treasures, urban and rural parks, and open space. Design a bill that provides significant conservation benefits, *is free of harmfull environmental impacts to our coastal and ocean resources, and does not unduly hinder land acquisition programs.*

An historic conservation funding bill is within our grasp. It will be an accomplishment that all can celebrate. We look to Congress to make this legislation a reality.

Sincerely,

——— ———

Federal Offshore Mineral Revenue Collections, Calendar Years 1989–1999

Year	Amount
1989	$2,915,145,540
1990	3,367,738,819
1991	2,793,166,498
1992	2,561,405,652
1993	2,856,913,823
1994	2,915,284,805
1995	2,723,753,949
1996	4,253,641,347
1997	5,259,228,035
1998	4,322,637,332
Average	3,396,891,580

Projected Federal Offshore Mineral Revenue Collections, FY 1999–2005

Year	Amount
1999	$2,946,000,000
2000	2,584,000,000
2001	2,812,000,000
2002	2,827,000,000
2003	2,669,000,000
2004	2,575,000,000
2005	2,489,000,000
Average	2,700,285,714

Ms. LANDRIEU. Mr. President, basically they are saying there is a way, a better way, to allocate these revenues from offshore oil and gas to fund a variety of programs that are fair to all the different parts of this Nation, one that is environmentally friendly, one that focuses on the needs of our coastline and also recognizes the proper role of Congress in authorizing the purchases of land because that is something that should be done not only by the administration, whoever the President may be, Republican or Democrat—whether it is the current President, who has been terrific in many ways on this issue—but it is something that must be worked on in conjunction with the Members of Congress.

They have signed a letter that is going to be distributed. I will have it printed for the RECORD. In addition, I would like the RECORD to reflect we received 2 weeks ago an endorsement from the National Chamber of Commerce. They usually do not get into environmental issues such as this, but the Chamber of Commerce realizes, as businesspeople representing some of the finest businesses in our country, that a clean environment, access to parks and recreation, improving the quality of life for Americans everywhere, is the Chamber's business because we are about improving the quality of life, improving our economy. They see this as an important bill.

It is not that usual to have the environmental community and the business community together. This is one idea they have both said is terrific; let's move forward.

Finally, for the RECORD, I want to resubmit a letter from 40 Governors—not 10, not 12, not Democratic Governors, not Republican Governors. Mr. President, you were a Governor at one time, and a great leader, so you know it is not easy to get 40 signatures from the Governors' Association of Democrats and Republicans who have said the same thing.

I ask unanimous consent those letters be printed in the RECORD.

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

SEPTEMBER 21, 1999.

Hon. TRENT LOTT,
Majority Leader,
U.S. Senate, Washington, DC.

Hon. THOMAS DASCHLE,
Minority Leader,
U.S. Senate, Washington, DC.

Hon. J. DENNIS HASTERT,
Speaker of the House,
House of Representatives, Washington, DC.

Hon. RICHARD GEPHARDT,
Minority Leader,
House of Representatives, Washington, DC.

DEAR SENATORS LOTT AND DASCHLE AND REPRESENTATIVES HASTERT AND GEPHARDT: The 106th Congress has an historic opportunity to end this century with a major commitment to natural resource conservation that will benefit future generations. We encourage you to approve legislation this year that reinvests a meaningful portion of the revenues from federal outer continental shelf (OCS) oil and gas development in coastal conservation and impact assistance, open space and farmland preservation, federal, state and local parks and recreation, and wildlife conservation, including endangered species prevention, protection and recovery costs.

Since outer continental shelf revenues come from nonrenewable resources, it makes sense to permanently dedicate them to natural resource conservation rather than dispersing them for general government purposes. Around the nation, citizens have repeatedly affirmed their support for conservation through numerous ballot initiatives and state and local legislatioan. We applaud both the Senate Energy and Natural Resources Committee and the House Resources Committee for conducting a bipartisan and inclusive process that recognizes the unique role of state and local governments in preserving and protecting natural resources.

The legislation reported by the Committees should, to the maximum extent possible, permanently appropriate these new funds to the states, to be used in partnership with local governments and non-profit organizations to implement these various conservation initiatives. We urge the Congress to give state and local governments maximum flexibility in determining how to invest these funds. In this way, federal funds can be tailored to complement state plans, priorities and resources. State and local governments are in the best position to apply these funds to necessary and unique conservation efforts, such as preserving species, while providing for the economic needs of communities. The legislation should be neutral with regard to both existing OCS moratoria and future offshore development, and should not come at the expense of federally supported state programs.

We recognize that dedicating funds over a number of years to any specific use is a difficult budgetary decision. Nevertheless, we believe that the time is right to make this major commitment to conservation along the lines outlined in this letter.

We look forward to working with you to take advantage of this unique opportunity and are available to help ensure that this commitment is fiscally responsible. Thank you for your consideration of these legislative principles as you proceed to enact this important legislation.

Gov. John A. Kitzhaber, M.D., Oregon; Gov. Mike Leavitt, Utah; Gov. Tom Ridge, Pennsylvania; Gov. Mike Foster, Louisiana; Gov. John G. Rowland, Connecticut; Gov. Parris N. Glendening, Maryland; Gov. Howard Dean, M.D., Vermont; Gov. Thomas R. Carper, Delaware; Gov. Christine Todd Whitman, New Jersey; Gov. James B. Hunt, Jr., North Carolina; Gov. Roy E. Barnes, Georgia; Gov. Jim Hodges, South Carolina; Gov. Lincoln Almond, Rhode Island; Gov. Angel S. King, Jr., Maine; Gov. Gary Locke, Washington; Gov. Argeo Paul Cellucci, Massachusetts.

Gov. Cecil H. Underwood, West Virginia; Gov. Marc Racicot, Montana; Gov. Don Siegelman, Alabama; Gov. Gray Davis, California; Gov. Mel Carnahan, Missouri; Gov. Benjamin J. Cayetano, Hawaii; Gov. Jane Dee Hull, Arizona; Gov. Dirk Kempthorne, Idaho; Gov. Tony Knowles, Alaska; Gov. George H. Ryan, Illinois; Gov. James S. Gilmore III, Virginia; Gov. Jeanne Shaheen, New Hampshire; Gov. Bill Graves, Kansas; Gov. George E. Pataki, New York; Gov. Paul E. Patton, Kentucky; Gov. Tommy G. Thompson, Wisconsin; Gov. Bill Owens, Colorado.

Gov. Mike Huckabee, Arkansas; Gov. Frank Keating, Oklahoma; Gov. Jim Geringer, Wyoming; Gov. Edward T. Schafer, North Dakota; Gov. Frank O'Bannon, Indiana; Gov. Kirk Fordice, Mississippi; Gov. William J. Janklow, South Dakota.

CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA,
Washington, DC, September 24, 1999.

Hon. MARY LANDRIEU,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR LANDRIEU: On behalf of the U.S. Chamber of Commerce, I am writing in support of S. 25, the Conservation and Reinvestment Act of 1999. The Chamber has long supported the concept that the federal government should share a portion of revenues from Outer Continental Shelf (OCS) energy production efforts with the coastal states that may be affected by these activities.

S. 25 recognizes the contribution that states make to national fuel production and reducing our nation's dependence on foreign oil. It would direct more monies from leasing and production activities to those states and communities that shoulder the responsibility for energy development along; their coastlines. It would provide local communities with impact assistance funds to address infrastructure problems and other public service needs associated with federal offshore activities. It is a bipartisan conservation legislation that would help promote a lasting legacy of natural resource stewardship for future generations.

The U.S. Chamber of Commerce, the world's largest business federation representing more than three million businesses of every size, sector, and region, applauds your efforts to help remedy the disparity between states and the federal government in offshore development and looks forward to working with you to achieve this important goal.

Sincerely,

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

Ms. LANDRIEU. Mr. President, I come to the floor today to say, as we get down to the final days of these negotiations, even though we do not have a bill out of the Senate or out of the House, we do have a lot of language that helps to show there is bipartisan support for this effort. I am hoping the

appropriators, who are at the negotiating table, will hear loudly and clearly from hundreds and thousands of individuals and groups that there is a better way to spend this money.

We realize we do not have all we would like, but we would like the final product of this Interior bill to come out in a way that is reflective of the principles I have outlined—Federal/State partnership, coastal impact assistance, full funding for land and water, historic preservation, and wildlife conservation, with current appropriated and authorized programs—not anything new, just something a little better, a little different, a little improved.

As we are waiting for the final decisions of today and how we are going to proceed I wanted to take some time to have these documents printed in the RECORD and to thank my colleagues on this side of the aisle, particularly my senior Senator from Louisiana, for his tireless work; particularly Chairman MURKOWSKI for his terrific work on this issue as chairman of our committee; particularly the members of the committee, Senator JOHNSON, Senator BAYH, Senator LINCOLN, and others; Senator SESSIONS, who has been a terrific supporter.

I thank them for their work on this bill and tell them we are moving forward. We are building support and building a bipartisan bill. Today was good news when Chairman YOUNG and the ranking member, GEORGE MILLER, who had competing versions, came together and signed an agreement that is very reflective of what I think the American public wants us to do in this Congress.

We may not be able to get it all done this year, but we could make an important downpayment, a first step towards this historic conservation bill and leave a real legacy for our children and our grandchildren—not just a 1-year appropriation but a real legacy, as this century ends, of which we can all be proud and all share credit for something well done.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

SOCIAL SECURITY

Mr. CLELAND. Mr. President, I come before the Senate today to speak about a subject which has been the topic of much political rhetoric in recent days: Social Security. While there was a time when not all in Congress acknowledged this fact, Social Security's long-term solvency is crucial to today's and tomorrow's retirees. There has never been a more successful Government program: Social Security has helped cut the poverty rate of older Americans by two-thirds. We must ensure this program will survive well into the 21st century.

The current dispute centers on which party is more committed to preservation of the Social Security program. I must say that I am personally pleased to see this development, which reflects the fact that Social Security is truly a consensus issue among the American people. The current debate takes place in the confusing world of arcane budgetary terminology and it is sometimes difficult to sort out. However, in evaluating the present-day claims and counterclaims, the historic record clearly shows that it is the Democratic Party which has consistently fought to protect the program since its inception in the Social Security Act of 1935. And though I could certainly be accused of being biased on the question, I believe that a close look will reveal unmistakably that Democratic proposals to save Social Security for future generations greatly surpass the recent efforts of my friends across the aisle in laying claim to be the protectors of Social Security.

For example, let's look at the competing proposals to place a ''lockbox'' around Social Security and see which one truly best protects the benefits of tomorrow's recipients.

First, Democratic lockbox proposals establish a Social Security and Medicare lockbox that precludes any portion of the Social Security surplus or any portion of the surplus reserved for Medicare to be used for any purpose other than to strengthen and preserve these programs. Over the next 15 years, the Democratic lockbox would protect 100 percent of the Social Security surplus each year, and one-third of any on-budget surplus for Medicare.

On the other hand, the Republican lockbox proposal does not reserve any of the projected surpluses for Medicare, nor does it extend the life of the Social Security trust fund, which, under their proposals, will be insolvent in 2034. Furthermore, in the absence of protections for Medicare, this critical program is projected to be insolvent in 2015. Perhaps most importantly, the Republican proposals include language which creates a large potential loophole for the lockbox protections. Specifically, if any legislation is designated as ''Social Security reform provisions''—regardless of whether such provisions help or hurt the interests of beneficiaries—lockbox surpluses would not have to be used to pay benefits and could be used for tax cuts. Finally, the Republican lockbox proposal does not even require that such Social Security ''reform'' legislation extend the solvency of the Social Security program. Is this meaningful, long-term protection for Social Security?

Some on the other side have accused Democrats of raiding Social Security surpluses, yet the bipartisan Congressional Budget Office—whose head was appointed by the Republican leadership—has determined that spending bills supported by the congressional majority have already tapped into the Social Security surplus by at least $13 billion. In belated recognition of this fact, House Republicans have proposed a 1.4 percent across-the-board cut in the operating budgets of Federal agencies. As a member of the Senate Armed Services Committee, I am loath to take a step in the wrong direction just after we have recently provided—on a bipartisan basis—the Department of Defense with much-needed budget relief for both personnel and equipment costs.

But when we consider the impact of recent congressional proposals on the future of Social Security we must look back no further than August 1999 when the Republican majority pushed through Congress a tax cut that, at the time, I labeled a ''convenient but fiscally irresponsible measure.'' This tax bill would have consumed virtually all of the projected $1 trillion non-Social Security budget surplus over the next 10 years, without setting aside any funds for Medicare solvency. The direct revenue loss was estimated at $792 billion over that period, and with the sharply diminished surplus, higher interest costs on the national debt would bring the total to $964 billion. And the projected $1 trillion surplus itself is dependent on large cuts in national defense, education, and other priority programs. If one only assumes that these programs are held at their current levels, plus inflation, the projected 10–year surplus falls from $1 trillion to $46 billion.

Clearly, enactment of this massive tax cut, which the President appropriately vetoed, would have vastly compromised and complicated our ability to preserve Social Security and Medicare. No other action considered in this Congress comes even close to having this large a negative impact on Social Security's future.

We can continue to attempt to ''one-up'' each other over who has the better plan to protect the existing Social Security trust fund. In trying to set the record straight from my own viewpoint, I have spoken today from perhaps a partisan perspective. However, there is plenty of blame to go around for our joint failure in this session of Congress to use the unique opportunity afforded by the long-sought end to massive Federal budget deficits to enact true Social Security reform to protect the benefits of millions of future recipients. The millions of Americans who depend on Social Security for themselves or their parents and grandparents, now and in the future, deserve no less.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT—S. 625

Mr. LOTT. Mr. President, I believe we have a unanimous-consent agreement now. I will read it carefully, and if there are any questions, Senator DASCHLE may point them out. I believe it will be fair in the way it is going to be handled and will allow us to complete this important legislation hopefully by Tuesday or not later than Wednesday of next week. It will allow for, of course, relevant amendments and second-degree amendments if any will be in order to those, but it will limit the nonrelevant amendments to three on each side with an agreed-to time.

Mr. DASCHLE. Will the majority leader yield on that point for a question?

Mr. LOTT. I will be glad to.

Mr. DASCHLE. As I understand this agreement—I went through it in detail—it will allow relevant second degrees to relevant amendments.

Mr. LOTT. I ran into that hornet's nest yesterday. There are a couple relevant amendments that are certainly worthwhile and actively supported, but they also are very much opposed by others who want to second degree them. Clearly, that will be in order.

I thank Senator DASCHLE for working with me on this, since the middle of October actually. I believe this bill can be considered and completed. Bankruptcy reform is something we certainly want to do. I know the minority leader has indicated his desire to have three nongermane amendments in order to the bill from Members of his side of the aisle. Those are relative to East Timor, agriculture, and minimum wage. I hope all Members would allow us to adopt this agreement in order for the Senate to consider and approve this very important bankruptcy reform bill.

On our side, we will have three amendments, also, that relate to education, drugs, and business costs. I will specify that in a moment.

So I ask unanimous consent that the Senate now turn to consideration of Calendar No. 109, S. 625, the bankruptcy bill, and following the reporting by the clerk, the committee amendments be immediately agreed to and the motion to reconsider be laid upon the table en bloc.

I further ask consent that all first-degree amendments must be filed at the desk by 5 p.m. on the second day of the bill's consideration and that all first-degree amendments must be relevant to the issue of bankruptcy, and/or truth in lending/credit card agreements, with the exception of three amendments to be offered by the minority, or his designee, relative to agriculture, minimum wage/taxes, and East Timor, and three amendments to be offered by the majority leader, or his designee, regarding education, drugs, and business costs.

I further ask consent that the 5 p.m. filing requirement apply to each of these nonrelevant amendments and there be a time limit of 2 hours equally divided on each nonrelevant amendment, with the exception of the agriculture and drug amendments on which there will be 4 hours each for debate, with no second-degree amendments in order to these six issues and no motions to commit or recommit in order.

I further ask consent that at 3 p.m. on Monday, November 8, the minority leader, or his designee, be recognized to offer the amendment relative to the issue of minimum wage, and following the debate the amendment be laid aside, and the majority leader, or his designee, be recognized to offer the amendment relative to business costs, and that the votes occur in relation to the amendments at 10:30 a.m. on Tuesday, November 9, with 1 hour equally divided prior to the vote for concluding debate. I further ask consent that the first vote occur in relation to the minority amendment, to be followed by a vote in relation to the majority amendment, with 4 minutes prior to each vote for explanation.

I further ask consent that following the disposition of all of the above-described amendments, the bill be immediately advanced to third reading, that the Senate then proceed to the House companion bill, H.R. 833, that all after the enacting clause be stricken, the text of the Senate bill as amended be inserted, the bill be advanced to third reading, and a vote occur on passage of the bill, without any intervening action, motion or debate.

Further, I ask consent that the Senate insist on its amendment, request a conference with the House, and the Senate bill be placed back on the calendar.

Finally, I ask consent that the exchange of the amendments by the two leaders on the two issues regarding minimum wage and business costs occur at noon on Friday. If by 3 p.m. either Member objects to the text of the amendments, this agreement be null and void and the bill be placed back on the calendar.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Reserving the right to object, and I shall not, Mr. President, for the information of our colleagues, we have exchanged some of the amendments that have been referred to in this unanimous-consent request. There may be minor alterations in these two amendments that have been exchanged. We will not have any major changes in our amendments. And I assume that while there may be minor alterations, we do not anticipate any consequential alterations in the amendments to be offered by the Republicans.

I ask the majority leader if that is his understanding relating to education and drugs.

Mr. LOTT. First, let me clarify one error I made. Staff informs me I did say: ''If by 3 p.m. any Member objects.'' It should say: ''If by 3 p.m. either leader objects to the text of the amendments, this agreement be null and void and the bill be placed back on the calendar.''

Now, under the Senator's reservation, Mr. President, responding to his questions, obviously, on both sides—there may be minor changes that you would want to make on your agriculture amendment or East Timor, whatever; same thing on this side. I think we have to continue to work in good faith. If it goes to fundamental substance, and changes a major portion or the overall intent of the bill, I think that would be exceeding the bounds of reasonableness. But if it is some technical change or some minor change, we will have to continue to work with each other to get that done. I hope everybody will continue to be as flexible as they can be in that effort. But there is no intent to come back now and change the whole thrust of the bill. And that would not be fair.

Mr. DASCHLE. Mr. President, I thank all of the Senators involved in this. We have consulted with virtually every Member. While no one is ever completely satisfied with a complex agreement such as this, I think it gives us the best opportunity to address an important issue, bankruptcy, and to address some other issues about which both caucuses care a good deal. So I think this is a good agreement. I appreciate the work of the majority leader to get us to this point.

I have no objection.

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

ORDER OF BUSINESS

Mr. LOTT. Mr. President, I hope now that Members will remain tonight to do their opening statements. I see the distinguished chairman is here, Senator GRASSLEY from Iowa, who has probably asked me about this bill over 100 times this year. I apologize to him now for not having gotten it on the calendar and up for consideration before now. But he has been dogged in his determination to address this very important area.

I say right up front we would not be having bankruptcy reform if it were not for the diligent efforts and the patience and the determination and the substantive involvement of the Senator from Iowa. So I think it is to his credit.

Now we need to move forward and get this bill completed, get it into conference, and hopefully act on it very quickly out of conference.

But since we do have this agreement now, and the manager is ready to go—and I presume the manager on the Democratic side is ready to go—I can announce now there will be no further votes this evening. The Senate will resume the bankruptcy bill at 9:30 a.m.

on Friday. All Senators should be aware that votes could occur with respect to the appropriations process or amendments to the bankruptcy bill on Friday.

Several Senators have been asking about exactly what we can expect tomorrow. I cannot say. If we have an appropriations conference report that has been cleared that we are ready to move on, we will try to do it on a voice vote; but if we have to have a recorded voted, we just have to have a recorded vote. If we are ever going to get to the final days of the session, we have to be prepared to vote on Fridays and Mondays, if that is necessary. So we cannot give any assurance at this point that there will not be votes tomorrow. There very well may be.

Votes will occur at 5:30 Monday. And under this agreement, at least two votes will occur at 10:30 Tuesday.

Then, in conclusion, I wish to, again, thank all our colleagues for their cooperation this week. The fact that we did overwhelmingly pass this very important trade bill involving the Caribbean Basin area, Central America, and Africa, after a long period of time, is a significant and positive step for our country, I believe, not to mention the additional trading opportunities in other countries. And also to have completed the conference report on the financial services modernization—the second monumental achievement this week—I think the Senate, as a whole, can take a lot of pride. And now we are ready to begin a third one. I wish every week could be as productive.

With that, I yield the floor, Mr. President.

BANKING REFORM ACT OF 1999

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

The assistant legislative clerk read as follows:

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

The Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 625

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 1999''.

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

Sec. 1. Short title; table of contents.

TITLE I—NEEDS-BASED BANKRUPTCY

Sec. 101. Conversion.
Sec. 102. Dismissal or conversion.
Sec. 103. Notice of alternatives.
Sec. 104. Debtor financial management training test program.
Sec. 105. Credit counseling.

TITLE II—ENHANCED CONSUMER PROTECTION

Subtitle A—Penalties for Abusive Creditor Practices

Sec. 201. Promotion of alternative dispute resolution.
Sec. 202. Effect of discharge.
Sec. 203. Violations of the automatic stay.
Sec. 204. Discouraging abuse of reaffirmation practices.

Subtitle B—Priority Child Support

Sec. 211. Definition of domestic support obligation.
Sec. **[**211**]** *212.* Priorities for claims for domestic support obligations.
Sec. **[**212**]** *213.* Requirements to obtain confirmation and discharge in cases involving domestic support obligations.
Sec. **[**213**]** *214.* Exceptions to automatic stay in domestic support obligation proceedings.
Sec. **[**214**]** *215.* Nondischargeability of certain debts for alimony, maintenance, and support.
Sec. **[**215**]** *216.* Continued liability of property.
Sec. **[**216**]** *217.* Protection of domestic support claims against preferential transfer motions.
[Sec. 217. Amendment to section 1325 of title 11, United States Code.
[Sec. 218. Definition of domestic support obligation.**]**
Sec. 218. Disposable income defined.
Sec. 219. Collection of child support.

Subtitle C—Other Consumer Protections

[Sec. 221. Definitions.
[Sec. 222. Disclosures.
[Sec. 223. Debtor's bill of rights.
[Sec. 224. Enforcement.**]**
Sec. 221. Amendments to discourage abusive bankruptcy filings.
Sec. **[**225**]** *222.* Sense of Congress.
Sec. **[**226**]** *223.* Additional amendments to title 11, United States Code.
Sec. 224. Protection of retirement savings in bankruptcy.

TITLE III—DISCOURAGING BANKRUPTCY ABUSE

Sec. 301. Reinforcement of the fresh start.
Sec. 302. Discouraging bad faith repeat filings.
Sec. 303. Curbing abusive filings.
Sec. 304. Debtor retention of personal property security.
Sec. 305. Relief from the automatic stay when the debtor does not complete intended surrender of consumer debt collateral.
Sec. 306. Giving secured creditors fair treatment in chapter 13.
Sec. 307. Exemptions.
Sec. 308. Residency requirement for homestead exemption.
Sec. 309. Protecting secured creditors in chapter 13 cases.
Sec. 310. Limitation on luxury goods.
Sec. 311. Automatic stay.
Sec. 312. Extension of period between bankruptcy discharges.
Sec. 313. Definition of household goods and antiques.
Sec. 314. Debt incurred to pay nondischargeable debts.
Sec. 315. Giving creditors fair notice in chapters 7 and 13 cases.
Sec. 316. Dismissal for failure to timely file schedules or provide required information.
Sec. 317. Adequate time to prepare for hearing on confirmation of the plan.
Sec. 318. Chapter 13 plans to have a 5-year duration in certain cases.
Sec. 319. Sense of the Congress regarding expansion of rule 9011 of the Federal Rules of Bankruptcy Procedure.
Sec. 320. Prompt relief from stay in individual cases.
Sec. 321. Treatment of certain earnings of an individual debtor who files a voluntary case under chapter 11.

TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Business Bankruptcy Provisions

Sec. 401. Rolling stock equipment.
Sec. 402. Adequate protection for investors.
Sec. 403. Meetings of creditors and equity security holders.
Sec. 404. Protection of refinance of security interest.
Sec. 405. Executory contracts and unexpired leases.
Sec. 406. Creditors and equity security holders committees.
Sec. 407. Amendment to section 546 of title 11, United States Code.
Sec. 408. Limitation.
Sec. 409. Amendment to section 330(a) of title 11, United States Code.
Sec. 410. Postpetition disclosure and solicitation.
Sec. 411. Preferences.
Sec. 412. Venue of certain proceedings.
Sec. 413. Period for filing plan under chapter 11.
Sec. 414. Fees arising from certain ownership interests.
Sec. 415. Creditor representation at first meeting of creditors.
[Sec. 416. Elimination of certain fees payable in chapter 11 bankruptcy cases.**]**
Sec. **[**417**]** *416.* Definition of disinterested person.
Sec. **[**418**]** *417.* Factors for compensation of professional persons.
Sec. **[**419**]** *418.* Appointment of elected trustee.
Sec. 419. Utility service.

Subtitle B—Small Business Bankruptcy Provisions

Sec. 421. Flexible rules for disclosure statement and plan.
Sec. 422. Definitions; effect of discharge.
Sec. 423. Standard form disclosure Statement and plan.
Sec. 424. Uniform national reporting requirements.
Sec. 425. Uniform reporting rules and forms for small business cases.
Sec. 426. Duties in small business cases.
Sec. 427. Plan filing and confirmation deadlines.
Sec. 428. Plan confirmation deadline.
Sec. 429. Prohibition against extension of time.
Sec. 430. Duties of the United States trustee.
Sec. 431. Scheduling conferences.
Sec. 432. Serial filer provisions.
Sec. 433. Expanded grounds for dismissal or conversion and appointment of trustee.
Sec. 434. Study of operation of title 11, United States Code, with respect to small businesses.
Sec. 435. Payment of interest.

TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

Sec. 501. Petition and proceedings related to petition.
Sec. 502. Applicability of other sections to chapter 9.

TITLE VI—IMPROVED BANKRUPTCY STATISTICS AND DATA

Sec. 601. Audit procedures.
Sec. 602. Improved bankruptcy statistics.
Sec. 603. Uniform rules for the collection of bankruptcy data.
Sec. 604. Sense of Congress regarding availability of bankruptcy data.

TITLE VII—BANKRUPTCY TAX PROVISIONS

Sec. 701. Treatment of certain liens.
Sec. 702. Effective notice to government.
Sec. 703. Notice of request for a determination of taxes.
Sec. 704. Rate of interest on tax claims.
Sec. 705. Tolling of priority of tax claim time periods.
Sec. 706. Priority property taxes incurred.
Sec. 707. Chapter 13 discharge of fraudulent and other taxes.
Sec. 708. Chapter 11 discharge of fraudulent taxes.
Sec. 709. Stay of tax proceedings.
Sec. 710. Periodic payment of taxes in chapter 11 cases.
Sec. 711. Avoidance of statutory tax liens prohibited.
Sec. 712. Payment of taxes in the conduct of business.
Sec. 713. Tardily filed priority tax claims.
Sec. 714. Income tax returns prepared by tax authorities.
Sec. 715. Discharge of the estate's liability for unpaid taxes.
Sec. 716. Requirement to file tax returns to confirm chapter 13 plans.
Sec. 717. Standards for tax disclosure.
Sec. 718. Setoff of tax refunds.

TITLE VIII—ANCILLARY AND OTHER CROSS-BORDER CASES

Sec. 801. Amendment to add chapter 15 to title 11, United States Code.
Sec. 802. Amendments to other chapters in title 11, United States Code.
Sec. 803. Claims relating to insurance deposits in cases ancillary to foreign proceedings.

TITLE IX—FINANCIAL CONTRACT PROVISIONS

Sec. 901. Bankruptcy Code amendments.
Sec. 902. Damage measure.
Sec. 903. Asset-backed securitizations.
Sec. 904. Effective date; application of amendments.

TITLE X—PROTECTION OF FAMILY FARMERS

Sec. 1001. Reenactment of chapter 12.
Sec. 1002. Debt limit increase.
Sec. 1003. Elimination of requirement that family farmer and spouse receive over 50 percent of income from farming operation in year prior to bankruptcy.
Sec. 1004. Certain claims owed to governmental units.

[TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS

[Sec. 1101. Definitions.
[Sec. 1102. Disposal of patient records.
[Sec. 1103. Administrative expense claim for costs of closing a health care business.
[Sec. 1104. Appointment of ombudsman to act as patient advocate.
[Sec. 1105. Debtor in possession; duty of trustee to transfer patients.]

TITLE [XII] *XI*—TECHNICAL AMENDMENTS

Sec. [1201] *1101.* Definitions.
Sec. [1202] *1102.* Adjustment of dollar amounts.
Sec. [1203] *1103.* Extension of time.
Sec. [1204] *1104.* Technical amendments.
Sec. [1205] *1105.* Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.
Sec. [1206] *1106.* Limitation on compensation of professional persons.
Sec. [1207] *1107.* Special tax provisions.
Sec. [1208] *1108.* Effect of conversion.
Sec. [1209] *1109.* Allowance of administrative expenses.
[Sec. 1210. Priorities.
[Sec. 1211. Exemptions.]
Sec. [1212] *1110.* Exceptions to discharge.
Sec. [1213] *1111.* Effect of discharge.
Sec. [1214] *1112.* Protection against discriminatory treatment.
Sec. [1215] *1113.* Property of the estate.
Sec. [1216] *1114.* Preferences.
Sec. [1217] *1115.* Postpetition transactions.
Sec. [1218] *1116.* Disposition of property of the estate.
Sec. [1219] *1117.* General provisions.
Sec. [1220] *1118.* Abandonment of railroad line.
Sec. [1221] *1119.* Contents of plan.
Sec. [1222] *1120.* Discharge under chapter 12.
Sec. [1223] *1121.* Bankruptcy cases and proceedings.
Sec. [1224] *1122.* Knowing disregard of bankruptcy law or rule.
Sec. [1225] *1123.* Transfers made by nonprofit charitable corporations.
Sec. [1226] *1124.* Protection of valid purchase money security interests.
Sec. [1227] *1125.* Extensions.
Sec. [1228] *1126.* Bankruptcy judgeships.

TITLE [XIII] *XII*—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

Sec. [1301] *1201.* Effective date; application of amendments.

TITLE I—NEEDS-BASED BANKRUPTCY

SEC. 101. CONVERSION.

Section 706(c) of title 11, United States Code, is amended by inserting ''or consents to'' after ''requests''.

SEC. 102. DISMISSAL OR CONVERSION.

(a) IN GENERAL.—Section 707 of title 11, United States Code, is amended—

(1) by striking the section heading and inserting the following:

''§ 707. Dismissal of a case or conversion to a case under chapter 13'';

and

(2) in subsection (b)—

(A) by inserting ''(1)'' after ''(b)'';

(B) in paragraph (1), as redesignated by subparagraph (A) of this paragraph—

(i) in the first sentence—

(I) by striking ''but not at the request or suggestion'' and inserting '', panel trustee or'';

(II) by inserting '', or, with the debtor's consent, convert such a case to a case under chapter 13 of this title,'' after ''consumer debts''; and

(III) by striking ''substantial abuse'' and inserting ''abuse''; and

(ii) by striking the next to last sentence; and

(C) by adding at the end the following:

''(2)(A)(i) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter, the court shall presume abuse exists if the debtor's current monthly income reduced by the amounts determined under clauses (ii), (iii), and (iv), and multiplied by 60 is not less than the lesser of—

''(I) 25 percent of the debtor's nonpriority unsecured claims in the case; or

''(II) $15,000.

''(ii) The debtor's monthly expenses shall be the applicable monthly (excluding payments for debts) expenses under standards issued by the Internal Revenue Service for the area in which the debtor resides, as in effect on the date of the entry of the order for relief, for the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case, if the spouse is not otherwise a dependent.

''(iii) The debtor's average monthly payments on account of secured debts shall be calculated as—

''(I) the total of all amounts scheduled as contractually due to secured creditors in each month of the 60 months following the date of the petition; divided by

''(II) 60.

''(iv) The debtor's expenses for payment of all priority claims (including priority child support and alimony claims) shall be calculated as—

''(I) the total amount of debts entitled to priority; divided by

''(II) 60.

''(B)(i) In any proceeding brought under this subsection, the presumption of abuse may be rebutted by demonstrating special circumstances that justify additional expenses or adjustments of current monthly total income. In order to establish special circumstances, the debtor shall be required to—

''(I) itemize each additional expense or adjustment of income; and

''(II) provide—

''(aa) documentation for such expenses; and

''(bb) a detailed explanation of the special circumstances that make such expenses necessary and reasonable.

''(ii) The debtor, and the attorney for the debtor if the debtor has an attorney, shall attest under oath to the accuracy of any information provided to demonstrate that additional expenses or adjustments to income are required.

''(iii) The presumption of abuse may be rebutted if the additional expenses or adjustments to income referred to in clause (i) cause the product of the debtor's current monthly income reduced by the amounts determined under clauses (ii), (iii), and (iv) of subparagraph (A) multiplied by 60 to be less than the lesser of—

''(I) 25 percent of the debtor's nonpriority unsecured claims; or

''(II) $15,000.

''(C)(i) As part of the schedule of current income and expenditures required under section 521, the debtor shall include a statement of the debtor's current monthly income, and the calculations that determine whether a presumption arises under subparagraph (A)(i), that shows how each such amount is calculated.

''(ii) The Supreme Court shall promulgate rules under section 2075 of title 28, that prescribe a form for a statement under clause (i) and may provide general rules on the content of the statement.

''(3) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter in a case in which the presumption in subparagraph (A)(i) of such paragraph does not apply or has been rebutted, the court shall consider—

''(A) whether the debtor filed the petition in bad faith; or

''(B) the totality of the circumstances (including whether the debtor seeks to reject a personal services contract and the financial need for such rejection as sought by the debtor) of the debtor's financial situation demonstrates abuse.''.

(b) DEFINITION.—Title 11, United States Code, is amended—

(1) in section 101, by inserting after paragraph (10) the following:

''(10A) 'current monthly income'—

''(A) means the average monthly income from all sources which the debtor, or in a joint case, the debtor and the debtor's spouse, receive without regard to whether the income is taxable income, derived during the 180-day period preceding the date of determination; and

''(B) includes any amount paid by any entity other than the debtor (or, in a joint case, the debtor and the debtor's spouse), on a regular basis to the household expenses of the debtor or the debtor's dependents (and, in a joint case, the debtor's spouse if not otherwise a dependent);''; and

(2) in section 704—

(A) by inserting ''(a)'' before ''The trustee shall—''; and

(B) by adding at the end the following:

''(b)(1) With respect to an individual debtor under this chapter—

''(A) the United States trustee or bankruptcy administrator shall review all materials filed by the debtor and, not later than 10 days before the first meeting of creditors, file with the court a statement as to whether the debtor's case would be presumed to be an abuse under section 707(b); and

''(B) not later than 5 days after receiving a statement under subparagraph (A), the court shall provide a copy of the statement to all creditors.

''(2) The United States trustee or bankruptcy administrator shall not later than 30 days after receiving a statement filed under paragraph (1) file a motion to dismiss or convert under section 707(b), or file a statement setting forth the reasons the United States trustee or bankruptcy administrator does not believe that such a motion would be [appropriate. If,] *appropriate, if* based on the filing of such statement with the court, the United States trustee or bankruptcy administrator determines that the debtor's case should be presumed to be an abuse under section 707(b) and the product of the debtor's current monthly income, multiplied by 12 is not less than—

''(A) the highest national or applicable State median family income reported for a family of equal or lesser size, whichever is greater; or

''(B) in the case of a household of 1 person, the national or applicable State median household income for 1 earner, whichever is greater.

''(3)(A) The court shall order the counsel for the debtor to reimburse the panel trustee for all reasonable costs in prosecuting a motion brought under section 707(b), including reasonable attorneys' fees, if—

''(i) a panel trustee appointed under section 586(a)(1) of title 28 brings a motion for dismissal or conversion under this subsection; and

''(ii) the court—

''(I) grants that motion; and

''(II) finds that the action of the counsel for the debtor in filing under this chapter was not substantially justified.

''(B) If the court finds that the attorney for the debtor violated Rule 9011, at a minimum, the court shall order—

''(i) the assessment of an appropriate civil penalty against the counsel for the debtor; and

''(ii) the payment of the civil penalty to the panel trustee or the United States trustee.

''(C) In the case of a petition referred to in subparagraph (B), the signature of an attorney shall constitute a certificate that the attorney has—

''(i) performed a reasonable investigation into the circumstances that gave rise to the petition; and

''(ii) determined that the petition—

''(I) is well grounded in fact; and

''(II) is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law and does not constitute an abuse under paragraph (1).

''(4)(A) Except as provided in subparagraph (B) and subject to paragraph (5), the court may award a debtor all reasonable costs in contesting a motion brought by a party in interest (other than a panel trustee or United States trustee) under this subsection (including reasonable attorneys' fees) if—

''(i) the court does not grant the motion; and

''(ii) the court finds that—

''(I) the position of the party that brought the motion was not substantially justified; or

''(II) the party brought the motion solely for the purpose of coercing a debtor into waiving a right guaranteed to the debtor under this title.

''(B) A party in interest that has a claim of an aggregate amount less than $1,000 shall not be subject to subparagraph (A).

''(5) Only the judge, United States trustee, bankruptcy administrator, or panel trustee may bring a motion under this section if the debtor and the debtor's spouse combined, as of the date of the order for relief, have a total current monthly income equal to or less than the national or applicable State median family monthly income calculated on a monthly basis for a family of equal size.''.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 7 of title 11, United States Code, is amended by striking the item relating to section 707 and inserting the following:

''707. Dismissal of a case or conversion to a case under chapter 13.''.

SEC. 103. NOTICE OF ALTERNATIVES.

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, that individual shall be given or obtain (as required in section 521(a)(1), as part of the certification process under subchapter I of chapter 5) a written notice prescribed by the United States trustee for the district in which the petition is filed under section 586 of title 28.

''(2) The notice shall contain the following:

''(A) A brief description of chapters 7, 11, 12, and 13 and the general purpose, benefits, and costs of proceeding under each of those chapters.

''(B) A brief description of services that may be available to that individual from a credit counseling service that is approved by the United States trustee for that district.''.

SEC. 104. 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—

(1) consult with a wide range of individuals who are experts in the field of debtor education, including trustees who are appointed under chapter 13 of title 11, United States Code, and who operate financial management education programs for debtors; and

(2) develop a financial management training curriculum and materials that may be used to educate individual debtors concerning how to better manage their finances.

(b) TEST.—

(1) IN GENERAL.—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) AVAILABILITY OF CURRICULUM AND MATERIALS.—For a 1-year period beginning not later than 270 days after the date of enactment of this Act, the curriculum and materials referred to in paragraph (1) shall be made available by the Director, directly or indirectly, on request to individual debtors in cases filed during that 1-year period under chapter 7 or 13 of title 11, United States Code.

(c) EVALUATION.—

(1) IN GENERAL.—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 issued on October 20, 1997, that are representative of consumer education programs carried out by—

(i) the credit industry;

(ii) trustees serving under chapter 13 of title 11, United States Code; and

(iii) consumer counseling groups.

(2) REPORT.—Not later than 3 months after concluding the evaluation under paragraph (1), 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 Congress, containing the findings of the Director regarding the effectiveness of such curriculum, such materials, and such programs.

SEC. 105. CREDIT COUNSELING.

(a) WHO MAY BE A DEBTOR.—Section 109 of title 11, United States Code, is amended by adding at the end the following:

''(h)(1) Subject to paragraphs (2) and (3), and notwithstanding any other provision of this section, an individual may not be a debtor under this title unless that individual has, during the [90-day period] *180-day period* preceding the date of filing of the petition of that individual, received from an approved nonprofit credit counseling service described in section 111(a) an individual or group briefing that outlined the opportunities for available credit counseling and assisted that individual in performing a related budget analysis.

''(2)(A) Paragraph (1) shall not apply with respect to a debtor who resides in a district for which the United States trustee or bankruptcy administrator of the bankruptcy court of that district determines that the approved nonprofit credit counseling services for that district are not reasonably able to provide adequate services to the additional individuals who would otherwise seek credit counseling from those programs by reason of the requirements of paragraph (1).

''(B) Each United States trustee or bankruptcy administrator that makes a determination described in subparagraph (A) shall review that determination not later than 1 year after the date of that determination, and not less frequently than every year thereafter.

''(3)(A) Subject to subparagraph (B), the requirements of paragraph (1) shall not apply with respect to a debtor who submits to the court a certification that—

''(i) describes exigent circumstances that merit a waiver of the requirements of paragraph (1);

''(ii) states that the debtor requested credit counseling services from an approved nonprofit credit counseling service, but was unable to obtain the services referred to in paragraph (1) during the 5-day period beginning on the date on which the debtor made that request; and

''(iii) is satisfactory to the court.

''(B) With respect to a debtor, an exemption under subparagraph (A) shall cease to apply to that debtor on the date on which the debtor meets the requirements of paragraph (1), but in no case may the exemption apply to that debtor after the date that is 30 days after the debtor files a petition.''.

(b) CHAPTER 7 DISCHARGE.—Section 727(a) of title 11, United States Code, is amended—

(1) in paragraph (9), by striking ''or'' at the end;

(2) in paragraph (10), by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(11) after the filing of the petition, the debtor failed to complete an instructional course concerning personal financial management described in section 111.''.

(c) CHAPTER 13 DISCHARGE.—Section 1328 of title 11, United States Code, is amended by adding at the end the following:

''(g) The court shall not grant a discharge under this section to a debtor, unless after filing a petition the debtor has completed an instructional course concerning personal financial management described in section 111.

''(h) Subsection (g) shall not apply with respect to a debtor who resides in a district for which the United States trustee or bankruptcy administrator of the bankruptcy court of that district determines that the approved instructional courses are not adequate to service the additional individuals who would be required to complete the instructional course by reason of the requirements of this section.

''(i) Each United States trustee or bankruptcy administrator that makes a determination described in subsection (h) shall review that determination not later than 1 year after the date of that determination, and not less frequently than every year thereafter.''.

(d) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, is amended—

(1) by inserting ''(a)'' before ''The debtor shall—''; and

(2) by adding at the end the following:

''(b) In addition to the requirements under subsection (a), an individual debtor shall file with the court—

''(1) a certificate from the credit counseling service that provided the debtor services under section 109(h); and

''(2) a copy of the debt repayment plan, if any, developed under section 109(h) through the credit counseling service referred to in paragraph (1).''.

(e) GENERAL PROVISIONS.—

(1) IN GENERAL.—Chapter 1 of title 11, United States Code, is amended by adding at the end the following:

''§ 111. Credit counseling services; financial management instructional courses

''(a) The clerk of each district shall maintain a list of credit counseling services that provide 1 or more programs described in section 109(h) and a list of instructional courses concerning personal financial management that have been approved by—

''(1) the United States trustee; or

''(2) the bankruptcy administrator for the district.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 1 of title 11, United States Code, is amended by adding at the end the following:

''111. Credit counseling services; financial management instructional courses.''.

(f) LIMITATION.—Section 362 of title 11, United States Code, is amended by adding at the end the following:

''(i) If a case commenced under chapter 7, 11, or 13 [of this title] is dismissed due to the creation of a debt repayment plan, for purposes of subsection (c)(3), any subsequent case commenced by the debtor under any such chapter shall not be presumed to be filed not in good faith.''.

TITLE II—ENHANCED CONSUMER PROTECTION

Subtitle A—Penalties for Abusive Creditor Practices

SEC. 201. PROMOTION OF ALTERNATIVE DISPUTE RESOLUTION.

(a) REDUCTION OF CLAIM.—Section 502 of title 11, United States Code, is amended by adding at the end the following:

''(k)(1) The court, on the motion of the debtor and after a hearing, may reduce a claim filed under this section based in whole on unsecured consumer debts by not more than 20 percent of the claim, if—

''(A) the claim was filed by a creditor who unreasonably refused to negotiate a reasonable alternative repayment schedule proposed by an approved credit counseling agency acting on behalf of the debtor;

''(B) the offer of the debtor under subparagraph (A)—

''(i) was made at least 60 days before the filing of the petition; and

''(ii) provided for payment of at least 60 percent of the amount of the debt over a period not to exceed the repayment period of the loan, or a reasonable extension thereof; and

''(C) no part of the debt under the alternative repayment schedule is nondischargeable.

''(2) The debtor shall have the burden of proving, by clear and convincing evidence, that—

''(A) the creditor unreasonably refused to consider the debtor's proposal; and

''(B) the proposed alternative repayment schedule was made in the 60-day period specified in paragraph (1)(B)(i).''.

(b) LIMITATION ON AVOIDABILITY.—Section 547 of title 11, United States Code, is amended by adding at the end the following:

''(h) The trustee may not avoid a transfer if such transfer was made as a part of an alternative repayment plan between the debtor and any creditor of the debtor created by an approved credit counseling agency.''.

SEC. 202. EFFECT OF DISCHARGE.

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

''(i) The willful failure of a creditor to credit payments received under a plan confirmed under this title (including a plan of reorganization confirmed under chapter 11 of this title) in the manner required by the plan (including crediting the amounts required under the plan) shall constitute a violation of an injunction under subsection (a)(2).''.

SEC. 203. VIOLATIONS OF THE AUTOMATIC STAY.

Section 362(a) of title 11, United States Code, is amended—

(1) in paragraph (7), by striking ''and'' at the end;

(2) in paragraph (8), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(9) any communication (other than a recitation of the creditor's legal rights) threatening a debtor (for the purpose of coercing an agreement for the reaffirmation of debt), at any time after the commencement and before the granting of a discharge in a case under this title, of an intention to—

''(A) file a motion to—

''(i) determine the dischargeability of a debt; or

''(ii) under section 707(b), [to] dismiss or convert a case; or

''(B) repossess collateral from the debtor to which the stay applies.''.

SEC. 204. DISCOURAGING ABUSE OF REAFFIRMATION PRACTICES.

(a) IN GENERAL.—Section 524 of title 11, United States Code, as amended by section 202 of this Act, is amended—

(1) in subsection (c)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking ''and'' at the end;

(ii) in subparagraph (B), by inserting ''and'' at the end; and

(iii) by adding at the end the following:

''(C)(i) the consideration for such agreement is based on a wholly unsecured consumer debt; and

''(ii) such agreement contains a clear and conspicuous statement that advises the debtor that—

''(I) the debtor is entitled to a hearing before the court at which—

''(aa) the debtor shall appear in person; and

''(bb) the court shall decide whether the agreement constitutes an undue hardship, is not in the debtor's best interest, or is not the result of a threat by the creditor to take an action that, at the time of the threat, [that] the creditor may not legally take or does not intend to take; and

''(II) if the debtor is represented by counsel, the debtor may waive the debtor's right to a hearing under subclause (I) by signing a statement—

''(aa) waiving the hearing;

''(bb) stating that the debtor is represented by counsel; and

''(cc) identifying the counsel[.] *;*''; [and]

(B) in paragraph (6)(A)—

(i) in clause (i), by striking ''and'' at the end;

(ii) in clause (ii), by striking the period and inserting ''*; and*''; and

(iii) by adding at the end the following:

''(iii) not an agreement that the debtor entered into as a result of a threat by the creditor to take an action that, at the time of the threat, the creditor could not legally take or did not intend to take[.]*; except that*''; and

(C) in paragraph (6)(B), by striking ''Subparagraph'' and inserting ''subparagraph''; and

(2) in subsection (d), in the third sentence, by inserting after ''during the course of negotiating an agreement'' the following: ''(or if the consideration by such agreement is based on a wholly secured consumer debt, and the debtor has not waived the right to a hearing under subsection (c)(2)(C))''.

(b) LAW ENFORCEMENT.—

(1) IN GENERAL.—Chapter 9 of title 18, United States Code, is amended by adding at the end the following:

''§ 158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt

''(a) IN GENERAL.—The Attorney General of the United States shall designate the individuals described in subsection (b) to have primary responsibility in carrying out enforcement activities in addressing violations of section 152 or 157 relating to abusive reaffirmations of debt.

''(b) UNITED STATES DISTRICT ATTORNEYS AND AGENTS OF THE FEDERAL BUREAU OF INVESTIGATION—The individuals referred to in subsection (a) are—

''(1) a United States attorney for each judicial district of the United States; and

''(2) an agent of the Federal Bureau of Investigation (within the meaning of section 3107) for each field office of the Federal Bureau of Investigation.

''(c) BANKRUPTCY INVESTIGATIONS.—Each United States attorney designated under this section shall have primary responsibility for carrying out the duties of a United States attorney under section 3057.''.

(2) CLERICAL AMENDMENT.—The analysis for chapter 9 of title 18, United States Code, is amended by adding at the end the following:

''158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt.''.

(c) EXCEPTIONS TO DISCHARGE.—Section 523 of title 11, United States Code, is amended by adding at the end the following:

''(f) Nothing in this section or in any other provision of this title shall preempt any State law relating to unfair trade practices that imposes restrictions on creditor conduct that would give rise to liability—

''(1) under this section; or

''(2) under section 524, for failure to comply with applicable requirements for seeking a reaffirmation of debt.

''(g) ACTIONS BY STATES.—The attorney general of a State, or an official or agency designated by a State—

''(1) may bring an action on behalf of its residents to recover damages on their behalf under subsection (d) or section 524(c); and

''(2) may bring an action in a State court to enforce a State criminal law that is similar to section 152 or 157 of title 18.''.

Subtitle B—Priority Child Support

SEC. 211. DEFINITION OF DOMESTIC SUPPORT OBLIGATION.

Section 101 of title 11, United States Code, is amended—

(1) by striking paragraph (12A); and

(2) by inserting after paragraph (14) the following:

''(14A) 'domestic support obligation' means a debt that accrues before or after the entry of an order for relief under this title that is—

''(A) owed to or recoverable by—

''(i) a spouse, former spouse, or child of the debtor or such child's parent or legal guardian; or

''(ii) a governmental unit;

''(B) in the nature of alimony, maintenance, or support (including assistance provided by a governmental unit) of such spouse, former spouse, or child of the debtor or such child's parent or legal guardian, without regard to whether such debt is expressly so designated;

''(C) established or subject to establishment before or after entry of an order for relief under this title, by reason of applicable provisions of—

''(i) a separation agreement, divorce decree, or property settlement agreement;

''(ii) an order of a court of record; or

''(iii) a determination made in accordance with applicable nonbankruptcy law by a governmental unit; and

''(D) not assigned to a nongovernmental entity, unless that obligation is assigned voluntarily by the spouse, former spouse, child, or parent or legal guardian of the child for the purpose of collecting the debt.''.

SEC. [211.] *212.* PRIORITIES FOR CLAIMS FOR DOMESTIC SUPPORT OBLIGATIONS.

Section 507(a) of title 11, United States Code, is amended—

(1) by striking paragraph (7);

(2) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively;

(3) in paragraph (2), as redesignated, by striking ''First'' and inserting ''Second'';

(4) in paragraph (3), as redesignated, by striking ''Second'' and inserting ''Third'';

(5) in paragraph (4), as redesignated, by striking ''Third'' and inserting ''Fourth'';

(6) in paragraph (5), as redesignated, by striking ''Fourth'' and inserting ''Fifth'';

(7) in paragraph (6), as redesignated, by striking ''Fifth'' and inserting ''Sixth'';

(8) in paragraph (7), as redesignated, by striking ''Sixth'' and inserting ''Seventh''; and

(9) by inserting before paragraph (2), as redesignated, the following:

''(1) First, allowed *unsecured* claims for domestic support obligations to be paid in the following order on the condition that funds received under this paragraph by a governmental unit in a case under this title be applied *and distributed in accordance with applicable nonbankruptcy law*:

''(A) Claims that, as of the date of entry of the order for relief, are owed directly to a spouse, former spouse, or child of the debtor, or the parent *or legal guardian* of such child, without regard to whether the claim is filed by the spouse, former spouse, child, or [parent] *such child's parent or legal guardian*, or is filed by a governmental unit on behalf of that person.

''(B) Claims that, as of the date of entry of the order for relief, are assigned by a spouse, former spouse, child of the debtor, or the parent *or legal guardian* of that child to a governmental unit or are owed directly to a governmental unit under applicable nonbankruptcy law.''.

SEC. [212.] *213.* REQUIREMENTS TO OBTAIN CONFIRMATION AND DISCHARGE IN CASES INVOLVING DOMESTIC SUPPORT OBLIGATIONS.

Title 11, United States Code, is amended—

[(1) in section 1129(a), by adding at the end the following:

[''(14) If the debtor is required by a judicial or administrative order or statute to pay a domestic support obligation, the debtor has paid all amounts payable under such order or statute for such obligation that become payable after the date on which the petition is filed.'';]

(1) in section 1322(a)—

(A) in paragraph (2), by striking ''and'' at the end;

(B) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(C) by adding in the end the following:

''(4) if the debtor is required by judicial or administrative order or statute to pay a domestic support obligation, unless the holder of such claim agrees to a different treatment of such claim, provide for the full payment of—

''(A) all amounts payable under such order or statute for such obligation that first become payable after the date on which the petition is filed; and

''(B) all amounts payable under such order before the date on which such petition was filed, if such amounts are owed directly to a spouse, former spouse, child of the debtor, or a parent or legal guardian of such child.'';

(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) if the debtor is required by a judicial or administrative order or statute to pay a domestic support obligation, the plan provides for the full payment of all amounts payable under such order or statute for such obligation that initially become payable after the date on which the petition is filed.'';

(3) in section 1228(a)—

(A) by striking ''(a) As soon as practicable'' and inserting ''(a)(1) Subject to paragraph (2), as soon as practicable'';

(B) by striking ''(1) provided'' and inserting the following:

''(A) provided'';

(C) by striking ''(2) of the kind'' and inserting the following:

''(B) of the kind''; and

(D) by adding at the end the following:

''(2) With respect to a debtor who is required by a judicial or administrative order or statute to pay a domestic support obligation, the court may not grant the debtor a discharge under paragraph (1) until after the debtor certifies that—

''(A) all amounts payable under that order or statute that initially became payable after the date on which the petition was filed (through the date of the certification) have been paid; and

''(B) all amounts payable under that order that, as of the date of the certification, are owed directly to a spouse, former spouse, or child of the debtor, or the parent or legal guardian of such child, have been paid, unless the holder of such claim agrees to a different treatment of such claim.'';

[(2)] *(4)* in section 1325(a)—

(A) in paragraph (5), by striking ''and'' at the end;

(B) in paragraph (6), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(7) if the debtor is required by a judicial or administrative order or statute to pay a domestic support obligation, [the debtor has paid] *the plan provides for full payment of* all amounts payable under such order for such obligation that become payable after the date on which the petition is filed.''; and

[(3)] *(5)* in section 1328(a), in the matter preceding paragraph (1), by inserting '', and with respect to a debtor who is required by a judicial or administrative order to pay a domestic support obligation, *and with respect to whom the court* certifies that all amounts payable under such order or [statute that are due on or before the date] *statute that initially became payable after the date on which the petition was filed through the date* of the [certification (including amounts due before or after the petition was filed) have been paid'' after ''completion by the debtor of all payments under the plan''.] *certification have been paid, after all amounts payable under that order that, as of the date of certification, are owed directly to a spouse, former spouse, or child of the debtor, or the parent or legal guardian of such child have been paid (unless the holder of such claim agrees to a different treatment of such claim),'' after ''completion by the debtor of all payments under the plan''.*

SEC. [213.] *214.* EXCEPTIONS TO AUTOMATIC STAY IN DOMESTIC SUPPORT OBLIGATION PROCEEDINGS.

Section 362(b) of title 11, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

''(2) under subsection (a)—

''(A) of the commencement of an action or proceeding for—

''(i) the establishment of paternity [as a part of an effort to collect domestic support obligations]; or

''(ii) the establishment or modification of an order for domestic support obligations; or

''(B) the collection of a domestic support obligation from property that is not property of the estate;'';

[(2) in paragraph (17), by striking ''or'' at the end;

[(3) in paragraph (18), by striking the period at the end and inserting a semicolon; and

[(4) by inserting after paragraph (18) the following:

[''(19) under subsection (a) with respect to the withholding of income under an order as specified in section 466(b) of the Social Security Act (42 U.S.C. 666(b)); or

[''(20) under subsection (a) with respect to—]

(2) by inserting after paragraph (4) the following:

''(5) under subsection (a) with respect to the withholding of income—

''(A) for payment of a domestic support obligation for amounts that initially become payable after the date the petition was filed; and

''(B) for payment of a domestic support obligation for amounts payable before the date the petition was filed, and owed directly to the spouse, former spouse, or child of the debtor, or the parent or guardian of such child;'';

(3) in paragraph (17), by striking ''or'' at the end;

(4) in paragraph (18), by striking the period at the end and inserting ''; or''; and

(5) by inserting after paragraph (18) the following:

''(19) under subsection (a) with respect to—

''(A) the withholding, suspension, or restriction of drivers' licenses, professional and occupational licenses, and recreational licenses under State law, as specified in section 466(a)(16) of the Social Security Act (42 U.S.C. 666(a)(16)) [or with respect];

''(B) [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 (42 U.S.C. 666(a)(7));

''[(B)] *(C)* the interception of tax refunds, as specified in sections 464 and 466(a)(3) of the Social Security Act (42 U.S.C. 664 and 666(a)(3)), *if such tax refund is payable directly to a spouse, former spouse, or child of the debtor, or the parent or legal guardian of such child*; or

''[(C)] *(D)* the enforcement of medical obligations as specified under title IV of the Social Security Act (42 U.S.C. 601 et seq.).''.

SEC. [214.] *215.* NONDISCHARGEABILITY OF CERTAIN DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.

Section 523 of title 11, United States Code, is amended—

[(1) in subsection (a), by striking paragraph (5) and inserting the following:

[''(5) for a domestic support obligation;'';]

(1) in subsection (a)—

(A) by striking paragraph (5) and inserting the following:

''(5) for a domestic support obligation;'';

(B) in paragraph (15)—

(i) by inserting ''or'' after ''court of record''; and

(ii) by striking ''unless—'' and all that follows through the end of the paragraph and inserting a semicolon; and

(2) in subsection (c), by striking ''(6), or (15)'' and inserting ''or (6)''[; and].

[(3) in paragraph (15), by striking ''governmental unit'' and all through the end of the paragraph and inserting a semicolon.]

SEC. [215.] *216.* CONTINUED LIABILITY OF PROPERTY.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (c), by striking paragraph (1) and inserting the following:

''(1) a debt of a kind specified in paragraph (1) or (5) of section 523(a) (in which case, notwithstanding any provision of applicable nonbankruptcy law to the contrary, such property shall be liable for a debt of a kind specified in section 523(a)(5));''; and

(2) in subsection (f)(1)(A), by striking the dash and all that follows through the end of the subparagraph and inserting ''of a kind that is specified in section 523(a)(5); or''.

SEC. [216.] *217.* PROTECTION OF DOMESTIC SUPPORT CLAIMS AGAINST PREFERENTIAL TRANSFER MOTIONS.

Section 547(c)(7) of title 11, United States Code, is amended to read as follows:

''(7) to the extent such transfer was a bona fide payment of a debt for a domestic support obligation; or''.

[SEC. 217. AMENDMENT TO SECTION 1325 OF TITLE 11, UNITED STATES CODE.

[Section 1325(b)(2) of title 11, United States Code, is amended by inserting ''(other than child support payments, foster care payments, or disability payments for a dependent child made in accordance with applicable nonbankruptcy law and which is reasonably necessary to be expended)'' after ''received by the debtor''.

[SEC. 218. DEFINITION OF DOMESTIC SUPPORT OBLIGATION.

[Section 101 of title 11, United States Code, is amended—

[(1) by striking paragraph (12A); and

[(2) by inserting after paragraph (14) the following:

[''(14A) 'domestic support obligation' means a debt that accrues before or after the entry of an order for relief under this title that is—

[''(A) owed to or recoverable by—

[''(i) a spouse, former spouse, or child of the debtor or that child's legal guardian; or

[''(ii) a governmental unit;

[''(B) in the nature of alimony, maintenance, or support (including assistance provided by a governmental unit) of such spouse, former spouse, or child, without regard to whether such debt is expressly so designated;

[''(C) established or subject to establishment before or after entry of an order for relief under this title, by reason of applicable provisions of—

[''(i) a separation agreement, divorce decree, or property settlement agreement;

[''(ii) an order of a court of record; or

[''(iii) a determination made in accordance with applicable nonbankruptcy law by a governmental unit; and

[''(D) not assigned to a nongovernmental entity, unless that obligation is assigned voluntarily by the spouse, former spouse, child, or parent solely for the purpose of collecting the debt.''.]

SEC. 218. DISPOSABLE INCOME DEFINED.

(a) CONFIRMATION OF PLAN UNDER CHAPTER 12.—Section 1225(b)(2)(A) of title 11, United States Code, is amended by inserting ''for a child support, foster care, or disability payment for a dependent child made in accordance with applicable nonbankruptcy law'' after ''dependent of the debtor''.

(b) CONFIRMATION OF PLAN UNDER CHAPTER 13.—Section 1325(b)(2)(A) of title 11, United States Code, is amended by inserting ''or for a child support, foster care, or disability payment for a dependent child made in accordance with applicable nonbankruptcy law'' after ''dependent of the debtor''.

SEC. 219. COLLECTION OF CHILD SUPPORT.

(a) DUTIES OF TRUSTEE UNDER CHAPTER 7.—Section 704 of title 11, United States Code, as amended by section 102(b) of this Act, is amended—

(1) in subsection (a)—

(A) in paragraph (8), by striking ''and'' at the end;

(B) in paragraph (9), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(10) if, with respect to an individual debtor, there is a claim for support of a child of the debtor or a custodial parent *or legal guardian* of such child entitled to receive priority under section 507(a)(1), provide the applicable notification specified in subsection (c).''; and

(2) by adding at the end the following:

''(c)(1) In any case described in subsection (a)(10), the trustee shall—

''(A)(i) notify in writing the holder of the claim of the right of that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. [654] *664* and 666, respectively) for the State in which the holder resides *for assistance in collecting child support during and after the bankruptcy procedures*; [and]

''(ii) include in the notice under this paragraph the address and telephone number of the child support enforcement agency; and

''(iii) include in the notice an explanation of the rights of the holder of the claim to payment of the claim under this chapter; and

''(B)(i) notify in writing the State child support agency of the State in which the holder of the claim resides of the claim;

''(ii) include in the notice under this paragraph the name, address, and telephone number of the holder of the claim; and

''(iii) at such time as the debtor is granted a discharge under section 727, notify the holder of that claim and the State child support agency of the State in which that holder resides of—

''(I) the granting of the discharge;

''(II) the last recent known address of the debtor; and

''(III) with respect to the debtor's case, the name of each creditor that holds a claim *that*—

''(aa) [that] is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

''(bb) [that] was reaffirmed by the debtor under section 524(c).

''(2)(A) If, after receiving a notice under paragraph (1)(B)(iii), a holder of a claim or a State child support agency is unable to locate the debtor that is the subject of the notice, that party may request from a creditor described in paragraph (1)(B)(iii)(III) (aa) or (bb) the last *known address of the debtor.*

''(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making that disclosure.''.

(b) DUTIES OF TRUSTEE UNDER CHAPTER 11.—Section 1106 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (5), by striking ''and'' at the end;

(B) in paragraph (6), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(7) if, with respect to an individual debtor, there is a claim for support of a child of the debtor or a custodial parent or legal guardian of such child entitled to receive priority under section 507(a)(1), provide the applicable notification specified in subsection (c).''; and

(2) by adding at the end the following:

''(c)(1) In any case described in subsection (b)(7), the trustee shall—

''(A)(i) notify in writing the holder of the claim of the right of that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. 664 and 666) for the State in which the holder resides; and

''(ii) include in the notice under this paragraph the address and telephone number of the child support enforcement agency; and

''(B)(i) notify, in writing, the State child support agency (of the State in which the holder of the claim resides) of the claim;

''(ii) include in the notice under this paragraph the name, address, and telephone number of the holder of the claim; and

''(iii) at such time as the debtor is granted a discharge under section 1141, notify the holder of the claim and the State child support agency of the State in which that holder resides of—

''(I) the granting of the discharge;

''(II) the last recent known address of the debtor; and

''(III) with respect to the debtor's case, the name of each creditor that holds a claim that—

''(aa) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

''(bb) was reaffirmed by the debtor under section 524(c).

''(2)(A) If, after receiving a notice under paragraph (1)(B)(iii), a holder of a claim or a State child support agency is unable to locate the debtor that is the subject of the notice, that party may request from a creditor described in paragraph (1)(B)(iii)(III) (aa) or (bb) the last known address of the debtor.

''(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making that disclosure.''.

(c) DUTIES OF TRUSTEE UNDER CHAPTER 12.—Section 1202 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking ''and'' at the end;

(B) in paragraph (5), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(6) if, with respect to an individual debtor, there is a claim for support of a child of the debtor or a custodial parent or legal guardian of such child entitled to receive priority under section 507(a)(1), provide the applicable notification specified in subsection (c).''; and

(2) by adding at the end the following:

''(c)(1) In any case described in subsection (b)(6), the trustee shall—

''(A)(i) notify in writing the holder of the claim of the right of that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. 664 and 666) for the State in which the holder resides; and

''(ii) include in the notice under this paragraph the address and telephone number of the child support enforcement agency; and

''(B)(i) notify, in writing, the State child support agency (of the State in which the holder of the claim resides) of the claim;

''(ii) include in the notice under this paragraph the name, address, and telephone number of the holder of the claim; and

''(iii) at such time as the debtor is granted a discharge under section 1228, notify the holder of the claim and the State child support agency of the State in which that holder resides of—

''(I) the granting of the discharge;

''(II) the last recent known address of the debtor; and

''(III) with respect to the debtor's case, the name of each creditor that holds a claim that—

''(aa) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

''(bb) was reaffirmed by the debtor under section 524(c).

''(2)(A) If, after receiving a notice under paragraph (1)(B)(iii), a holder of a claim or a State child support agency is unable to locate the debtor that is the subject of the notice, that party may request from a creditor described in paragraph (1)(B)(iii)(III) (aa) or (bb) the last known address of the debtor.

''(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making that disclosure.''.

[(b)] *(d)* DUTIES OF TRUSTEE UNDER CHAPTER 13.—Section 1302 of title 11, United States Code, [as amended by section 102(b) of this Act,] is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking ''and'' at the end;

(B) in paragraph (5), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(6) if, with respect to an individual debtor, there is a claim for support of a child of the debtor or a custodial parent *or legal guardian* of such child entitled to receive priority under section 507(a)(1), provide the applicable notification specified in subsection (d).''; and

[(s)] *(2)* by adding at the end the following:

''(d)(1) In any case described in subsection (b)(6), the trustee shall—

''(A)(i) notify in writing the holder of the claim of the right of that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. 664 and 666, respectively) for the State in which the holder resides; and

''(ii) include in the notice under this paragraph the address and telephone number of the child support enforcement agency; and

''(B)(i) notify in writing the State child support agency of the State in which the holder of the claim resides of the claim; [and]

''(ii) include in the notice under this paragraph the name, address, and telephone number of the holder of the claim; *and*

''(iii) at such time as the debtor is granted a discharge under section 1328, notify the holder of the claim and the State child support agency of the State in which that holder resides of—

''(I) the granting of the discharge;

''(II) the last recent known address of the debtor; and

''(III) with respect to the debtor's case, the name of each creditor that holds a claim *that*—

''(aa) [that] is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

''(bb) [that] was reaffirmed by the debtor under section 524(c).

''(2)(A) If, after receiving a notice under paragraph (1)(B)(iii), a holder of a claim or a State child support agency is unable to locate the debtor that is the subject of the notice, that party may request from a creditor described in paragraph (1)(B)(iii)(III) (aa) or (bb) the last known address of the debtor.

''(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making that disclosure.''.

Subtitle C—Other Consumer Protections

[SEC. 221. 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 nonexempt 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 agency' means any person who provides any bankruptcy assistance to an assisted person in return for the payment of money or other valuable consideration, or who is a bankruptcy petition preparer under section 110, but does not include 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 (12 U.S.C. 1813)) or any Federal credit union or State credit union (as those terms are defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1751)), or any affiliate or subsidiary of such a depository institution or credit union;''.

[(b) CONFORMING AMENDMENT.—Section 104(b)(1) of title 11, United States Code, is amended by inserting ''101(3),'' after ''sections''.

[SEC. 222. 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 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).

[''(2) To the extent not covered in the written notice described in paragraph (1) and not later than 3 business days after the first date on which a debt relief agency first offers to provide any bankruptcy assistance services to an assisted person, a clear and conspicuous written notice advising assisted persons that—

[''(A) all information the assisted person is required to provide with a petition and thereafter during a case under this title shall be complete, accurate, and truthful;

[''(B) all assets and all liabilities shall 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, shall be stated in those documents if requested after reasonable inquiry to establish such value;

[''(C) total current monthly income, projected monthly net income and, in a case under chapter 13, monthly net income shall be stated after reasonable inquiry; and

[''(D) information an assisted person provides during the case of that person may be audited under this title and the failure to provide such information may result in dismissal of the proceeding under this title or other sanction including, in some instances, criminal sanctions.

[''(b) A debt relief agency providing bankruptcy assistance to an assisted person shall provide each assisted person at the same time as the notices required under subsection (a)(1) with the following statement, to the extent applicable, or a substantially similar statement. The statement shall be clear and conspicuous and shall be in a single document separate from other documents or notices provided to the assisted person:

[''IMPORTANT INFORMATION ABOUT BANKRUPTCY ASSISTANCE SERVICES FROM AN ATTORNEY OR BANKRUPTCY PETITION PREPARER

[''If you decide to seek bankruptcy relief, you can represent yourself, you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer who is not an attorney. THE LAW REQUIRES AN ATTORNEY OR BANKRUPTCY PETITION PREPARER TO GIVE YOU A WRITTEN CONTRACT SPECIFYING WHAT THE ATTORNEY OR BANKRUPTCY PETITION PREPARER WILL DO FOR YOU AND HOW MUCH IT WILL COST. Ask to see the contract before you hire anyone.

[''The following information helps you understand what must be done in a routine bankruptcy case to help you evaluate how much service you need. Although bankruptcy can be complex, many cases are routine.

[''Before filing a bankruptcy case, either you or your attorney should analyze your eligibility for different forms of debt relief made available by the Bankruptcy Code and which form of relief is most likely to be beneficial for you. Be sure you understand the relief you can obtain and its limitations. To file a bankruptcy case, documents called a Petition, Schedules and Statement of Financial Affairs, as well as in some cases a Statement of Intention need to be prepared correctly and filed with the bankruptcy court. You will have to pay a filing fee to the bankruptcy court. Once your case starts, you will have to attend the required first meeting of creditors where you may be questioned by a court official called a ''trustee'' and by creditors.

[''If you choose to file a chapter 7 case, you may be asked by a creditor to reaffirm a debt. You may want help deciding whether to do so and a creditor is not permitted to coerce you into reaffirming your debts.

[''If you choose to file a chapter 13 case in which you repay your creditors what you can afford over 3 to 5 years, you may also want help with preparing your chapter 13 plan and

with the confirmation hearing on your plan which will be before a bankruptcy judge.

[''`If you select another type of relief under the Bankruptcy Code other than chapter 7 or chapter 13, you will want to find out what needs to be done from someone familiar with that type of relief.

[''`Your bankruptcy case may also involve litigation. You are generally permitted to represent yourself in litigation in bankruptcy court, but only attorneys, not bankruptcy petition preparers, can give you legal advice.'.

[''(c) Except to the extent the debt relief agency provides the required information itself after reasonably diligent inquiry of the assisted person or others so as to obtain such information reasonably accurately for inclusion on the petition, schedules or statement of financial affairs, a debt relief agency providing bankruptcy assistance to an assisted person, to the extent permitted by nonbankruptcy law, shall provide each assisted person at the time required for the notice required under subsection (a)(1) reasonably sufficient information (which 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 total current monthly income, projected monthly income and, in a case under chapter 13, 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—

[''(A) determine what property is exempt; and

[''(B) value exempt property at replacement value, as defined in section 506.

[''(d) A debt relief agency shall maintain a copy of the notices required under subsection (a) of this section for a period of 2 years after the latest date on which the notice is given the assisted person.''.

[(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 525 the following:

[''526. Disclosures.''.

[SEC. 223. 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 222 of this Act, is amended by adding at the end the following:

[''§ 527. Debtor's bill of rights

[''(a)(1) A debt relief agency shall—

[''(A) not later than 5 business days after the first date on which a debt relief agency provides any bankruptcy assistance services to an assisted person, but before that assisted person's petition under this title is filed—

[''(i) 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

[''(ii) give the assisted person a copy of the fully executed and completed contract in a form the person is able to retain;

[''(B) 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 statement: 'We are a debt relief agency. We help people file bankruptcy petitions to obtain relief under the Bankruptcy Code.' or a substantially similar statement; and

[''(C) if an advertisement directed to the general public indicates that the debt relief 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 agency. We help people file bankruptcy petitions to obtain relief under the Bankruptcy Code.' or a substantially similar statement.

[''(2) For purposes of paragraph (1)(B), an advertisement shall be of bankruptcy assistance services if that advertisement describes or offers bankruptcy assistance with a plan under chapter 12, without regard to whether chapter 13 is specifically mentioned. A statement such as 'federally supervised repayment plan' or 'Federal debt restructuring help' or any other similar statement that would lead a reasonable consumer to believe that help with debts is being offered when in fact in most cases the help available is bankruptcy assistance with a plan under chapter 13 is a statement covered under the preceding sentence.

[''(b) A debt relief agency shall not—

[''(1) fail to perform any service that the debt relief 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, that—

[''(A) is untrue and misleading; or

[''(B) upon the exercise of reasonable care, should be known by the debt relief 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 agency may 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 under 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 sections for chapter 5 of title 11, United States Code, as amended by section 222 of this Act, is amended by inserting after the item relating to section 526 of title 11, United States Code, the following:

[''527. Debtor's bill of rights.''.

[SEC. 224. ENFORCEMENT.

[(a) ENFORCEMENT.—Subchapter II of chapter 5 of title 11, United States Code, as amended by section 223 of this Act, is amended by adding at the end the following:

[''§ 528. Debt relief agency enforcement

[''(a) Any waiver by any assisted person of any protection or right provided by or under section 526 or 527 shall be void and may not be enforced by any Federal or State court or any other person.

[''(b)(1) Any contract between a debt relief agency and an assisted person for bankruptcy assistance that does not comply with the material requirements of section 526 or 527 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 agency that has been found, after notice and hearing, to have—

[''(A) negligently 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 because the debt relief agency's negligent failure to file bankruptcy papers, including papers specified in section 521; or

[''(C) negligently or intentionally disregarded the material requirements of this title or the Federal Rules of Bankruptcy Procedure applicable to such debt relief 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 that the debt relief agency has already been paid on account of that proceeding.

[''(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, the State—

[''(A) may bring an action to enjoin such violation;

[''(B) may bring an action on behalf of its residents to recover the actual damages of assisted persons arising from such violation, including any liability under paragraph (2); and

[''(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorney fees as determined by the court.

[''(4) The United States District Court for any district located in the State shall have concurrent jurisdiction of any action under subparagraph (A) or (B) of paragraph (3).

[''(5) Notwithstanding any other provision of Federal law, 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, or engaged in a clear and consistent pattern or practice of violating section 526 or 527, the court may—

[''(A) enjoin the violation of such section; or

[''(B) impose an appropriate civil penalty against such person.

[''(c) 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 sections for chapter 5 of title 11, United States Code, as amended by section 223 of this Act, is amended by inserting after the item relating to section 527 of title 11, United States Code, the following:

[''528. Debt relief agency enforcement.''.]

SEC. 221. AMENDMENTS TO DISCOURAGE ABUSIVE BANKRUPTCY FILINGS.

Section 110 of title 11, United States Code, is amended—

(1) in subsection (a)(1), by inserting '', under the direct supervision of an attorney,'' after ''who'';

(2) in subsection (b)—

(A) in paragraph (1), by adding at the end the following: ''If a bankruptcy petition preparer is not an individual, then an officer, principal, responsible person, or partner of the preparer shall be required to—

''(A) sign the document for filing; and

''(B) print on the document the name and address of that officer, principal, responsible person or partner.'';

(B) by striking paragraph (2) and inserting the following:

''(2)(A) Before preparing any document for filing or accepting any fees from a debtor, the bankruptcy petition preparer shall provide to the debtor a written notice to debtors concerning bankruptcy petition preparers, which shall be on an official form issued by the Judicial Conference of the United States.

''(B) The notice under subparagraph (A)—

''(i) shall inform the debtor in simple language that a bankruptcy petition preparer is not an attorney and may not practice law or give legal advice;

''(ii) may contain a description of examples of legal advice that a bankruptcy petition preparer is not authorized to give, in addition to any advice that the preparer may not give by reason of subsection (e)(2); and

''(iii) shall—

''(I) be signed by—

''(aa) the debtor; and

''(bb) the bankruptcy petition preparer, under penalty of perjury; and

''(II) be filed with any document for filing.'';

(3) in subsection (c)—

(A) in paragraph (2)—

(i) by striking ''(2) For purposes'' and inserting ''(2)(A) Subject to subparagraph (B), for purposes''; and

(ii) by adding at the end the following:

''(B) If a bankruptcy petition preparer is not an individual, the identifying number of the bankruptcy petition preparer shall be the Social Security account number of the officer, principal, responsible person, or partner of the preparer.''; and

(B) by striking paragraph (3);

(4) in subsection (d)—

(A) by striking ''(d)(1)'' and inserting ''(d)''; and

(B) by striking paragraph (2);

(5) in subsection (e)—

(A) by striking paragraph (2); and

(B) by adding at the end the following:

''(2)(A) A bankruptcy petition preparer may not offer a potential bankruptcy debtor any legal advice, including any legal advice described in subparagraph (B).

''(B) The legal advice referred to in subparagraph (A) includes advising the debtor—

''(i) whether—

''(I) to file a petition under this title; or

''(II) commencing a case under chapter 7, 11, 12, or 13 is appropriate;

''(ii) whether the debtor's debts will be eliminated or discharged in a case under this title;

''(iii) whether the debtor will be able to retain the debtor's home, car, or other property after commencing a case under this title;

''(iv) concerning—

''(I) the tax consequences of a case brought under this title; or

''(II) the dischargeability of tax claims;

''(v) whether the debtor may or should promise to repay debts to a creditor or enter into a reaffirmation agreement with a creditor to reaffirm a debt;

''(vi) concerning how to characterize the nature of the debtor's interests in property or the debtor's debts; or

''(vii) concerning bankruptcy procedures and rights.'';

(6) in subsection (f)—

(A) by striking ''(f)(1)'' and inserting ''(f)''; and

(B) by striking paragraph (2);

(7) in subsection (g)—

(A) by striking ''(g)(1)'' and inserting ''(g)''; and

(B) by striking paragraph (2);

(8) in subsection (h)—

(A) by redesignating paragraphs (1) through (4) as paragraphs (2) through (5), respectively;

(B) by inserting before paragraph (2), as so redesignated, the following:

''(h)(1) The Supreme Court may promulgate rules under section 2075 of title 28, or the Judicial Conference of the United States may prescribe guidelines, for setting a maximum allowable fee chargeable by a bankruptcy petition preparer. A bankruptcy petition preparer shall notify the debtor of any such maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor.'';

(C) in paragraph (2), as redesignated by subparagraph (A) of this paragraph—

(i) by striking ''Within 10 days after the date of filing a petition, a bankruptcy petition preparer shall file a'' and inserting ''A'';

(ii) by inserting ''by the bankruptcy petition preparer shall be filed together with the petition,'' after ''perjury''; and

(iii) by adding at the end the following: ''If rules or guidelines setting a maximum fee for services have been promulgated or prescribed under paragraph (1), the declaration under this paragraph shall include a certification that the bankruptcy petition preparer complied with the notification requirement under paragraph (1).'';

(D) by striking paragraph (3), as redesignated by subparagraph (A) of this paragraph, and inserting the following:

''(3)(A) The court shall disallow and order the immediate turnover to the bankruptcy trustee any fee referred to in paragraph (2) found to be in excess of the value of any services—

''(i) rendered by the preparer during the 12-month period immediately preceding the date of filing of the petition; or

''(ii) found to be in violation of any rule or guideline promulgated or prescribed under paragraph (1).

''(B) All fees charged by a bankruptcy petition preparer may be forfeited in any case in which the bankruptcy petition preparer fails to comply with this subsection or subsection (b), (c), (d), (e), (f), or (g).

''(C) An individual may exempt any funds recovered under this paragraph under section 522(b).''; and

(E) in paragraph (4), as redesignated by subparagraph (A) of this paragraph, by striking ''or the United States trustee'' and inserting ''the United States trustee, or the court, on the initiative of the court,'';

(9) in subsection (i)(1), by striking the matter preceding subparagraph (A) and inserting the following:

''(i) If a bankruptcy petition preparer violates this section or commits any act that the court finds to be fraudulent, unfair, or deceptive, on motion of the debtor, trustee, or United States trustee, and after the court holds a hearing with respect to that violation or act, the court shall order the bankruptcy petition preparer to pay to the debtor—'';

(10) in subsection (j)—

(A) in paragraph (2)—

(i) in subparagraph (A)(i)(I), by striking ''a violation of which subjects a person to criminal penalty'';

(ii) in subparagraph (B)—

(I) by striking ''or has not paid a penalty'' and inserting ''has not paid a penalty''; and

(II) by inserting ''or failed to disgorge all fees ordered by the court'' after ''a penalty imposed under this section,'';

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

(C) by inserting after paragraph (2) the following:

''(3) The court, as part of its contempt power, may enjoin a bankruptcy petition preparer that has failed to comply with a previous order issued under this section. The injunction under this paragraph may be issued upon motion of the court, the trustee, or the United States trustee.'';

and

(11) by adding at the end the following:

''(l)(1) A bankruptcy petition preparer who fails to comply with any provision of subsection (b), (c), (d), (e), (f), (g), or (h) may be fined not more than $500 for each such failure.

''(2) The court shall triple the amount of a fine assessed under paragraph (1) in any case in which the court finds that a bankruptcy petition preparer—

''(A) advised the debtor to exclude assets or income that should have been included on applicable schedules;

''(B) advised the debtor to use a false Social Security account number;

''(C) failed to inform the debtor that the debtor was filing for relief under this title; or

''(D) prepared a document for filing in a manner that failed to disclose the identity of the preparer.

''(3) The debtor, the trustee, a creditor, or the United States trustee may file a motion for an order imposing a fine on the bankruptcy petition preparer for each violation of this section.

''(4) All fines imposed under this section shall be paid to the United States trustee, who shall deposit an amount equal to such fines in a special account of the United States Trustee System Fund referred to in section 586(e)(2) of title 28. Amounts deposited under this paragraph shall be available to fund the enforcement of this section on a national basis.''.

SEC. [225.] *222.* SENSE OF CONGRESS.

It is the sense of Congress that States should develop curricula relating to the subject of personal finance, designed for use in elementary and secondary schools.

SEC. [226.] *223.* ADDITIONAL AMENDMENTS TO TITLE 11, UNITED STATES CODE.

(a) IN GENERAL.—Section 507(a) of title 11, United States Code, as amended by section [211] *212* of this Act, is amended by inserting after paragraph (9) the following:

''(10) Tenth, allowed claims for death or personal injuries resulting from the operation of a motor vehicle or vessel if such operation was unlawful because the debtor was intoxicated from using alcohol, a drug, or another substance.''.

(b) VESSELS.—Section 523(a)(9) of title 11, United States Code, is amended by inserting ''or vessel'' after ''vehicle''.

SEC. 224. PROTECTION OF RETIREMENT SAVINGS IN BANKRUPTCY.

(a) IN GENERAL.—Section 522 of title 11, United States Code, as amended by section 215 of this Act, is amended—

(1) in subsection (b)—

(A) in paragraph (2)—

(i) by striking ''(2)(A) any property'' and inserting:

''(3) Property listed in this paragraph is—

''(A) any property'';

(ii) in subparagraph (A), by striking ''and'' at the end;

(iii) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(iv) by adding at the end the following:

''(C) retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.'';

(B) by striking paragraph (1) and inserting:

''(2) Property listed in this paragraph is property that is specified under subsection (d), unless the State law that is applicable to the debtor under paragraph (3)(A) specifically does not so authorize.'';

(C) in the matter preceding paragraph (2)—

(i) by striking ''(b)'' and inserting ''(b)(1)'';

(ii) by striking ''paragraph (2)'' both places it appears and inserting ''paragraph (3)'';

(iii) by striking ''paragraph (1)'' each place it appears and inserting ''paragraph (2)''; and

(iv) by striking ''Such property is—''; and

(D) by adding at the end of the subsection the following:

''(4) For purposes of paragraph (3)(C) and subsection (d)(12), the following shall apply:

''(A) If the retirement funds are in a retirement fund that has received a favorable determination pursuant to section 7805 of the Internal Revenue Code of 1986, and that determination is in effect as of the date of the commencement of the case under section 301, 302, or 303 of

this title, those funds shall be presumed to be exempt from the estate.

''(B) If the retirement funds are in a retirement fund that has not received a favorable determination pursuant to such section 7805, those funds are exempt from the estate if the debtor demonstrates that—

''(i) no prior determination to the contrary has been made by a court or the Internal Revenue Service; and

''(ii)(I) the retirement fund is in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986; or

''(II) the retirement fund fails to be in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986 and the debtor is not materially responsible for that failure.

''(C) A direct transfer of retirement funds from 1 fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986, pursuant to section 401(a)(31) of the Internal Revenue Code of 1986, or otherwise, shall not cease to qualify for exemption under paragraph (3)(C) or subsection (d)(12) by reason of that direct transfer.

''(D)(i) Any distribution that qualifies as an eligible rollover distribution within the meaning of section 402(c) of the Internal Revenue Code of 1986 or that is described in clause (ii) shall not cease to qualify for exemption under paragraph (3)(C) or subsection (d)(12) by reason of that distribution.

''(ii) A distribution described in this clause is an amount that—

''(I) has been distributed from a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986; and

''(II) to the extent allowed by law, is deposited in such a fund or account not later than 60 days after the distribution of that amount.''; and

(2) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking ''subsection (b)(1)'' and inserting ''subsection (b)(2)''; and

(B) by adding at the end the following:

''(12) Retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.''.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by section 214 of this Act, is amended—

(1) in paragraph (18), by striking ''or'' at the end;

(2) in paragraph (19), by striking the period and inserting ''; or'';

(3) by inserting after paragraph (19) the following:

''(20) under subsection (a), of withholding of income from a debtor's wages and collection of amounts withheld, pursuant to the debtor's agreement authorizing that withholding and collection for the benefit of a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986 that is sponsored by the employer of the debtor, or an affiliate, successor, or predecessor of such employer—

''(A) to the extent that the amounts withheld and collected are used solely for payments relating to a loan from a plan that satisfies the requirements of section 408(b)(1) of the Employee Retirement Income Security Act of 1974 or is subject to section 72(p) of the Internal Revenue Code of 1986; or

''(B) in the case of a loan from a thrift savings plan described in subchapter III of title 5, that satisfies the requirements of section 8433(g) of such title;''; and

(4) by adding at the end of the flush material at the end of the subsection, the following: ''Nothing in paragraph (20) may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title.''.

(c) EXCEPTIONS TO DISCHARGE.—Section 523(a) of title 11, United States Code, is amended—

(1) by striking ''or'' at the end of paragraph (17);

(2) by striking the period at the end of paragraph (18) and inserting ''; or''; and

(3) by adding at the end the following:

''(19) owed to a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(c) of the Internal Revenue Code of 1986, pursuant to—

''(A) a loan permitted under section 408(b)(1) of the Employee Retirement Income Security Act of 1974, or subject to section 72(p) of the Internal Revenue Code of 1986; or

''(B) a loan from the thrift savings plan described in subchapter III of title 5, that satisfies the requirements of section 8433(g) of such title. Nothing in paragraph (19) may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title.''

(d) PLAN CONTENTS.—Section 1322 of title 11, United States Code, is amended by adding at the end the following:

''(f) A plan may not materially alter the terms of a loan described in section 362(b)(20).''.

TITLE III—DISCOURAGING BANKRUPTCY ABUSE

SEC. 301. REINFORCEMENT OF THE FRESH START.

Section 523(a)(17) of title 11, United States Code, is amended—

(1) by striking ''by a court'' and inserting ''on a prisoner by any court'',

(2) by striking ''section 1915(b) or (f)'' and inserting ''subsection (b) or (f)(2) of section 1915'', and

(3) by inserting ''(or a similar non-Federal law)'' after ''title 28'' each place it appears.

SEC. 302. DISCOURAGING BAD FAITH REPEAT FILINGS.

Section 362(c) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking ''and'' at the end;

(2) in paragraph (2), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(3) if a single or joint case is filed by or against an individual debtor under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding 1-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b)—

''(A) the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease will terminate with respect to the debtor on the 30th day after the filing of the later case;

''(B) upon motion by a party in interest for continuation of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any or all creditors (subject to such conditions or limitations as the court may then impose) after notice and a hearing completed before the expiration of the 30-day period only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed; and

''(C) for purposes of subparagraph (B), a case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

''(i) as to all creditors, if—

''(I) more than 1 previous case under any of chapter 7, 11, or 13 in which the individual was a debtor was pending within the preceding 1-year period;

''(II) a previous case under any of chapter 7, 11, or 13 in which the individual was a debtor was dismissed within such 1-year period, after the debtor failed to—

''(aa) file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be a substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney);

''(bb) provide adequate protection as ordered by the court; or

''(cc) perform the terms of a plan confirmed by the court; or

''(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under chapter 7, 11, or 13 [of this title], or any other reason to conclude that the later case will be concluded—

''(aa) if a case under chapter 7 [of this title], with a discharge; or

''(bb) if a case under chapter 11 or 13 [of this title], with a confirmed plan which will be fully performed; and

''(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to actions of such creditor; and

''(4)(A)(i) if a single or joint case is filed by or against an individual debtor under this title, and if 2 or more single or joint cases of the debtor were pending within the previous year but were dismissed, other than a case refiled under section 707(b), the stay under subsection (a) shall not go into effect upon the filing of the later case; and

''(ii) on request of a party in interest, the court shall promptly enter an order confirming that no stay is in effect;

''(B) if, within 30 days after the filing of the later case, a party in interest requests the court may order the stay to take effect in the case as to any or all creditors (subject to such conditions or limitations as the court may impose), after notice and hearing, only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed;

''(C) a stay imposed under subparagraph (B) shall be effective on the date of entry of the order allowing the stay to go into effect; and

''(D) for purposes of subparagraph (B), a case is presumptively not filed in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

''(i) as to all creditors if—

''(I) 2 or more previous cases under this title in which the individual was a debtor were pending within the 1-year period;

''(II) a previous case under this title in which the individual was a debtor was dismissed within the time period stated in this paragraph after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to pay adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

''(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under this title, or any other reason to conclude that the later case will not be concluded, if a case under chapter

7, with a discharge, and if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; or

''(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, such action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to action of such creditor.''.

SEC. 303. CURBING ABUSIVE FILINGS.

(a) IN GENERAL.—Section 362(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking ''or'' at the end;

(2) in paragraph (3), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(4) with respect to a stay of an act against real property under subsection (a), by a creditor whose claim is secured by an interest in such real estate, if the court finds that the filing of the bankruptcy petition was part of a scheme to delay, hinder, and defraud creditors that involved either—

''(A) transfer of all or part ownership of, or other interest in, the real property without the consent of the secured creditor or court approval; or

''(B) multiple bankruptcy filings affecting the real property.

If recorded in compliance with applicable State laws governing notices of interests or liens in real property, an order entered under this subsection shall be binding in any other case under this title purporting to affect the real property filed not later than 2 years after that recording, except that a debtor in a subsequent case may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing.''.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by section [213] *224* of this Act, is amended—

(1) in paragraph (19), by striking ''or'' at the end;

(2) in paragraph (20), by striking the period at the end; and

(3) by inserting after paragraph (20) the following:

''(21) under subsection (a), of any act to enforce any lien against or security interest in real property following the entry of an order under section 362(d)(4) as to that property in any prior bankruptcy case for a period of 2 years after entry of such an order, except that the debtor, in a subsequent case, may move the court for relief from such order based upon changed circumstances or for other good cause shown, after notice and a hearing; or

''(22) under subsection (a), of any act to enforce any lien against or security interest in real property—

''(A) if the debtor is ineligible under section 109(g) to be a debtor in a bankruptcy case; or

''(B) if the bankruptcy case was filed in violation of a bankruptcy court order in a prior bankruptcy case prohibiting the debtor from being a debtor in another bankruptcy case.''.

SEC. 304. DEBTOR RETENTION OF PERSONAL PROPERTY SECURITY.

Title 11, United States Code, is amended—

(1) in section 521(a), as so redesignated *by section 105(d) of this Act*—

(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 within 45 days after the first meeting of creditors under section 341(a)—

''(A) enters into an agreement with the creditor under section 524(c) with respect to the claim secured by such property; or

''(B) redeems such property from the security interest under section 722.''; and

(C) by adding at the end the following:

''(b) [If the debtor] *For purposes of subsection (a)(6), if the debtor* fails to so act within the 45-day period specified in subsection (a)(6), 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. 305. RELIEF FROM THE AUTOMATIC STAY WHEN THE DEBTOR DOES NOT COMPLETE INTENDED SURRENDER OF CONSUMER DEBT COLLATERAL.

Title 11, United States Code, is amended—

(1) in section 362—

(A) in subsection (c), by striking ''(e), and (f)'' and inserting ''(e), (f), and (h)''; and

(B) by redesignating subsection (h), as amended by section 227 of this Act, as subsection (j) and by inserting after subsection (g) the following:

''(h)(1) Subject to paragraph (2), in an individual case under 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 period of time set by section 521(a)(2) to—

''(A) file timely any statement of intention required under section 521(a)(2) with respect to that property or to indicate therein that the debtor—

''(i) will either surrender the property or retain the property; and

''(ii) if retaining the property, will, as applicable—

''(I) redeem the property under section 722;

''(II) reaffirm the debt the property secures under section 524(c); or

''(III) assume the unexpired lease under section 365(p) if the trustee does not do so; or

''(B) take timely the action specified in that statement of intention, as the statement may be amended before expiration of the period for taking action, unless the statement of intention specifies reaffirmation and the creditor refuses to reaffirm on the original contract terms.

''(2) Paragraph (1) shall not apply if 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 521, as amended by section 304 of this Act—

(A) in subsection (a)(2), as redesignated *by section 105(d) of this Act*—

(i) by striking ''consumer'';

(ii) in subparagraph (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 period'' and inserting ''30-day period''; and

(iii) in subparagraph (C), by inserting ''except as provided in section 362(h)'' before the semicolon; and

(B) by adding at the end the following:

''(c) If the debtor fails timely to take the action specified in subsection (a)(6), or in paragraph (1) or (2) of section 362(h), 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 that has the effect of placing the debtor in default under that lease or agreement by reason of the occurrence, pendency, or existence of a proceeding under this title or the insolvency of the debtor. Nothing in this subsection shall be deemed to justify limiting such a provision in any other circumstance.''.

SEC. 306. GIVING SECURED CREDITORS FAIR TREATMENT IN CHAPTER 13.

(a) IN GENERAL.—Section 1325(a)(5)(B)(i) of title 11, United States Code, is amended to read as follows:

''(i) the plan provides that—

''(I) the holder of such claim retain the lien securing such claim until the earlier of—

''(aa) the payment of the underlying debt determined under nonbankruptcy law; or

''(bb) discharge under section 1328; and

''(II) if the case under this chapter is dismissed or converted without completion of the plan, such lien shall also be retained by such holder to the extent recognized by applicable nonbankruptcy law; and''.

(b) RESTORING THE FOUNDATION FOR SECURED CREDIT.—Section 1325(a) of title 11, United States Code, is amended by adding at the end the following flush sentence:

''For purposes of paragraph (5), section 506 shall not apply to a claim described in that paragraph if the debt that is the subject of the claim was incurred within the 5-year period preceding the filing of the petition and the collateral for that debt consists of a motor vehicle (as defined in section 30102 of title 49) acquired for the personal use of the debtor, or if collateral for that debt consists of any other thing of value, if the debt was incurred during the 6-month period preceding that filing.''.

(c) DEFINITIONS.—Section 101 of title 11, United States Code, as amended by section [221] *211* of this Act, is amended—

(1) by inserting after paragraph (13) the following:

''(13A) 'debtor's principal residence'—

''(A) means a residential structure, including incidental property, without regard to whether that structure is attached to real property; and

''(B) includes an individual condominium or cooperative unit;''; and

(2) by inserting after paragraph (27), the following:

''(27A) 'incidental property' means, with respect to a debtor's principal residence—

''(A) property commonly conveyed with a principal residence in the area where the real estate is located;

''(B) all easements, rights, appurtenances, fixtures, rents, royalties, mineral rights, oil or gas rights or profits, water rights, escrow funds, or insurance proceeds; and

''(C) all replacements or additions;''.

SEC. 307. EXEMPTIONS.

Section [522(b)(2)(A)] *522(b)(3)(A)* of title 11, United States Code, *as so designated by section 224 of this Act*, is amended—

(1) by striking ''180'' and inserting ''730''; and

(2) by striking '', or for a longer portion of such 180-day period than in any other place''.

SEC. 308. RESIDENCY REQUIREMENT FOR HOMESTEAD EXEMPTION.

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

(1) in subsection [(b)(2)(A)] *(b)(3)(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)] *(b)(3)(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 730-day period ending on 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.''.

SEC. 309. PROTECTING SECURED CREDITORS IN CHAPTER 13 CASES.

(a) STOPPING ABUSIVE CONVERSIONS FROM CHAPTER 13.—Section 348(f)(1) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking ''and'' at the end;

(2) in subparagraph (B)—

(A) by striking ''in the converted case, with allowed secured claims'' and inserting ''only in a case converted to chapter 11 or 12 but not in a case converted to chapter 7, with allowed secured claims in cases under chapters 11 and 12''; and

(B) by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(C) with respect to cases converted from chapter 13—

''(i) the claim of any creditor holding security as of the date of the petition shall continue to be secured by that security unless the full amount of such claim determined under applicable nonbankruptcy law has been paid in full as of the date of conversion, notwithstanding any valuation or determination of the amount of an allowed secured claim made for the purposes of the chapter 13 proceeding; and

''(ii) unless a prebankruptcy default has been fully cured under the plan at the time of conversion, in any proceeding under this title or otherwise, the default shall have the effect given under applicable nonbankruptcy law.''.

(b) GIVING DEBTORS THE ABILITY TO KEEP LEASED PERSONAL PROPERTY BY ASSUMPTION.—Section 365 of title 11, United States Code, is amended by adding at the end the following:

''(p)(1) If a lease of personal property is rejected or not timely assumed by the trustee under subsection (d), the leased property is no longer property of the estate and the stay under section 362(a) is automatically terminated.

''(2)(A) In the case of an individual under chapter 7, the debtor may notify the creditor in writing that the debtor desires to assume the lease. Upon being so notified, the creditor may, at its option, notify the debtor that it is willing to have the lease assumed by the debtor and may condition such assumption on cure of any outstanding default on terms set by the contract.

''(B) If within 30 days after notice is provided under subparagraph (A), the debtor notifies the lessor in writing that the lease is assumed, the liability under the lease will be assumed by the debtor and not by the estate.

''(C) The stay under section 362 and the injunction under section 524(a)(2) shall not be violated by notification of the debtor and negotiation of cure under this subsection.

''(3) In a case under chapter 11 [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 and any stay under section 1301 is automatically terminated with respect to the property subject to the lease.''.

(c) ADEQUATE PROTECTION OF LESSORS AND PURCHASE MONEY SECURED CREDITORS.—

[(1) IN GENERAL.—Subchapter I of chapter 13 of title 11, United States Code, is amended by inserting after section 1307 the following:

[''§ 1308. Adequate protection in chapter 13 cases

[''(a)(1)(A) On or before the date that is 30 days after the filing of a case under this chapter, the debtor shall make cash payments in an amount determined under paragraph (2), to—

[''(i) any lessor of personal property; and

[''(ii) any creditor holding a claim secured by personal property to the extent that the claim is attributable to the purchase of that property by the debtor.

[''(B) The debtor or the plan shall continue making the adequate protection payments until the earlier of the date on which—

[''(i) the creditor begins to receive actual payments under the plan; or

[''(ii) the debtor relinquishes possession of the property referred to in subparagraph (A) to—

[''(I) the lessor or creditor; or

[''(II) any third party acting under claim of right.

[''(2) The payments referred to in paragraph (1)(A) shall be the contract amount.

[''(b)(1) Subject to the limitations under paragraph (2), the court may, after notice and hearing, change the amount, and timing of the dates of payment, of payments made under subsection (a).

[''(2)(A) The payments referred to in paragraph (1) shall be payable not less frequently than monthly.

[''(B) The amount of payments referred to in paragraph (1) shall not be less than the amount of any weekly, biweekly, monthly, or other periodic payment schedules as payable under the contract between the debtor and creditor.

[''(c) Notwithstanding section 1326(b), the payments referred to in subsection (a)(1)(A) shall be continued in addition to plan payments under a confirmed plan until actual payments to the creditor begin under that plan, if the confirmed plan provides for—

[''(1) payments to a creditor or lessor described in subsection (a)(1); and

[''(2) the deferral of payments to such creditor or lessor under the plan until the payment of amounts described in section 1326(b).

[''(d) Notwithstanding sections 362, 542, and 543, a lessor or creditor described in subsection (a) may retain possession of property described in that subsection that was obtained in accordance with applicable law before the date of filing of the petition until the first payment under subsection (a)(1)(A) is received by the lessor or creditor.

[''(e) On or before the date that is 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 such 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.''.

[(2) CLERICAL AMENDMENT.—The table of sections for chapter 13 of title 11, United States Code, is amended, in the matter relating to subchapter I, by inserting after the item relating to section 1307 the following:

[''1308. Adequate protection in chapter 13 cases.''.]

(1) CONFIRMATION OF PLAN.—Section 1325(a)(5)(B) of title 11, United States Code, is amended—

(A) in clause (i), by striking ''and'' at the end;

(B) in clause (ii), by striking ''or'' at the end and inserting ''and''; and

(C) by adding at the end the following:

''(iii) if—

''(I) property to be distributed pursuant to this subsection is in the form of periodic payments, such payments shall be in equal monthly amounts; and

''(II) the holder of the claim is secured by personal property the amount of such payments shall not be less than an amount sufficient to provide to the holder of such claim adequate protection during the period of the plan; or''.

(2) PAYMENTS.—Section 1326(a) of title 11, United States Code, is amended to read as follows:

''(a)(1) Unless the court orders otherwise, the debtor shall—

''(A) commence making the payments proposed by a plan within 30 days after the plan is filed; or

''(B) if no plan is filed then as specified in the proof of claim, within 30 days after the order for relief or within 15 days after the plan is filed, whichever is earlier.

''(2) A payment made under this section shall be retained by the trustee until confirmation, denial of confirmation, or paid by the trustee as adequate protection payments in accordance with paragraph (3). If a plan is confirmed, the trustee shall distribute any such payment in accordance with the plan as soon as is practicable. If a plan is not confirmed, the trustee shall return any such payments not previously paid to creditors pursuant to paragraph (3) to the debtor, after deducting any unpaid claim allowed under section 503(b).

''(3)(A) As soon as is practicable, and not later than 40 days after the filing of the case, the trustee shall—

''(i) pay from payments made under this section the adequate protection payments proposed in the plan; or

''(ii) if no plan is filed then, according to the terms of the proof of claim.

''(B) The court may, upon notice and a hearing, modify, increase, or reduce the payments required under this paragraph pending confirmation of a plan.''.

SEC. 310. LIMITATION ON LUXURY GOODS.

Section 523(a)(2)(C) of title 11, United States Code, is amended to read as follows:

''(C)(i) for purposes of subparagraph (A)—

''(I) consumer debts owed to a single creditor and aggregating more than $250 for luxury goods or services incurred by an individual debtor on or within 90 days before the order for relief under this title are presumed to be nondischargeable; and

''(II) cash advances aggregating more than $750 that are extensions of consumer credit under an open end credit plan obtained by an individual debtor on or within 70 days before the order for relief under this title, are presumed to be nondischargeable; and

''(ii) for purposes of this subparagraph—

''(I) the term 'extension of credit under an open end credit plan' means an extension of credit under an open end credit plan, within the meaning of the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.);

''(II) the term 'open end credit plan' has the meaning given that term under section 103 of Consumer Credit Protection Act (15 U.S.C. 1602); and

''(III) the term 'luxury goods or services' does not include goods or services reasonably necessary for the support or maintenance of the debtor or a dependent of the debtor.''.

SEC. 311. AUTOMATIC STAY.

Section 362(b) of title 11, United States Code, as amended by section 303(b) of this Act, is amended—

(1) in paragraph (21), by striking ''or'' at the end;

(2) in paragraph (22), by striking the period at the end and inserting a semicolon; and

(3) by inserting after paragraph (22) the following:

''(23) under subsection (a)(3), of the continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential real property in which the debtor resides as a tenant under a rental agreement;

''(24) under subsection (a)(3), of the commencement of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential real property in which the debtor resides as a tenant under a rental agreement that has terminated under the lease agreement or applicable State law; or

''(25) under subsection (a)(3), of eviction actions based on endangerment to property or person or the use of illegal drugs.''.

SEC. 312. EXTENSION OF PERIOD BETWEEN BANKRUPTCY DISCHARGES.

Title 11, United States Code, is amended—

(1) in section 727(a)(8), by striking ''six'' and inserting ''8''; and

(2) in section 1328, by 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 if the debtor has received a discharge in any case filed under this title within 5 years before the order for relief under this chapter.''.

SEC. 313. DEFINITION OF HOUSEHOLD GOODS AND ANTIQUES.

Section 522(f) of title 11, United States Code, is amended by adding at the end the following:

''(4)(A) Subject to subparagraph (B), for purposes of paragraph (1)(B), the term 'household goods' means—

''(i) clothing;

''(ii) furniture;

''(iii) appliances;

''(iv) 1 radio;

''(v) 1 television;

''(vi) 1 VCR;

''(vii) linens;

''(viii) china;

''(ix) crockery;

''(x) kitchenware;

''(xi) educational materials and educational equipment primarily for the use of minor dependent children of the debtor, but only 1 personal computer only if used primarily for the education or entertainment of such minor children;

''(xii) medical equipment and supplies;

''(xiii) furniture exclusively for the use of minor children, or elderly or disabled dependents of the debtor; and

''(xiv) personal effects (including wedding rings and the toys and hobby equipment of minor dependent children) of the debtor and the dependents of the debtor.

''(B) The term 'household goods' does not include—

''(i) works of art (unless by or of the debtor or the dependents of the debtor);

''(ii) electronic entertainment equipment (except 1 television, 1 radio, and 1 VCR);

''(iii) items acquired as antiques;

''(iv) jewelry (except wedding rings); and

''(v) a computer (except as otherwise provided for in this section), motor vehicle (including a tractor or lawn tractor), boat, or a motorized recreational device, conveyance, vehicle, watercraft, or aircraft.''.

SEC. 314. DEBT INCURRED TO PAY NONDISCHARGEABLE DEBTS.

Section 523(a) of title 11, United States Code, is amended by inserting after paragraph (14) the following:

''(14A)(A) incurred to pay a debt that is nondischargeable by reason of section 727, 1141, 1228(a), 1228(b), or 1328(b), or any other provision of this subsection, if the debtor incurred the debt to pay such a nondischargeable debt with the intent to discharge in bankruptcy the newly created debt; *except that*

''(B) [except that] all debts incurred to pay nondischargeable debts shall be presumed to be nondischargeable debts if incurred within 70 days before the filing of the petition (except that, in any case in which there is an allowed claim under section 502 for child support or spousal support entitled to priority under section 507(a)(1) and that was filed in a timely manner, debts that would otherwise be presumed to be nondischargeable debts by reason of this subparagraph shall be treated as dischargeable debts);''.

(b) DISCHARGE UNDER CHAPTER 13.

Section 1328(a) of title 11, United States Code, is amended by striking paragraphs (1) through (3) and inserting the following:

''(1) provided for under section 1322(b)(5);

''(2) of the kind specified in paragraph (2), (4), (3)(B), (5), (8), or (9) of section 523(a);

''(3) for restitution, or a criminal fine, included in a sentence on the debtor's conviction of a crime; or

''(4) for restitution, or damages, awarded in a civil action against the debtor as a result of willful or malicious injury by the debtor that caused personal injury to an individual or the death of an individual.''.

SEC. 315. GIVING CREDITORS FAIR NOTICE IN CHAPTERS 7 AND 13 CASES.

(a) NOTICE.—Section 342 of title 11, United States Code, is amended—

(1) in subsection (c)—

(A) by inserting ''(1)'' after ''(c)''; and

(B) by striking '', but the failure of such notice to contain such information shall not invalidate the legal effect of such notice''; and

(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)(1) Notice given to a creditor other than as provided in this section shall not be effective notice until that notice has been brought to the attention of the creditor. If the creditor designates a person or department to be responsible for receiving notices concerning bankruptcy cases and establishes reasonable procedures so that bankruptcy notices received by the creditor are to be delivered to such department or person, notice shall not be considered to have been brought to the attention of the creditor until received by such person or department.

''(2) No sanction under section 362(h) or any other sanction that a court may impose on account of violations of the stay under section 362(a) or failure to comply with section 542 or 543 may be imposed on any action of the creditor unless the action takes place after the creditor has received notice of the commencement of the case effective under this section.''.

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by section 305 of this Act, is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

''(1) file—

''(A) a list of creditors; and

''(B) unless the court orders otherwise—

''(i) a schedule of assets and liabilities;

''(ii) a schedule of current income and current expenditures;

''(iii) a statement of the debtor's financial affairs and, if applicable, a certificate—

''(I) of an attorney whose name is on the petition as the attorney for the debtor or any bankruptcy petition preparer signing the petition under section 110(b)(1) indicating that such attorney or bankruptcy petition preparer delivered to the debtor any notice required by section 342(b); or

''(II) if no attorney for the debtor is indicated and no bankruptcy petition preparer signed the petition, of the debtor that such notice was obtained and read by the debtor;

''(iv) copies of any Federal tax returns, including any schedules or attachments, filed by the debtor for the 3-year period preceding the order for relief;

''(v) copies of all payment advices or other evidence of payment, if any, received by the debtor from any employer of the debtor in the period 60 days before the filing of the petition;

''(vi) a statement of the amount of projected monthly net income, itemized to show how the amount is calculated; and

''(vii) a statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of filing;''; and

(2) by adding at the end the following:

''(d)(1) At any time, a creditor, in the case of an individual under chapter 7 or 13, may file with the court notice that the creditor requests the petition, schedules, and a statement of affairs filed by the debtor in the case and the court shall make those documents available to the creditor who requests those documents.

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

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

''(i) at a reasonable cost; and

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

''(e) An individual debtor in a case under chapter 7 or 13 shall file with the court—

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

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

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

''(4) in a case under chapter 13, a statement subject to the penalties of perjury by the debtor of the debtor's income and expenditures in the preceding tax year and monthly income, that shows how the amounts are calculated—

''(A) beginning on the date that is the later of 90 days after the close of the debtor's tax

year or 1 year after the order for relief, unless a plan has been confirmed; and

''(B) thereafter, on or before the date that is 45 days before each anniversary of the confirmation of the plan until the case is closed.

''(f)(1) A statement referred to in subsection (e)(4) shall disclose—

''(A) the amount and sources of income of the debtor;

''(B) the identity of any person responsible with the debtor for the support of any dependent of the debtor; and

''(C) the identity of any person who contributed, and the amount contributed, to the household in which the debtor resides.

''(2) The tax returns, amendments, and statement of income and expenditures described in paragraph (1) shall be available to the United States trustee, any bankruptcy administrator, any trustee, and any party in interest for inspection and copying, subject to the requirements of subsection [(f)] *(g)*.

''(g)(1) Not later than 30 days after the date of enactment of the Bankruptcy Reform Act of 1999, the Director of the Administrative Office of the United States Courts shall establish procedures for safeguarding the confidentiality of any tax information required to be provided under this section.

''(2) The procedures under paragraph (1) shall include restrictions on creditor access to tax information that is required to be provided under this section.

''(3) Not later than 1 year after the date of enactment of the Bankruptcy Reform Act of 1999, the Director of the Administrative Office of the United States Courts shall prepare and submit to Congress a report that—

''(A) assesses the effectiveness of the procedures under paragraph (1); and

''(B) if appropriate, includes proposed legislation to—

''(i) further protect the confidentiality of tax information; and

''(ii) provide penalties for the improper use by any person of the tax information required to be provided under this section.

''(h) If requested by the United States trustee or a trustee serving in the case, the debtor shall provide—

''(1) a document that establishes the identity of the debtor, including a driver's license, passport, or other document that contains a photograph of the debtor; and

''(2) such other personal identifying information relating to the debtor that establishes the identity of the debtor.''.

SEC. 316. DISMISSAL FOR FAILURE TO TIMELY FILE SCHEDULES OR PROVIDE REQUIRED INFORMATION.

Section 521 of title 11, United States Code, as amended by section 315 of this Act, is amended by adding at the end the following:

''*(i)*(1) Notwithstanding section 707(a), and subject to paragraph (2), if an individual debtor in a voluntary case under chapter 7 or 13 fails to file all of the information required under subsection (a)(1) within 45 days after the filing of the petition commencing the case, the case shall be automatically dismissed effective on the 46th day after the filing of the petition.

''(2) With respect to a case described in paragraph (1), any party in interest may request the court to enter an order dismissing the case. If requested, the court shall enter an order of dismissal not later than 5 days after such request.

''(3) Upon request of the debtor made within 45 days after the filing of the petition commencing a case described in paragraph (1), the court may allow the debtor an additional period of not to exceed 45 days to file the information required under subsection (a)(1) if the court finds justification for extending the period for the filing.''.

SEC. 317. ADEQUATE TIME TO PREPARE FOR HEARING ON CONFIRMATION OF THE PLAN.

(a) HEARING.—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 later than 45 days after the meeting of creditors under section 341(a).''.

(b) FILING OF PLAN.—Section 1321 of title 11, United States Code, is amended to read as follows:

''§ 1321. Filing of plan

''Not later than 90 days after the order for relief under this chapter, the debtor shall file a plan, except that the court may extend such period if the need for an extension is attributable to circumstances for which the debtor should not justly be held accountable.''.

SEC. 318. CHAPTER 13 PLANS TO HAVE A 5-YEAR DURATION IN CERTAIN CASES.

Section 1322(d) of title 11, United States Code, is amended to read as follows:

''(d)(1) Except as provided in paragraph (2), the plan may not provide for payments over a period that is longer than 3 years.

''(2) The plan may provide for payments over a period that is longer than 3 years if—

''(A) the plan is for a case that was converted to a case under this chapter from a case under chapter 7, *or the plan is for a debtor who has been dismissed from chapter 7 by reason of section 707(b)*, in which case the plan shall provide for payments over a period of 5 years; or

''(B) the plan is for a case that is not described in subparagraph (A), and the court, for cause, approves a period longer than 3 years, but not to exceed 5 years.''.

SEC. 319. SENSE OF THE CONGRESS REGARDING EXPANSION OF RULE 9011 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE.

It is the sense of Congress that Rule 9011 of the Federal Rules of Bankruptcy Procedure (11 U.S.C. App.) should be modified to include a requirement that all documents (including schedules), signed and unsigned, submitted to the court or to a trustee by debtors who represent themselves and debtors who are represented by an attorney be submitted only after the debtor or the debtor's attorney has made reasonable inquiry to verify that the information contained in such documents is—

(1) well grounded in fact; and

(2) warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law.

SEC. 320. PROMPT RELIEF FROM STAY IN INDIVIDUAL CASES.

Section 362(e) of title 11, United States Code, is amended—

(1) by inserting ''(1)'' after ''(e)''; and

(2) by adding at the end the following:

''(2) Notwithstanding paragraph (1), in the case of an individual filing under chapter 7, 11, or 13, the stay under subsection (a) shall terminate on the date that is 60 days after a request is made by a party in interest under subsection (d), unless—

''(A) a final decision is rendered by the court during the 60-day period beginning on the date of the request; or

''(B) that 60-day period is extended—

''(i) by agreement of all parties in interest; or

''(ii) by the court for such specific period of time as the court finds is required for good cause, as described in findings made by the court.''.

SEC. 321. TREATMENT OF CERTAIN EARNINGS OF AN INDIVIDUAL DEBTOR WHO FILES A VOLUNTARY CASE UNDER CHAPTER 11.

Section 541(a)(6) of title 11, United States Code, is amended by inserting ''(other than an individual debtor who, in accordance with section 301, files a petition to commence a voluntary case under chapter 11)'' after ''individual debtor''.

TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Business Bankruptcy Provisions

SEC. 401. ROLLING STOCK EQUIPMENT.

(a) IN GENERAL.—Section 1168 of title 11, United States Code, is amended to read as follows:

''§ 1168. Rolling stock equipment

''(a)(1) The right of a secured party with a security interest in or of a lessor or conditional vendor of equipment described in paragraph (2) to take possession of such equipment in compliance with an equipment security agreement, lease, or conditional sale contract, and to enforce any of its other rights or remedies under such security agreement, lease, or conditional sale contract, to sell, lease, or otherwise retain or dispose of such equipment, is not limited or otherwise affected by any other provision of this title or by any power of the court, except that the right to take possession and enforce those other rights and remedies shall be subject to section 362, if—

''(A) before the date that is 60 days after the date of commencement of a case under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor under such security agreement, lease, or conditional sale contract; and

''(B) any default, other than a default of a kind described in section 365(b)(2), under such security agreement, lease, or conditional sale contract that—

''(i) occurs before the date of commencement of the case and is an event of default therewith is cured before the expiration of such 60-day period;

''(ii) occurs or becomes an event of default after the date of commencement of the case and before the expiration of such 60-day period is cured before the later of—

''(I) the date that is 30 days after the date of the default or event of the default; or

''(II) the expiration of such 60-day period; and

''(iii) occurs on or after the expiration of such 60-day period is cured in accordance with the terms of such security agreement, lease, or conditional sale contract, if cure is permitted under that agreement, lease, or conditional sale contract.

''(2) The equipment described in this paragraph—

''(A) is rolling stock equipment or accessories used on rolling stock equipment, including superstructures or racks, that is subject to a security interest granted by, leased to, or conditionally sold to a debtor; and

''(B) includes all records and documents relating to such equipment that are required, under the terms of the security agreement, lease, or conditional sale contract, to be surrendered or returned by the debtor in connection with the surrender or return of such equipment.

''(3) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

''(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1).

''(c)(1) In any case under this chapter, the trustee shall immediately surrender and return to a secured party, lessor, or conditional vendor, described in subsection (a)(1), equipment described in subsection (a)(2), if at any time after the date of commencement of the case under this chapter such secured party, lessor, or conditional vendor is entitled under subsection (a)(1) to take possession of such equipment and makes a written demand for such possession of the trustee.

''(2) At such time as the trustee is required under paragraph (1) to surrender and return equipment described in subsection (a)(2), any lease of such equipment, and any security agreement or conditional sale contract relating to such equipment, if such security agreement or conditional sale contract is an executory contract, shall be deemed rejected.

''(d) With respect to equipment first placed in service on or before October 22, 1994, for purposes of this section—

''(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

''(2) the term 'security interest' means a purchase-money equipment security interest.

''(e) With respect to equipment first placed in service after October 22, 1994, for purposes of this section, the term 'rolling stock equipment' includes rolling stock equipment that is substantially rebuilt and accessories used on such equipment.''.

(b) AIRCRAFT EQUIPMENT AND VESSELS.—Section 1110 of title 11, United States Code, is amended to read as follows:

''§ 1110. Aircraft equipment and vessels

''(a)(1) Except as provided in paragraph (2) and subject to subsection (b), the right of a secured party with a security interest in equipment described in paragraph (3), or of a lessor or conditional vendor of such equipment, to take possession of such equipment in compliance with a security agreement, lease, or conditional sale contract, and to enforce any of its other rights or remedies, under such security agreement, lease, or conditional sale contract, to sell, lease, or otherwise retain or dispose of such equipment, is not limited or otherwise affected by any other provision of this title or by any power of the court.

''(2) The right to take possession and to enforce the other rights and remedies described in paragraph (1) shall be subject to section 362 if—

''(A) before the date that is 60 days after the date of the order for relief under this chapter, the trustee, subject to the approval of the court, agrees to perform all obligations of the debtor under such security agreement, lease, or conditional sale contract; and

''(B) any default, other than a default of a kind specified in section 365(b)(2), under such security agreement, lease, or conditional sale contract that occurs—

''(i) before the date of the order is cured before the expiration of such 60-day period;

''(ii) after the date of the order and before the expiration of such 60-day period is cured before the later of—

''(I) the date that is 30 days after the date of the default; or

''(II) the expiration of such 60-day period; and

''(iii) on or after the expiration of such 60-day period is cured in compliance with the terms of such security agreement, lease, or conditional sale contract, if a cure is permitted under that agreement, lease, or contract.

''(3) The equipment described in this paragraph—

''(A) is—

''(i) an aircraft, aircraft engine, propeller, appliance, or spare part (as defined in section 40102 of title 49) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that, at the time such transaction is entered into, holds an air carrier operating certificate issued under chapter 447 of title 49 for aircraft capable of carrying 10 or more individuals or 6,000 pounds or more of cargo; or

''(ii) a documented vessel (as defined in section 30101(1) of title 46) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that is a water carrier that, at the time such transaction is entered into, holds a certificate of public convenience and necessity or permit issued by the Department of Transportation; and

''(B) includes all records and documents relating to such equipment that are required, under the terms of the security agreement, lease, or conditional sale contract, to be surrendered or returned by the debtor in connection with the surrender or return of such equipment.

''(4) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

''(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the approval of the court, to extend the 60-day period specified in subsection (a)(1).

''(c)(1) In any case under this chapter, the trustee shall immediately surrender and return to a secured party, lessor, or conditional vendor, described in subsection (a)(1), equipment described in subsection (a)(3), if at any time after the date of the order for relief under this chapter such secured party, lessor, or conditional vendor is entitled under subsection (a)(1) to take possession of such equipment and makes a written demand for such possession to the trustee.

''(2) At such time as the trustee is required under paragraph (1) to surrender and return equipment described in subsection (a)(3), any lease of such equipment, and any security agreement or conditional sale contract relating to such equipment, if such security agreement or conditional sale contract is an executory contract, shall be deemed rejected.

''(d) With respect to equipment first placed in service on or before October 22, 1994, for purposes of this section—

''(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

''(2) the term 'security interest' means a purchase-money equipment security interest.''.

SEC. 402. ADEQUATE PROTECTION FOR INVESTORS.

(a) DEFINITION.—Section 101 of title 11, United States Code, *as amended by section 306(c) of this Act*, is amended by inserting after paragraph (48) the following:

''(48A) 'securities self regulatory organization' means either a securities association registered with the Securities and Exchange Commission under section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78*o*–3) or a national securities exchange registered with the Securities and Exchange Commission under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f);''.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by section 311 of this Act, is amended—

(1) in paragraph (24), by striking ''or'' at the end;

(2) in paragraph (25), by striking the period at the end and inserting ''; or''; and

(3) by inserting after paragraph (25) the following:

''(26) under subsection (a), of—

''(A) the commencement or continuation of an investigation or action by a securities self regulatory organization to enforce such organization's regulatory power;

''(B) the enforcement of an order or decision, other than for monetary sanctions, obtained in an action by the securities self regulatory organization to enforce such organization's regulatory power; or

''(C) any act taken by the securities self regulatory organization to delist, delete, or refuse to permit quotation of any stock that does not meet applicable regulatory requirements.''.

SEC. 403. 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. 404. PROTECTION OF REFINANCE OF SECURITY INTEREST.

Subparagraphs (A), (B), and (C) of section 547(e)(2) of title 11, United States Code, are each amended by striking ''10'' each place it appears and inserting ''30''.

SEC. 405. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.

Section 365(d)(4) of title 11, United States Code, is amended to read as follows:

''(4)(A) Subject to subparagraph (B), in any case under any chapter of this title, an unexpired lease of nonresidential real property under which the debtor is the lessee shall be deemed rejected and the trustee shall immediately surrender that nonresidential real property to the lessor if the trustee does not assume or reject the unexpired lease by the earlier of—

''(i) the date that is 120 days after the date of the order for relief; or

''(ii) the date of the entry of an order confirming a plan.

''(B) The court may extend the period determined under subparagraph (A) only upon a motion of the lessor.''.

SEC. 406. CREDITORS AND EQUITY SECURITY HOLDERS COMMITTEES.

Section 1102(a)(2) of title 11, United States Code, is amended by inserting before the first sentence the following: ''On its own motion or on request of a party in interest, and after notice and hearing, the court may order a change in the membership of a committee appointed under this subsection, if the court determines that the change is necessary to ensure adequate representation of creditors or equity security holders.''.

SEC. 407. AMENDMENT TO SECTION 546 OF TITLE 11, UNITED STATES CODE.

Section 546 of title 11, United States Code, is amended—

(1) by redesignating the second subsection designated as subsection (g) (as added by section 222(a) of Public Law 103–394) as subsection (i); and

(2) by adding at the end the following:

''(j)(1) Notwithstanding section 545 (2) and (3), the trustee may not avoid a warehouseman's lien for storage, transportation or other costs incidental to the storage and handling of goods.

''(2) The prohibition under paragraph (1) shall be applied in a manner consistent with any applicable State statute that is similar to section 7–209 of the Uniform Commercial Code.''.

SEC. 408. LIMITATION.

Section 546(c)(1)(B) of title 11, United States Code, is amended by striking ''20'' and inserting ''45''.

SEC. 409. AMENDMENT TO SECTION 330(a) OF TITLE 11, UNITED STATES CODE.

Section 330(a)(3) of title 11, United States Code, is amended—

(1) by striking ''(A) the; and inserting ''(i) the'';

(2) by striking ''(B)'' and inserting ''(ii)'';

(3) by striking ''(C)'' and inserting ''(iii)'';

(4) by striking ''(D)'' and inserting ''(iv)'';

(5) by striking ''(E)'' and inserting ''(v)'';

(6) in subparagraph (A), by inserting ''to an examiner, trustee under chapter 11, or professional person'' after ''awarded''; and

(7) by adding at the end the following:

''(B) In determining the amount of reasonable compensation to be awarded a trustee, the court shall treat such compensation as a commission based on the results achieved.''.

SEC. 410. 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. 411. PREFERENCES.

Section 547(c) of title 11, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

''(2) to the extent that such transfer was in payment of a debt incurred by the debtor in the ordinary course of business or financial affairs of the debtor and the transferee, and such transfer was—

''(A) made in the ordinary course of business or financial affairs of the debtor and the transferee; or

''(B) made according to ordinary business terms;'';

(2) in paragraph (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 $5,000.''.

SEC. 412. 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. 413. 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) The 120-day period specified in paragraph (1) may not be extended beyond a date that is 18 months after the date of the order for relief under this chapter.

''(B) The 180-day period specified in paragraph (1) may not be extended beyond a date that is 20 months after the date of the order for relief under this chapter.''.

SEC. 414. FEES ARISING FROM CERTAIN OWNERSHIP INTERESTS.

Section 523(a)(16) of title 11, United States Code, is amended—

(1) by striking ''dwelling'' the first place it appears;

(2) by striking ''ownership or'' and inserting ''ownership,'';

(3) by striking ''housing'' the first place it appears; and

(4) by striking ''but only'' and all that follows through ''but nothing in this paragraph'' 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, and until such time as the debtor or trustee has surrendered any legal, equitable or possessory interest in such unit, such corporation, or such lot, but nothing in this paragraph''.

SEC. 415. 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 Federal or State law that is not a bankruptcy law, or other requirement that representation at the meeting of creditors under subsection (a) be by an attorney, a creditor holding a consumer debt or any representative of the creditor (which may include an entity or an employee of an entity and may be a representative for more than 1 creditor) shall be permitted to appear at and participate in the meeting of creditors in a case under chapter 7 or 13, either alone or in conjunction with an attorney for the creditor. Nothing in this subsection shall be construed to require any creditor to be represented by an attorney at any meeting of creditors.''.

[SEC. 416. 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 first sentence by striking ''until the case is converted or dismissed, whichever occurs first''; and

[(2) in the second 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.

SEC. [417.] *416.* DEFINITION OF DISINTERESTED PERSON.

Section 101(14) of title 11, United States Code, is amended to read as follows:

''(14) 'disinterested person' means a person that—

''(A) is not a creditor, an equity security holder, or an insider;

''(B) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the debtor; and

''(C) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason;''.

SEC. [418.] *417.* FACTORS FOR COMPENSATION OF PROFESSIONAL PERSONS.

Section 330(a)(3)*(A)* of title 11, United States Code, *as amended by section 409 of this Act*, is amended—

(1) in [subparagraph (D)] *clause (i)*, by striking ''and'' at the end;

(2) by redesignating [subparagraph (E)] *clause (v)* as [subparagraph (F)] *clause (vi)*; and

(3) by inserting after [subparagraph (D)] *clause (iv)* the following:

''[(E)] *(v)* with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field;''.

SEC. [419.] *418.* APPOINTMENT OF ELECTED TRUSTEE.

Section 1104(b) of title 11, United States Code, is amended—

(1) by inserting ''(1)'' after ''(b)''; and

(2) by adding at the end the following:

''(2)(A) If an eligible, disinterested trustee is elected at a meeting of creditors under paragraph (1), the United States trustee shall file a report certifying that election.

''(B) Upon the filing of a report under subparagraph (A)—

''(i) the trustee elected under paragraph (1) shall be considered to have been selected and appointed for purposes of this section; and

''(ii) the service of any trustee appointed under subsection (d) shall terminate.

''(C) In the case of any dispute arising out of an election described in subparagraph (A), the court shall resolve the dispute.''.

SEC. 419. UTILITY SERVICE.

Section 366 of title 11, United States Code, is amended—

(1) in subsection (a), by striking ''subsection (b)'' and inserting ''subsections (b) and (c)''; and

(2) by adding at the end the following:

''(c)(1)(A) For purposes of this subsection, the term 'assurance of payment' means—

''(i) a cash deposit;

''(ii) a letter of credit;

''(iii) a certificate of deposit;

''(iv) a surety bond;

''(v) a prepayment of utility consumption; or

''(vi) another form of security that is mutually agreed on between the utility and the debtor or the trustee.

''(B) For purposes of this subsection an administrative expense priority shall not constitute an assurance of payment.

''(2) Subject to paragraphs (3) through (5), with respect to a case filed under chapter 11, a utility referred to in subsection (a) may alter, refuse, or discontinue utility service, if during the 20-day period beginning on the date of filing of the petition, the utility does not receive from the debtor or the trustee adequate assurance of payment for utility service that is satisfactory to the utility.

''(3)(A) On request of a party in interest and after notice and a hearing, the court may order modification of the amount of an assurance of payment under paragraph (2).

''(B) In making a determination under this paragraph whether an assurance of payment is adequate, the court may not consider—

''(i) the absence of security before the date of filing of the petition;

''(ii) the payment by the debtor of charges for utility service in a timely manner before the date of filing of the petition; or

''(iii) the availability of an administrative expense priority.

''(4) Notwithstanding any other provision of law, with respect to a case subject to this subsection, a utility may recover or set off against a security deposit provided to the utility by the debtor before the date of filing of the petition without notice or order of the court.''.

Subtitle B—Small Business Bankruptcy Provisions

SEC. 421. FLEXIBLE RULES FOR DISCLOSURE STATEMENT AND PLAN.

Section 1125 of title 11, United States Code, is amended by striking subsection (f) and inserting the following:

''(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 under 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 later than 20 days before the date of the hearing on confirmation of the plan; and

''(C) the hearing on the disclosure statement may be combined with the hearing on confirmation of a plan.''.

SEC. 422. DEFINITIONS; EFFECT OF DISCHARGE.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, *as amended by section 402 of this Act,* is amended by striking paragraph (51C) and inserting the following:

''(51C) 'small business case' means a case filed under chapter 11 of this title in which the debtor is a small business debtor;

''(51D) 'small business debtor'—

''(A) subject to subparagraph (B), means a person (including any affiliate of such person that is also a debtor 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 $4,000,000 (excluding debts owed to 1 or more affiliates or insiders) for a case in which the United States trustee has appointed under section 1102(a)(1) a committee of unsecured creditors that the court has determined is sufficiently active and representative to provide effective oversight of the debtor; and

''(B) does not include any member of a group of affiliated debtors that has aggregate noncontingent liquidated secured and unsecured debts in an amount greater than $4,000,000 (excluding debt owed to 1 or more affiliates or insiders);''.

[(b) EFFECT OF DISCHARGE.—Section 524 of title 11, United States Code, as amended by section 204 of this Act, is amended by adding at the end the following:

[''(j)(1) An individual who is injured by the willful failure of a creditor to substantially comply with the requirements specified in subsections (c) and (d), or by any willful violation of the injunction operating under subsection (a)(2), shall be entitled to recover—

[''(A) the greater of—

[''(i) the amount of actual damages; or

[''(ii) $1,000; and

[''(B) costs and attorneys' fees.

[''(2) An action to recover for a violation specified in paragraph (1) may not be brought as a class action.''.

[(c)] *(b)* CONFORMING AMENDMENT.—Section 1102(a)(3) of title 11, United States Code, is amended by inserting ''debtor'' after ''small business''.

SEC. 423. STANDARD FORM DISCLOSURE STATEMENT AND PLAN.

Within a reasonable period of time after the date of the enactment of this Act, the Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall propose for adoption standard form disclosure statements and plans of reorganization for small business debtors (as defined in section 101 of title 11, United States Code, as amended by this Act), designed to achieve a practical balance between—

(1) the reasonable needs of the courts, the United States trustee, creditors, and other parties in interest for reasonably complete information; and

(2) economy and simplicity for debtors.

SEC. 424. UNIFORM NATIONAL REPORTING REQUIREMENTS.

(a) REPORTING REQUIRED.—

(1) IN GENERAL.—Chapter 3 of title 11, United States Code, is amended by inserting after section 307 the following:

''§ 308. Debtor reporting requirements

''(1) For purposes of this section, the term 'profitability' means, with respect to a debtor, the amount of money that the debtor has earned or lost during current and recent fiscal periods.

''(2) A small business debtor shall file periodic financial and other reports containing information including—

''(A) the debtor's profitability;

''(B) reasonable approximations of the debtor's projected cash receipts and cash disbursements over a reasonable period;

''(C) comparisons of actual cash receipts and disbursements with projections in prior reports;

''(D)(i) whether the debtor is—

''(I) in compliance in all material respects with postpetition requirements imposed by this title and the Federal Rules of Bankruptcy Procedure; and

''(II) timely filing tax returns and paying taxes and other administrative claims when due; and

''(ii) if the debtor is not in compliance with the requirements referred to in clause (i)(I) or filing tax returns and making the payments referred to in clause (i)(II), what the failures are and how, at what cost, and when the debtor intends to remedy such failures; and

''(iii) such other matters as are in the best interests of the debtor and creditors, and in the public interest in fair and efficient procedures under chapter 11 of this title.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 307 the following:

''308. Debtor reporting requirements.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 60 days after the date on which rules are prescribed under section 2075 of title 28, United States Code, to establish forms to be used to comply with section 308 of title 11, United States Code, as added by subsection (a).

SEC. 425. UNIFORM REPORTING RULES AND FORMS FOR SMALL BUSINESS CASES.

(a) PROPOSAL OF RULES AND FORMS.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall propose for adoption amended Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms to be used by small business debtors to file periodic financial and other reports containing information, including information relating to—

(1) the debtor's profitability;

(2) the debtor's cash receipts and disbursements; and

(3) whether the debtor is timely filing tax returns and paying taxes and other administrative claims when due.

(b) PURPOSE.—The rules and forms proposed under subsection (a) shall be designed to achieve a practical balance among—

(1) the reasonable needs of the bankruptcy court, the United States trustee, creditors, and other parties in interest for reasonably complete information;

(2) the small business debtor's interest that required reports be easy and inexpensive to complete; and

(3) the interest of all parties that the required reports help the small business debtor to understand the small business debtor's financial condition and plan the small business debtor's future.

SEC. 426. DUTIES IN SMALL BUSINESS CASES.

(a) DUTIES IN CHAPTER 11 CASES.—Title 11, 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 unless the court waives that requirement after notice and hearing, upon a finding of extraordinary and compelling circumstances;

''(3) timely file all schedules and statements of financial affairs, unless the court, after notice and a hearing, grants an extension, which shall not extend such time period to a date later than 30 days after the date of the order for relief, absent extraordinary and compelling circumstances;

''(4) file all postpetition financial and other reports required by the Federal Rules of Bankruptcy Procedure or by local rule of the district court;

''(5) subject to section 363(c)(2), maintain insurance customary and appropriate to the industry;

''(6)(A) timely file tax returns;

''(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, unless the court waives that requirement after notice and hearing, upon a finding of extraordinary and compelling circumstances; and

''(7) allow the United States trustee, or a designated representative of the United States trustee, to inspect the debtor's business premises, books, and records at reasonable times, after reasonable prior written notice, unless notice is waived by the debtor.''.

(b) TECHNICAL AMENDMENT.—The table of sections for 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. 427. PLAN FILING AND CONFIRMATION DEADLINES.

Section 1121 of title 11, United States Code, is amended by striking subsection (e) and inserting the following:

''(e) In a small business case—

''(1) only the debtor may file a plan until after 90 days after the date of the order for relief, unless that period is —

''(A) shortened on request of a party in interest made during the 90-day period;

''(B) extended as provided by this subsection, after notice and hearing; or

''(C) 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), within which the plan shall be confirmed, may be extended only if—

''(A) the debtor, after providing notice to parties in interest (including the United States trustee), demonstrates by a preponderance of the evidence that it is more likely than not that the court will confirm a plan within a reasonable period of time;

''(B) a new deadline is imposed at the time the extension is granted; and

''(C) the order extending time is signed before the existing deadline has expired.''.

SEC. 428. 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).''.

SEC. 429. PROHIBITION AGAINST EXTENSION OF TIME.

Section 105(d) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking ''and'' at the end;

(2) in paragraph (2)[(B)(vi)], by striking the period at the end and inserting ''; and''; and

(3) 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), except as provided in section 1121(e)(3).''.

SEC. 430. DUTIES OF THE UNITED STATES TRUSTEE.

Section 586(a) of title 28, United States Code, is amended—

(1) in paragraph (3)—

(A) in subparagraph (G), by striking ''and'' at the end;

(B) by redesignating subparagraph (H) as subparagraph (I); and

(C) by inserting after subparagraph (G) the following:

''(H) in small business cases (as defined in section 101 of title 11), performing the additional duties specified in title 11 pertaining to such cases;'';

(2) in paragraph (5), by striking ''and'' at the end;

(3) in paragraph (6), by striking the period at the end and inserting ''; and''; and

(4) by inserting after paragraph (6) the following:

''(7) in each of such small business cases—

''(A) conduct an initial debtor interview as soon as practicable after the entry of order for relief but before the first meeting scheduled under section 341(a) of title 11, at which time the United States trustee shall—

''(i) begin to investigate the debtor's viability;

''(ii) inquire about the debtor's business plan;

''(iii) explain the debtor's obligations to file monthly operating reports and other required reports;

''(iv) attempt to develop an agreed scheduling order; and

''(v) inform the debtor of other obligations;

''(B) if determined to be appropriate and advisable, visit the appropriate business premises of the debtor and ascertain the state of the debtor's books and records and verify that the debtor has filed its tax returns; and

''(C) review and monitor diligently the debtor's activities, to identify as promptly as possible whether the debtor will be unable to confirm a plan; and

''(8) in any case in which the United States trustee finds material grounds for any relief under section 1112 of title 11, the United States trustee shall apply promptly after making that finding to the court for relief.''.

SEC. 431. SCHEDULING CONFERENCES.

Section 105(d) of title 11, United States Code, as amended by section 429 of this Act, is amended—

(1) in the matter preceding paragraph (1), by striking '', may'';

(2) by striking paragraph (1) and inserting the following:

''(1) shall hold such status conferences as are necessary to further the expeditious and economical resolution of the case; and''; 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. 432. SERIAL FILER PROVISIONS.

Section 362 of title 11, United States Code, is amended—

(1) in subsection (j), as redesignated by section 305(1) of this Act—

(A) by striking ''An'' and inserting ''(1) Except as provided in paragraph (2), an''; and

(B) by adding at the end the following:

''(2) If such violation is based on an action taken by an entity in the good faith belief that subsection (h) applies to the debtor, the recovery under paragraph (1) against such entity shall be limited to actual damages.''; and

(2) by inserting after subsection (j)[, as added by section 419 of this Act,] the following:

''(k)(1) Except as provided in paragraph (2), 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—

''(A) is a debtor in a small business case pending at the time the petition is filed;

''(B) was a debtor in a small business case that was dismissed for any reason by an order that became final in the 2-year period ending on the date of the order for relief entered with respect to the petition;

''(C) was a debtor in a small business case in which a plan was confirmed in the 2-year period ending on the date of the order for relief entered with respect to the petition; or

''(D) is an entity that has succeeded to substantially all of the assets or business of a small business debtor described in subparagraph (A), (B), or (C).

''(2) Paragraph (1) does not apply to the filing of a petition if the debtor proves by a preponderance of the evidence that—

''(A) the filing of that petition resulted from circumstances beyond the control of the debtor not foreseeable at the time the case then pending was filed; and

''(B) it is more likely than not that the court will confirm a feasible plan, but not a liquidating plan, within a reasonable period of time.''.

SEC. 433. EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION AND APPOINTMENT OF TRUSTEE.

(a) EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION.—Section 1112 of title 11, United States Code, is amended by striking subsection (b) and inserting the following:

''(b)(1) Except as provided in paragraph (2), in subsection (c), and section 1104(a)(3), on request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interest of creditors and the estate, if the movant establishes cause.

''(2) The relief provided in paragraph (1) shall not be granted if the debtor or another party in interest objects and establishes by a preponderance of the evidence that—

''(A) it is more likely than not that a plan will be confirmed within—

''(i) a period of time fixed under this title or by order of the court entered under section 1121(e)(3); or

''(ii) a reasonable period of time if no period of 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)(I) the act or omission will be cured within a reasonable period of time fixed by the court, but 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

''(II) compelling circumstances beyond the control of the debtor justify an extension.

''(3) The court shall commence the hearing on any motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion 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.

''(4) 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) 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;

''(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.

''(5) The court shall commence the hearing on any motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion 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, but the court determines that the appointment of a trustee is in the best interests of creditors and the estate.''.

SEC. 434. STUDY OF OPERATION OF TITLE 11, UNITED STATES CODE, WITH RESPECT TO SMALL BUSINESSES.

Not later than 2 years after the date of the enactment of this Act, the Administrator of the Small Business Administration, in consultation with the Attorney General of the United States, the Director of the Administrative Office of United States Trustees, and the Director of the Administrative Office of the United States Courts, shall—

(1) conduct a study to determine—

(A) the internal and external factors that cause small businesses, especially sole proprietorships, to become debtors in cases under title 11, United States Code, and that cause certain small businesses to successfully complete cases under chapter 11 of such title; and

(B) how Federal laws relating to bankruptcy may be made more effective and efficient in assisting small businesses to remain viable; and

(2) submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report summarizing that study.

SEC. 435. PAYMENT OF INTEREST.

Section 362(d)(3) of title 11, United States Code, is amended—

(1) by inserting ''or 30 days after the court determines that the debtor is subject to this paragraph, whichever is later'' after ''90-day period)''; and

(2) by striking subparagraph (B) and inserting the following:

''(B) the debtor has commenced monthly payments that—

''(i) may, in the debtor's sole discretion, notwithstanding section 363(c)(2), be made from rents or other income generated before or after the commencement of the case by or from the property to each creditor whose claim is secured by such real estate (other than a claim secured by a judgment lien or by an unmatured statutory lien); and

''(ii) are in an amount equal to interest at the then applicable nondefault contract rate of interest on the value of the creditor's interest in the real estate; or''.

TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

SEC. 501. PETITION AND PROCEEDINGS RELATED TO PETITION.

(a) TECHNICAL AMENDMENT RELATING TO MUNICIPALITIES.—Section 921(d) of title 11, United States Code, is amended by inserting '', notwithstanding section 301(b)'' before the period at the end.

(b) CONFORMING AMENDMENT.—Section 301 of title 11, United States Code, is amended—

(1) by inserting ''(a)'' before ''A voluntary''; [and]

(2) by striking the last sentence*;* and [inserting the following:]

(3) by adding at the end the following:

''(b) The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.''.

SEC. 502. APPLICABILITY OF OTHER SECTIONS TO CHAPTER 9.

Section [901] *901(a)* of title 11, United States Code, is amended—

(1) by inserting ''555, 556,'' after ''553,''; and

(2) by inserting ''559, 560,'' after ''557,''.

TITLE VI—IMPROVED BANKRUPTCY STATISTICS AND DATA

SEC. 601. AUDIT PROCEDURES.

(a) AMENDMENTS.—Section 586 of title 28, United States Code, is amended—

(1) in subsection (a), by striking paragraph (6) and inserting the following:

''(6) make such reports as the Attorney General directs, including the results of audits performed under subsection (f); and''; and

(2) by adding at the end the following:

''(f)(1)(A) The Attorney General shall establish procedures to determine the accuracy, veracity, and completeness of petitions, schedules, and other information which the debtor is required to provide under sections 521 and 1322 of title 11, and, if applicable, section 111 of title 11, in individual cases filed under chapter 7 or 13 of such title.

''(B) Those procedures shall—

''(i) establish a method of selecting appropriate qualified persons to contract to perform those audits;

''(ii) establish a method of randomly selecting cases to be audited, except that not less than 1 out of every 250 cases in each Federal judicial district shall be selected for audit;

''(iii) require audits for schedules of income and expenses which reflect greater than average variances from the statistical norm of the district in which the schedules were filed if those variances occur by reason of higher income or higher expenses than the statistical norm of the [disctrict] *district* in which the schedules were filed; and

''(iv) include procedures for providing, not less frequently than annually, public information concerning the aggregate results of the audits referred to in this subparagraph, including the percentage of cases, by district, in which a material misstatement of income or expenditures is reported.

''(2) The United States trustee for each district may contract with auditors to perform audits in cases designated by the United States trustee according to the procedures established under paragraph (1).

''(3)(A) The report of each audit conducted under this subsection shall be filed with the court and transmitted to the United States trustee. Each report shall clearly and conspicuously specify any material misstatement of income or expenditures or of assets identified by the person performing the audit. In any case where a material misstatement of income or expenditures or of assets has been reported, the clerk of the bankruptcy court shall give notice of the misstatement to the creditors in the case.

''(B) If a material misstatement of income or expenditures or of assets is reported, the United States trustee shall—

''(i) report the material misstatement, if appropriate, to the United States Attorney under section 3057 of title 18; and

''(ii) if advisable, take appropriate action, including commencing an adversary proceeding to revoke the debtor's discharge under section 727(d) of title 11.''.

(b) AMENDMENTS TO SECTION 521 OF TITLE 11, UNITED STATES CODE.—Paragraphs (3) and (4) of section 521(a) of title 11, United States Code, as amended by section 315 of this Act, are each amended by inserting ''or an auditor appointed under section 586 of title 28'' after ''serving in the case'' each place that term appears.

(c) AMENDMENTS TO SECTION 727 OF TITLE 11, UNITED STATES CODE.—Section 727(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking ''or'' at the end;

(2) in paragraph (3), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(4) the debtor has failed to explain satisfactorily—

''(A) a material misstatement in an audit performed under section 586(f) of title 28; or

''(B) a failure to make available for inspection all necessary accounts, papers, documents, financial records, files, and any other papers, things, or property belonging to the debtor that are requested for an audit conducted under section 586(f).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

SEC. 602. IMPROVED BANKRUPTCY STATISTICS.

(a) AMENDMENT.—Chapter 6 of title 28, United States Code, is amended by adding at the end the following:

''§ 159. Bankruptcy statistics

''(a) The clerk of each district court shall compile statistics regarding individual debtors with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Those statistics shall be in a form prescribed by the Director of the Administrative Office of the United States Courts (referred to in this section as the 'Office').

''(b) The Director shall—

''(1) compile the statistics referred to in subsection (a);

''(2) make the statistics available to the public; and

''(3) not later than October 31, 1999, and annually thereafter, prepare, and submit to Congress a report concerning the information collected under subsection (a) that contains an analysis of the information.

''(c) The compilation required under subsection (b) shall—

''(1) be itemized, by chapter, with respect to title 11;

''(2) be presented in the aggregate and for each district; and

''(3) include information concerning—

''(A) the total assets and total liabilities of the debtors described in subsection (a), and in each category of assets and liabilities, as reported in the schedules prescribed under section 2075 and filed by those debtors;

''(B) the total current monthly income, projected monthly net income, and average income, and average expenses of those debtors as reported on the schedules and statements that each such debtor files under sections 111, 521, and 1322 of title 11;

''(C) the aggregate amount of debt discharged in the reporting period, determined as the difference between the total amount of debt and obligations of a debtor reported on the schedules and the amount of such debt reported in categories which are predominantly nondischargeable;

''(D) the average period of time between the filing of the petition and the closing of the case;

''(E) for the reporting period—

''(i) the number of cases in which a reaffirmation was filed; and

''(ii)(I) the total number of reaffirmations filed;

''(II) of those cases in which a reaffirmation was filed, the number in which the debtor was not represented by an attorney; and

''(III) of the cases under each of subclauses (I) and (II), the number of cases in which the reaffirmation was approved by the court;

''(F) with respect to cases filed under chapter 13 of title 11, for the reporting period—

''(i)(I) the number of cases in which a final order was entered determining the value of property securing a claim in an amount less than the amount of the claim; and

''(II) the number of final orders determining the value of property securing a claim issued;

''(ii) the number of cases dismissed for failure to make payments under the plan; and

''(iii) the number of cases in which the debtor filed another case during the 6-year period preceding the date of filing;

''(G) the number of cases in which creditors were fined for misconduct and any amount of punitive damages awarded by the court for creditor misconduct; and

''(H) the number of cases in which sanctions under Rule 9011 of the Federal Rules of Bankruptcy Procedure were imposed against debtor's counsel and damages awarded under such rule.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 6 of title 28, United States Code, is amended by adding at the end the following:

''159. Bankruptcy statistics.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

SEC. 603. UNIFORM RULES FOR THE COLLECTION OF BANKRUPTCY DATA.

(a) AMENDMENT.—Chapter 39 of title 28, United States Code, is amended by inserting after section 589a the following:

''§ 589b. Bankruptcy data

''(a) Within a reasonable period of time after the effective date of this section, the Attorney General of the United States shall 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) Each report referred to in subsection (a) shall be designed (and the requirements as to place and manner of filing shall be established) so as to facilitate compilation of data and maximum practicable access of the public, by—

''(1) physical inspection at 1 or more central filing locations; and

''(2) electronic access through the Internet or other appropriate media.

''(c)(1) The information required to be filed in the reports referred to in subsection (b) shall be information that is—

''(A) in the best interests of debtors and creditors, and in the public interest; and

''(B) reasonable and adequate information to evaluate the efficiency and practicality of the Federal bankruptcy system.

''(2) In issuing rules proposing the forms referred to in subsection (a), the Attorney General shall strike the best achievable practical balance between—

''(A) the reasonable needs of the public for information about the operational results of the Federal bankruptcy system; and

''(B) economy, simplicity, and lack of undue burden on persons with a duty to file reports.

''(d)(1) Final reports proposed for adoption by trustees under chapters 7, 12, and 13 of title 11 shall include with respect to a case under such title, by appropriate category—

''(A) information about the length of time the case was pending;

''(B) assets abandoned;

''(C) assets exempted;

''(D) receipts and disbursements of the estate;

''(E) expenses of administration;

''(F) claims asserted;

''(G) claims allowed; and

''(H) distributions to claimants and claims discharged without payment.

''(2) In cases under chapters 12 and 13 of title 11, final reports proposed for adoption by trustees shall include—

''(A) the date of confirmation of the plan;

''(B) each modification to the plan; and

''(C) defaults by the debtor in performance under the plan.

''(3) The information described in paragraphs (1) and (2) shall be in addition to such other matters as are required by law for a final report or as the Attorney General, in the discretion of the Attorney General, may propose for a final report.

''(e)(1) Periodic reports proposed for adoption by trustees or debtors in possession under chapter 11 of title 11 shall include—

''(A) information about the standard industry classification, published by the Department of Commerce, for the businesses conducted by the debtor;

''(B) the length of time the case has been pending;

''(C) the number of full-time employees—

''(i) as of the date of the order for relief; and

''(ii) at the end of each reporting period since the case was filed;

''(D) cash receipts, cash disbursements, and profitability of the debtor for the most recent period and cumulatively since the date of the order for relief;

''(E) 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;

''(F) all professional fees approved by the court in the case for the most recent period and cumulatively since the date of the order for relief (separately reported, for the professional fees incurred by or on behalf of the debtor, between those that would have been incurred absent a bankruptcy case and those that would not have been so incurred); and

''(G) 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.

''(2) The information described in paragraph (1) shall be in addition to such other matters as are required by law for a periodic report or as the Attorney General, in the discretion of the Attorney General, may propose for a periodic report.''.

(b) TECHNICAL AMENDMENT.—The table of sections for chapter 39 of title 28, United States Code, is amended by adding at the end the following:

''589b. Bankruptcy data.''.

SEC. 604. SENSE OF CONGRESS REGARDING AVAILABILITY OF BANKRUPTCY DATA.

It is the sense of Congress that—

(1) it should be the national policy of the United States that all data held by bankruptcy clerks in electronic form, to the extent such data reflects only public records (as defined in section 107 of title 11, United States Code), should be released in a usable electronic form in bulk to the public subject to such appropriate privacy concerns and safeguards as the Judicial Conference of the United States may determine; and

(2) there should be established a bankruptcy data system in which—

(A) a single set of data definitions and forms are used to collect data nationwide; and

(B) data for any particular bankruptcy case are aggregated in the same electronic record.

TITLE VII—BANKRUPTCY TAX PROVISIONS

SEC. 701. TREATMENT OF CERTAIN LIENS.

(a) TREATMENT OF CERTAIN LIENS.—Section 724 of title 11, United States Code, is amended—

(1) in subsection (b), in the matter preceding paragraph (1), by inserting ''(other than to the extent that there is a properly perfected unavoidable tax lien arising in connection with an ad valorem tax on real or personal property of the estate)'' after ''under this title'';

(2) in subsection (b)(2), by inserting ''(except that such expenses, other than claims for wages, salaries, or commissions which arise after the filing of a petition, shall be limited to expenses incurred under chapter 7 of this title and shall not include expenses incurred under chapter 11 of this title)'' after ''507(a)(1)''; and

(3) by adding at the end the following:

''(e) Before subordinating a tax lien on real or personal property of the estate, the trustee shall—

''(1) exhaust the unencumbered assets of the estate; and

''(2) in a manner consistent with section 506(c), recover from property securing an allowed secured claim the reasonable, necessary costs, and expenses of preserving or disposing of that property.

''(f) Notwithstanding the exclusion of ad valorem tax liens under this section and subject to the requirements of subsection (e), the following may be paid from property of the estate which secures a tax lien, or the proceeds of such property:

''(1) Claims for wages, salaries, and commissions that are entitled to priority under section 507(a)(3).

''(2) Claims for contributions to an employee benefit plan entitled to priority under section 507(a)(4).''.

(b) DETERMINATION OF TAX LIABILITY.—Section 505(a)(2) of title 11, United States Code, is amended—

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

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

(3) by adding at the end the following:

''(C) the amount or legality of any amount arising in connection with an ad valorem tax on real or personal property of the estate, if the applicable period for contesting or redetermining that amount under any law (other than a bankruptcy law) has expired.''.

SEC. 702. EFFECTIVE NOTICE TO GOVERNMENT.

(a) EFFECTIVE NOTICE TO GOVERNMENTAL UNITS.—Section 342 of title 11, United States Code, as amended by section 315(a) of this Act, is amended by adding at the end the following:

''(g)(1) 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, applicable rule, other provision of law, or order of the court, shall identify the department, agency, or instrumentality through which the debtor is indebted.

''(2) The debtor shall identify (with information such as a taxpayer identification number, loan, account or contract number, or real estate parcel number, if applicable), and describe the underlying basis for the claim of the governmental unit.

''(3) If the liability of the debtor 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 that individual, entity, organization, or name.

''(h) The clerk shall keep and update on a quarterly basis, in such form and manner as the Director of the Administrative Office of the United States Courts prescribes, a register in which a governmental unit may designate or redesignate a mailing address for service of notice in cases pending in the district. The clerk shall make such register available to debtors.''.

(b) ADOPTION OF RULES PROVIDING NOTICE.—

(1) IN GENERAL.—Within a reasonable period of time after the date of enactment of this Act, the Advisory Committee on Bankruptcy Rules of the Judicial Conference shall propose for adoption enhanced rules for providing notice to Federal, State, and local

government units that have regulatory authority over the debtor or that may be creditors in the debtor's case.

(2) PERSONS NOTIFIED.—The rules proposed under paragraph (1) shall be reasonably calculated to ensure that notice will reach the representatives of the governmental unit (or subdivision thereof) who will be the appropriate persons authorized to act upon the notice.

(3) RULES REQUIRED.—At a minimum, the rules under paragraph (1) should require that the debtor—

(A) identify in the schedules and the notice, the subdivision, agency, or entity with respect to which such notice should be received;

(B) 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 in any case in which—

(i) the debtor may be a successor in interest; or

(ii) may not be the same entity as the entity that incurred the debt or obligation; and

(C) identify, in appropriate schedules, served together with the notice—

(i) the property with respect to which the claim or regulatory obligation may have arisen, if applicable;

(ii) the nature of such claim or regulatory obligation; and

(iii) 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), is amended by adding at the end the following:

''(i) A notice that does not comply with subsections (d) and (e) shall not be effective unless the debtor demonstrates by clear and convincing evidence that—

''(1) timely notice was given in a manner reasonably calculated to satisfy the requirements of this section; and

''(2) either—

''(A) the notice was timely sent to the address provided in the register maintained by the clerk of the district in which the case was pending for such purposes; or

''(B) no 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.''.

SEC. 703. NOTICE OF REQUEST FOR A DETERMINATION OF TAXES.

The second sentence of section 505(b) of title 11, United States Code, is amended by striking ''Unless'' and inserting ''If the request is made substantially in the manner designated by the governmental unit and unless''.

SEC. 704. RATE OF INTEREST ON TAX CLAIMS.

(a) IN GENERAL.—Subchapter I of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

''§ 511. Rate of interest on tax claims

''If any provision of this title requires the payment of interest on a tax claim or the payment of interest to enable a creditor to receive the present value of the allowed amount of a tax claim, the rate of interest shall be as follows:

''(1) In the case of secured tax claims, unsecured ad valorem tax claims, other unsecured tax claims in which interest is required to be paid under section 726(a)(5), and administrative tax claims paid under section 503(b)(1), the rate shall be determined under applicable nonbankruptcy law.

''(2)(A) In the case of any tax claim other than a claim described in paragraph (1), the minimum rate of interest shall be a percentage equal to the sum of—

''(i) 3; plus

''(ii) the Federal short-term rate rounded to the nearest full percent, determined under section 1274(d) of the Internal Revenue Code of 1986.

''(B) In the case of any claim for Federal income taxes, the minimum rate of interest shall be subject to any adjustment that may be required under section 6621(d) of the Internal Revenue Code of 1986.

''(C) In the case of taxes paid under a confirmed plan or reorganization under this title, the minimum rate of interest shall be determined as of the calendar month in which the plan is confirmed.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 510 the following:

''511. Rate of interest on tax claims.''.

SEC. 705. TOLLING OF PRIORITY OF TAX CLAIM TIME PERIODS.

Section 507(a)(8)(A) of title 11, United States Code, [as redesignated by section 212 of this Act,] is amended—

(1) in clause (i), by inserting before the semicolon at the end, the following: '', plus any time during which the stay of proceedings was in effect in a prior case under this title, plus 6 months''; and

(2) by striking clause (ii) and inserting the following:

''(ii) assessed within 240 days before the date of the filing of the petition, exclusive of—

''(I) any time during which an offer in compromise with respect to that tax, was pending or in effect during that 240-day period, plus 30 days;

''(II) the lesser of—

''(aa) any time during which an installment agreement with respect to that tax was pending or in effect during that 240-day period, plus 30 days; or

''(bb) 1 year; and

''(III) any time during which a stay of proceedings against collections was in effect in a prior case under this title during that 240-day period; plus 6 months.''.

SEC. 706. PRIORITY PROPERTY TAXES INCURRED.

Section 507(a)(9)(B) of title 11, United States Code, [as redesignated by section 221 of this Act,] is amended by striking ''assessed'' and inserting ''incurred''.

SEC. 707. CHAPTER 13 DISCHARGE OF FRAUDULENT AND OTHER TAXES.

Section 1328(a)(2) of title 11, United States Code, as amended by section [228] *314* of this Act, is amended by inserting ''(1),'' after ''paragraph''.

SEC. 708. CHAPTER 11 DISCHARGE OF FRAUDULENT TAXES.

Section 1141(d) of title 11, United States Code, is amended by adding at the end the following:

''(5) Notwithstanding paragraph (1), the confirmation of a plan does not discharge a debtor that is a corporation from any debt for a tax or customs duty with respect to which the debtor—

''(A) made a fraudulent return; or

''(B) willfully attempted in any manner to evade or defeat that tax or duty.''.

SEC. 709. STAY OF TAX PROCEEDINGS.

(a) SECTION 362 STAY LIMITED TO PREPETITION TAXES.—Section 362(a)(8) of title 11, United States Code, is amended by inserting before the semicolon at the end the following: '', with respect to a tax liability for a taxable period ending before the order for relief under section 301, 302, or 303''.

(b) 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. 710. PERIODIC PAYMENT OF TAXES IN CHAPTER 11 CASES.

Section 1129(a)(9) of title 11, United States Code, is amended—

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

(2) in subparagraph (C), by striking ''deferred cash payments, over a period not exceeding six years after the date of assessment of such claim,'' and all that follows through the end of the subparagraph, and inserting ''regular installment payments—

''(i) of a total value, as of the effective date of the claim, equal to the allowed amount of such claim in cash, but in no case with a balloon payment; and

''(ii) beginning not later than the effective date of the plan and ending on the earlier of—

''(I) the date that is 5 years after the date of the filing of the petition; or

''(II) the last date payments are to be made under the plan to unsecured creditors; and''; and

(3) by adding at the end the following:

''(D) with respect to a secured claim which would otherwise meet the description on an unsecured claim of a governmental unit under section 507(a)(8), but for the secured status of that claim, the holder of that claim will receive on account of that claim, cash payments, in the same manner and over the same period, as prescribed in subparagraph (C).''.

SEC. 711. AVOIDANCE OF STATUTORY TAX LIENS PROHIBITED.

Section 545(2) of title 11, United States Code, is amended by striking the semicolon at the end and inserting '', except in any case in which a purchaser is a purchaser described in section 6323 of the Internal Revenue Code of 1986, or in any other similar provision of State or local law;''.

SEC. 712. PAYMENT OF TAXES IN THE CONDUCT OF BUSINESS.

(a) PAYMENT OF TAXES REQUIRED.—Section 960 of title 28, United States Code, is amended—

(1) by inserting ''(a)'' before ''Any''; and

(2) by adding at the end the following:

''(b) A tax under subsection (a) shall be paid when due in the conduct of business unless—

''(1) the tax is a property tax secured by a lien against property that is abandoned within a reasonable period of time after the lien attaches, by the trustee of a bankruptcy estate, under section 554 of title 11; or

''(2) payment of the tax is excused under a specific provision of title 11.

''(c) In a case pending under chapter 7 of title 11, payment of a tax may be deferred until final distribution is made under section 726 of title 11, if—

''(1) the tax was not incurred by a trustee duly appointed under chapter 7 of title 11; or

''(2) before the due date of the tax, the court makes a finding of probable insufficiency of funds of the estate to pay in full the administrative expenses allowed under section 503(b) of title 11 that have the same priority in distribution under section 726(b) of title 11 as the priority of that tax.''.

(b) PAYMENT OF AD VALOREM TAXES REQUIRED.—Section 503(b)(1)(B)(i) of title 11, United States Code, is amended by inserting ''whether secured or unsecured, including

property taxes for which liability is in rem, in personam, or both,'' before ''except''.

(c) REQUEST FOR PAYMENT OF ADMINISTRATIVE EXPENSE TAXES ELIMINATED.—Section 503(b)(1) of title 11, United States Code, is amended—

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

(2) in subparagraph (C), by adding ''and'' at the end; and

(3) by adding at the end the following:

''(D) notwithstanding the requirements of subsection (a), a governmental unit shall not be required to file a request for the payment of 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 with respect to the property'' before the period at the end.

SEC. 713. TARDILY FILED PRIORITY TAX CLAIMS.

Section 726(a)(1) of title 11, United States Code, is amended by striking ''before the date on which the trustee commences distribution under this section;'' and inserting the following: ''on or before the earlier of—

''(A) the date that is 10 days after the mailing to creditors of the summary of the trustee's final report; or

''(B) the date on which the trustee commences final distribution under this section;''.

SEC. 714. INCOME TAX RETURNS PREPARED BY TAX AUTHORITIES.

Section 523(a) of title 11, United States Code, is amended—

(1) in paragraph (1)(B)—

(A) by inserting ''or equivalent report or notice,'' after ''a return,'';

(B) in clause (i)—

(i) by inserting ''or given'' after ''filed''; and

(ii) by striking ''or'' at the end; and

(C) in clause (ii)—

(i) by inserting ''or given'' after ''filed''; and

(ii) by inserting '', report, or notice'' after ''return''; and

(2) by adding at the end the following flush sentences:

''For purposes of this subsection, the term 'return' means a return that satisfies the requirements of applicable nonbankruptcy law (including applicable filing requirements). Such term includes a return prepared pursuant to section 6020(a) of the Internal Revenue Code of 1986, or similar State or local law, or a written stipulation to a judgment entered by a nonbankruptcy tribunal, but does not include a return made pursuant to section 6020(b) of the Internal Revenue Code of 1986, or a similar State or local law.''.

SEC. 715. DISCHARGE OF THE ESTATE'S LIABILITY FOR UNPAID TAXES.

The second sentence of section 505(b) of title 11, United States Code, as amended by section 703 of this Act, is amended by inserting ''the estate,'' after ''misrepresentation,''.

SEC. 716. REQUIREMENT TO FILE TAX RETURNS TO CONFIRM CHAPTER 13 PLANS.

(a) FILING OF PREPETITION TAX RETURNS REQUIRED FOR PLAN CONFIRMATION.—Section 1325(a) of title 11, United States Code, as amended by section [212] *213 and 306* of this Act, is amended—

(1) in paragraph (6), by striking ''and'' at the end;

(2) in paragraph (7), by striking the period at the end and inserting ''; and''; and

(3) by [adding at the end the following:] *inserting after paragraph (7) the following:*

''(8) if the debtor has filed all applicable Federal, State, and local tax returns as required by section 1309.''.

(b) ADDITIONAL TIME PERMITTED FOR FILING TAX RETURNS.—

(1) IN GENERAL.—Chapter 13 of title 11, United States Code, as amended by section 309(c) of this Act, is amended by adding at the end the following:

''§ 1309. Filing of prepetition tax returns

''(a) Not later than the day before the day on which the first meeting of the creditors is convened under section 341(a), the debtor shall file with appropriate tax authorities all tax returns for all taxable periods ending during the 3-year period ending on the date of the filing of the petition.

''(b)(1) Subject to paragraph (2), if the tax returns required by subsection (a) have not been filed by the date on which the first meeting of creditors is convened under section 341(a), the trustee may continue that meeting for a reasonable period of time to allow the debtor an additional period of time to file any unfiled returns, but such additional period of time shall not extend beyond—

''(A) for any return that is past due as of the date of the filing of the petition, the date that is 120 days after the date of that first meeting; or

''(B) for any return that is not past due as of the date of the filing of the petition, the later of—

''(i) the date that is 120 days after the date of that first meeting; or

''(ii) the date on which the return is due under the last automatic extension of time for filing that return to which the debtor is entitled, and for which request has been timely made, according to applicable nonbankruptcy law.

''(2) Upon notice and hearing, and order entered before the tolling of any applicable filing period determined under this subsection, if the debtor demonstrates by clear and convincing evidence that the failure to file a return as required under this subsection is attributable to circumstances beyond the control of the debtor, the court may extend the filing period established by the trustee under this subsection for—

''(A) a period of not more than 30 days for returns described in paragraph (1); and

''(B) a period not to extend after the applicable extended due date for a return described in paragraph (2).

''(c) For purposes of this section, the term 'return' includes a return prepared pursuant to section 6020 (a) or (b) of the Internal Revenue Code of 1986, or a similar State or local law, or written stipulation to a judgment entered by a nonbankruptcy tribunal.''.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 13 of title 11, United States Code, is amended by inserting after the item relating to section 1308 the following:

''1309. Filing of prepetition tax returns.''.

(c) DISMISSAL OR CONVERSION ON FAILURE TO COMPLY.—Section 1307 of title 11, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d), the following:

''(e) Upon the failure of the debtor to file a tax return under section 1309, on request of a party in interest or the United States trustee and after notice and a hearing, the court shall dismiss the case.''.

(d) TIMELY FILED CLAIMS.—Section 502(b)(9) of title 11, United States Code, is amended by inserting before the period at the end the following '', and except that in a case under chapter 13 [of this title], a claim of a governmental unit for a tax with respect to a return filed under section 1309 shall be timely if the claim is filed on or before the date that is 60 days after that return was filed in accordance with applicable requirements''.

(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 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 the date that is 60 days after the date on which the debtor files all tax returns required under sections 1309 and 1325(a)(7) of title 11, United States Code; and

(2) in addition to the provisions of Rule 3007, in a case under chapter 13 of title 11, United States Code, no objection to a tax with respect to which a return is required to be filed under section 1309 of title 11, United States Code, shall be filed until such return has been filed as required.

SEC. 717. STANDARDS FOR TAX DISCLOSURE.

Section 1125(a)(1) of title 11, United States Code, is amended—

(1) by inserting ''including a 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,'' after ''records''; and

(2) by striking ''a hypothetical reasonable investor typical of holders of claims or interests'' and inserting ''such a hypothetical investor''.

SEC. 718. SETOFF OF TAX REFUNDS.

Section 362(b) of title 11, United States Code, as amended by section 402 of this Act, is amended—

(1) in paragraph (25), by striking ''or'' at the end;

(2) in paragraph (26), by striking the period at the end and inserting ''; or''; and

(3) by inserting after paragraph (26) the following:

''(27) under subsection (a), of the setoff of an income tax refund, by a governmental unit, with respect to a taxable period that ended before the order for relief against an income tax liability for a taxable period that also ended before the order for relief, unless—

''(A) before that setoff, an action to determine the amount or legality of that tax liability under section 505(a) was commenced; or

''(B) in any case in which 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, in which case the governmental unit may hold the refund pending the resolution of the action.''.

TITLE VIII—ANCILLARY AND OTHER CROSS-BORDER CASES

SEC. 801. AMENDMENT TO ADD CHAPTER 15 TO TITLE 11, UNITED STATES CODE.

(a) IN GENERAL.—Title 11, United States Code, is amended by inserting after chapter 13 the following:

''CHAPTER 15—ANCILLARY AND OTHER CROSS-BORDER CASES

''Sec.
''1501. Purpose and scope of application.
''SUBCHAPTER I—GENERAL PROVISIONS
''1502. Definitions.
''1503. International obligations of the United States.
''1504. Commencement of ancillary case.
''1505. Authorization to act in a foreign country.
''1506. Public policy exception.
''1507. Additional assistance.
''1508. Interpretation.

''SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

''1509. Right of direct access.
''1510. Limited jurisdiction.
''1511. Commencement of case under section 301 or 303.
''1512. Participation of a foreign representative in a case under this title.
''1513. Access of foreign creditors to a case under this title.
''1514. Notification to foreign creditors concerning a case under this title.

''SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

''1515. Application for recognition of a foreign proceeding.
''1516. Presumptions concerning recognition.
''1517. Order recognizing a foreign proceeding.
''1518. Subsequent information.
''1519. Relief that may be granted upon petition for recognition of a foreign proceeding.
''1520. Effects of recognition of a foreign main proceeding.
''1521. Relief that may be granted upon recognition of a foreign proceeding.
''1522. Protection of creditors and other interested persons.
''1523. Actions to avoid acts detrimental to creditors.
''1524. Intervention by a foreign representative.

''SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

''1525. Cooperation and direct communication between the court and foreign courts or foreign representatives.
''1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives.
''1527. Forms of cooperation.

''SUBCHAPTER V—CONCURRENT PROCEEDINGS

''1528. Commencement of a case under this title after recognition of a foreign main proceeding.
''1529. Coordination of a case under this title and a foreign proceeding.
''1530. Coordination of more than 1 foreign proceeding.
''1531. Presumption of insolvency based on recognition of a foreign main proceeding.
''1532. Rule of payment in concurrent proceedings.

''§ 1501. Purpose and scope of application

''(a) The purpose of this chapter is to incorporate the Model Law on Cross-Border Insolvency so as to provide effective mechanisms for dealing with cases of cross-border insolvency with the objectives of—

''(1) cooperation between—

''(A) United States courts, United States Trustees, trustees, examiners, debtors, and debtors in possession; and

''(B) the courts and other competent authorities of foreign countries involved in cross-border insolvency cases;

''(2) greater legal certainty for trade and investment;

''(3) fair and efficient administration of cross-border insolvencies that protects the interests of all creditors, and other interested entities, including the debtor;

''(4) protection and maximization of the value of the debtor's assets; and

''(5) facilitation of the rescue of financially troubled businesses, thereby protecting investment and preserving employment.

''(b) This chapter applies if—

''(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);

''(2) an individual, or to an individual and such individual's spouse, who have debts within the limits specified in section 109(e) and who are citizens of the United States or aliens lawfully admitted for permanent residence in the United States; or

''(3) an entity subject to a proceeding under the Securities Investor Protection Act of 1970 (84 Stat. 1636 et seq.), 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.

''SUBCHAPTER I—GENERAL PROVISIONS

''§ 1502. Definitions

''For the purposes of this chapter, the term—

''(1) 'debtor' means an entity that is the subject of a foreign proceeding;

''(2) 'establishment' means any place of operations where the debtor carries out a nontransitory economic activity;

''(3) 'foreign court' means a judicial or other authority competent to control or supervise a foreign proceeding;

''(4) 'foreign main proceeding' means a foreign proceeding taking place in the country where the debtor has the center of its main interests;

''(5) 'foreign nonmain proceeding' means a foreign proceeding, other than a foreign main proceeding, taking place in a country where the debtor has an establishment;

''(6) 'trustee' includes a trustee, a debtor in possession in a case under any chapter of this title, or a debtor under chapter 9 of this title; 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.

''§ 1503. International obligations of the United States

''To the extent that this chapter conflicts with an obligation of the United States arising out of any treaty or other form of agreement to which it is a party with 1 or more other countries, the requirements of the treaty or agreement prevail.

''§ 1504. Commencement of ancillary case

''A case under this chapter is commenced by the filing of a petition for recognition of a foreign proceeding under section 1515.

''§ 1505. Authorization to act in a foreign country

''A trustee or another entity, including an examiner, may be authorized by the court to act in a foreign country on behalf of an estate created under section 541. An entity authorized to act under this section may act in any way permitted by the applicable foreign law.

''§ 1506. Public policy exception

''Nothing in this chapter prevents the court from refusing to take an action governed by this chapter if the action would be manifestly contrary to the public policy of the United States.

''§ 1507. Additional assistance

''(a) Subject to the specific limitations under other provisions of this chapter, the court, upon recognition of a foreign proceeding, may provide additional assistance to a foreign representative under this title or under other laws of the United States.

''(b) In determining whether to provide additional assistance under this title or under other laws of the United States, the court shall consider whether such additional assistance, consistent with the principles of comity, will reasonably assure—

''(1) just treatment of all holders of claims against or interests in the debtor's property;

''(2) protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in such foreign proceeding;

''(3) prevention of preferential or fraudulent dispositions of property of the debtor;

''(4) distribution of proceeds of the debtor's property substantially in accordance with the order prescribed by this title; and

''(5) if appropriate, the provision of an opportunity for a fresh start for the individual that such foreign proceeding concerns.

''§ 1508. Interpretation

''In interpreting this chapter, the court shall consider its international origin, and the need to promote an application of this chapter that is consistent with the application of similar statutes adopted by foreign jurisdictions.

''SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

''§ 1509. Right of direct access

''(a) A foreign representative is entitled to commence a case under section 1504 by filing a petition for recognition under section 1515, 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 1510, a foreign representative shall have the capacity to sue and be sued, and shall be subject to the laws of the United States of general applicability.

''(c) Subject to section 1510, a foreign representative is subject to laws of general application.

''(d) Recognition under this chapter is prerequisite to the granting of comity or cooperation to a foreign representative in any Federal or State court in the United States. Any request for comity or cooperation by a foreign representative in any court shall be accompanied by a sworn statement setting forth whether recognition under section 1515 has been sought and the status of any such petition.

''(e) 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.

''§ 1510. Limited jurisdiction

''The sole fact that a foreign representative files a petition under section 1515 does not subject the foreign representative to the jurisdiction of any court in the United States for any other purpose.

''§ 1511. Commencement of case under section 301 or 303

''(a) Upon recognition, a foreign representative may commence—

''(1) an involuntary case under section 303; or

''(2) a voluntary case under section 301 or 302, if the foreign proceeding is a foreign main proceeding.

''(b) The petition commencing a case under subsection (a) must be accompanied by a 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) prior to such commencement.

''§ 1512. Participation of a foreign representative in a case under this title

''Upon recognition of a foreign proceeding, the foreign representative in that proceeding is entitled to participate as a party in interest in a case regarding the debtor under this title.

''§ 1513. Access of foreign creditors to a case under this title

''(a) Foreign creditors have the same rights regarding the commencement of, and participation in, a case under this title as domestic creditors.

''(b)(1) Subsection (a) does not change or codify law in effect on the date of enactment of this chapter as to the priority of claims under section 507 or 726, except that the claim of a foreign creditor under section 507 or 726 shall not be given a lower priority than that of general unsecured claims without priority solely because the holder of such claim is a foreign creditor.

''(2)(A) Subsection (a) and paragraph (1) do not change or codify law in effect on the date of enactment of this chapter as to the allowability of foreign revenue claims or other foreign public law claims in a proceeding under this title.

''(B) Allowance and priority as to a foreign tax claim or other foreign public law claim shall be governed by any applicable tax treaty of the United States, under the conditions and circumstances specified therein.

''§ 1514. Notification to foreign creditors concerning a case under this title

''(a) Whenever in a case under this title notice is to be given to creditors generally or to any class or category of creditors, such notice shall also be given to the known creditors generally, or to creditors in the notified class or category, that do not have addresses in the United States. The court may order that appropriate steps be taken with a view to notifying any creditor whose address is not yet known.

''(b) Such notification to creditors with foreign addresses described in subsection (a) shall be given individually, unless the court considers that, under the circumstances, some other form of notification would be more appropriate. No 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

''§ 1515. 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.

''§ 1516. Presumptions concerning recognition

''(a) If the decision or certificate referred to in section 1515(b) indicates that the foreign proceeding is a foreign proceeding as defined in section 101 and that the person or body is a foreign representative as defined in section 101, the court is entitled to so presume.

''(b) The court is entitled to presume that documents submitted in support of the petition for recognition are authentic, whether or not they have been legalized.

''(c) In the absence of evidence to the contrary, the debtor's registered office, or habitual residence in the case of an individual, is presumed to be the center of the debtor's main interests.

''§ 1517. Order recognizing a foreign proceeding

''(a) Subject to section 1506, after notice and a hearing 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 1502;

''(2) the foreign representative applying for recognition is a person or body as defined in section 101; and

''(3) the petition meets the requirements of section 1515.

''(b) The foreign proceeding shall be recognized—

''(1) as a foreign main proceeding if it is taking place in the country where the debtor has the center of its main interests; or

''(2) as a foreign nonmain proceeding if the debtor has an establishment within the meaning of section 1502 in the foreign country where the proceeding is pending.

''(c) A petition for recognition of a foreign proceeding shall be decided upon at the earliest possible time. Entry of an order recognizing a foreign proceeding 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.

''§ 1518. Subsequent information

''After [the] the petition for recognition of the foreign proceeding is filed, the foreign representative shall file with the court promptly a notice of change of status concerning—

''(1) any substantial change in the status of the foreign proceeding or the status of the foreign representative's appointment; and

''(2) any other foreign proceeding regarding the debtor that becomes known to the foreign representative.

''§ 1519. Relief that may be granted upon petition for recognition of a foreign proceeding

''(a) Beginning on the date on which a petition for recognition is filed and ending on the date on which 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 1521(a).

''(b) Unless extended under section 1521(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.

''§ 1520. 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;

''(2) a transfer, an 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; and

''(3) 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) 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) 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) does not affect the right of a foreign representative or an entity to file a petition commencing a case under

this title or the right of any party to file claims or take other proper actions in such a case.

"§ 1521. Relief that may be granted upon recognition 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 the actions or proceedings have not been stayed under section 1520(a);

''(2) staying execution against the debtor's assets to the extent the execution has not been stayed under section 1520(a);

''(3) suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor to the extent that right has not been suspended under section 1520(a);

''(4) providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor's assets, affairs, rights, obligations or liabilities;

''(5) entrusting the administration or realization of all or part of the debtor's assets within the territorial jurisdiction of the United States to the foreign representative or another person, including an examiner, authorized by the court;

''(6) extending relief granted under section 1519(a); and

''(7) granting any additional relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 548, 550, and 724(a).

''(b) Upon recognition of a foreign proceeding, whether main or nonmain, the court may, at the request of the foreign representative, entrust the distribution of all or part of the debtor's assets located in the United States to the foreign representative or another person, including an examiner, authorized by the court, if 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).

"§ 1522. Protection of creditors and other interested persons

''(a) The court may grant relief under section 1519 or 1521, or may modify or terminate relief under subsection (c), only if the interests of the creditors and other interested entities, including the debtor, are sufficiently protected.

''(b) The court may subject relief granted under section 1519 or 1521, or the operation of the debtor's business under section 1520(a)(2), to conditions that the court considers to be appropriate, including the giving of security or the filing of a bond.

''(c) The court may, at the request of the foreign representative or an entity affected by relief granted under section 1519 or 1521, or at its own motion, modify or terminate the relief referred to in subsection (b).

''(d) Section 1104(d) shall apply to the appointment of an examiner under this chapter. Any examiner shall comply with the qualification requirements imposed on a trustee by section 322.

"§ 1523. Actions to avoid acts detrimental to creditors

''(a) Upon recognition of a foreign proceeding, the foreign representative has standing in a case concerning the debtor pending under another chapter of this title to initiate actions under sections 522, 544, 545, 547, 548, 550, and 724(a).

''(b) In any case in which the foreign proceeding is a foreign nonmain proceeding, the court must be satisfied that an action under subsection (a) relates to assets that, under United States law, should be administered in the foreign nonmain proceeding.

"§ 1524. Intervention by a foreign representative

''Upon recognition of a foreign proceeding, the foreign representative may intervene in any proceedings in a State or Federal court in the United States in which the debtor is a party.

''SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

"§ 1525. Cooperation and direct communication between the court and foreign courts or foreign representatives

''(a) Consistent with section 1501, the court shall cooperate to the maximum extent possible with foreign courts or foreign representatives, either directly or through the trustee.

''(b) The court is entitled to communicate directly with, or to request information or assistance directly from, foreign courts or foreign representatives, subject to the rights of parties in interest to notice and participation.

"§ 1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives

''(a) Consistent with section 1501, the trustee or other person, including an examiner, authorized by the court, shall, subject to the supervision of the court, cooperate to the maximum extent possible with foreign courts or foreign representatives.

''(b) The trustee or other person, including an examiner, authorized by the court is entitled, subject to the supervision of the court, to communicate directly with foreign courts or foreign representatives.

"§ 1527. Forms of cooperation

''Cooperation referred to in sections 1525 and 1526 may be implemented by any appropriate means, including—

''(1) appointment of a person or body, including an examiner, to act at the direction of the court;

''(2) communication of information by any means considered appropriate by the court;

''(3) coordination of the administration and supervision of the debtor's assets and affairs;

''(4) approval or implementation of agreements concerning the coordination of proceedings; and

''(5) coordination of concurrent proceedings regarding the same debtor.

''SUBCHAPTER V—CONCURRENT PROCEEDINGS

"§ 1528. Commencement of a case under this title after recognition of a foreign main proceeding

''After recognition of a foreign main proceeding, a case under another chapter of this title may be commenced only if the debtor has assets in the United States. The effects of such case shall be restricted to the assets of the debtor that are within the territorial jurisdiction of the United States and, to the extent necessary to implement cooperation and coordination under sections 1525, 1526, and 1527, to other assets of the debtor that are within the jurisdiction of the court under sections 541(a), and 1334(e) of title 28, to the extent that such other assets are not subject to the jurisdiction and control of a foreign proceeding that has been recognized under this chapter.

"§ 1529. Coordination of a case under this title and a foreign proceeding

''In any case in which a foreign proceeding and a case under another chapter of this title are taking place concurrently regarding the same debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

''(1) If the case in the United States is taking place at the time the petition for recognition of the foreign proceeding is filed—

''(A) any relief granted under sections 1519 or 1521 must be consistent with the relief granted in the case in the United States; and

''(B) even if the foreign proceeding is recognized as a foreign main proceeding, section 1520 does not apply.

''(2) If a case in the United States under this title commences after recognition, or after the filing of the petition for recognition, of the foreign proceeding—

''(A) any relief in effect under sections 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the case in the United States; and

''(B) if the foreign proceeding is a foreign main proceeding, the stay and suspension referred to in section 1520(a) shall be modified or terminated if inconsistent with the relief granted in the case in the United States.

''(3) In granting, extending, or modifying relief granted to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the 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 1528 and 1529, the court may grant any of the relief authorized under section 305.

"§ 1530. Coordination of more than 1 foreign proceeding

''In matters referred to in section 1501, with respect to more than 1 foreign proceeding regarding the debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

''(1) Any relief granted under section 1519 or 1521 to a representative of a foreign nonmain proceeding after recognition of a foreign main proceeding must be consistent with the foreign main proceeding.

''(2) If a foreign main proceeding is recognized after recognition, or after the filing of a petition for recognition, of a foreign nonmain proceeding, any relief in effect under section 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the foreign main proceeding.

''(3) If, after recognition of a foreign nonmain proceeding, another foreign nonmain proceeding is recognized, the court shall grant, modify, or terminate relief for the purpose of facilitating coordination of the proceedings.

"§ 1531. Presumption of insolvency based on recognition of a foreign main proceeding

''In the absence of evidence to the contrary, recognition of a foreign main proceeding is for the purpose of commencing a proceeding under section 303, proof that the debtor is generally not paying its debts as such debts become due.

"§ 1532. Rule of payment in concurrent proceedings

''Without prejudice to secured claims or rights in rem, a creditor who has received payment with respect to its claim in a foreign proceeding pursuant to a law relating to insolvency may not receive a payment for the same claim in a case under any other chapter of this title regarding the debtor, so long as the payment to other creditors of the same class is proportionately less than the payment the creditor has already received.''.

(b) CLERICAL AMENDMENT.—The table of chapters for title 11, United States Code, is amended by inserting after the item relating to chapter 13 the following:

''15. Ancillary and Other Cross-Border Cases ..... 1501''.

SEC. 802. 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, 304, 555 through 557, 559, and 560 apply in a case under chapter 15''; and

(2) by adding at the end the following:

''(j) Chapter 15 applies only in a case under such chapter, except that—

''(1) sections 1513 and 1514 apply in all cases under this title; and

''(2) section 1505 applies to trustees and to any other entity (including an examiner) authorized by the court under chapter 7, 11, or 12, to debtors in possession under chapter 11 or 12, and to debtors under chapter 9 who are authorized to act under section 1505.''.

(b) DEFINITIONS.—Paragraphs (23) and (24) of section 101 of title 11, United States Code, are amended to read as follows:

''(23) 'foreign proceeding' means a collective judicial or administrative proceeding in a foreign country, 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 15 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 15 of title 11, nothing in''.

(3) DUTIES OF TRUSTEES.—Section 586(a)(3) of title 28, United States Code, is amended by inserting ''15,'' after ''chapter''.

SEC. 803. CLAIMS RELATING TO INSURANCE DEPOSITS IN CASES ANCILLARY TO FOREIGN PROCEEDINGS.

Section 304 of title 11, United States Code, is amended to read as follows:

''§ 304. Cases ancillary to foreign proceedings

''(a) For purposes of this section—

''(1) the term 'domestic insurance company' means a domestic insurance company, as such term is used in section 109(b)(2);

''(2) the term 'foreign insurance company' means a foreign insurance company, as such term is used in section 109(b)(3);

''(3) the term 'United States claimant' means a beneficiary of any deposit referred to in subsection (b) or any multibeneficiary trust referred to in subsection (b);

''(4) the term 'United States creditor' means, with respect to a foreign insurance company—

''(i) a United States claimant; or

''(ii) any business entity that operates in the United States and that is a creditor; and

''(5) the term 'United States policyholder' means a holder of an insurance policy issued in the United States.

''(b) The court may not grant relief under chapter 15 of this title with respect to any deposit, escrow, trust fund, or other security required or permitted under any applicable State insurance law or regulation for the benefit of claim holders in the United States.''.

TITLE IX—FINANCIAL CONTRACT PROVISIONS

SEC. 901. BANKRUPTCY CODE AMENDMENTS.

(a) DEFINITIONS OF FORWARD CONTRACT, REPURCHASE AGREEMENT, SECURITIES CLEARING AGENCY, SWAP AGREEMENT, COMMODITY CONTRACT, AND SECURITIES CONTRACT.—Title 11, United States Code, is amended—

(1) in section 101—

(A) in paragraph (25)—

(i) by striking ''means a contract'' and inserting ''means—

''(A) a contract'';

(ii) by striking '', or any combination thereof or option thereon;'' and inserting '', or any other similar agreement;''; and

(iii) by adding at the end the following:

''(B) a combination of agreements or transactions referred to in subparagraphs (A) and (C);

''(C) an option to enter into an agreement or transaction referred to in subparagraph (A) or (B);

''(D) a master netting agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), or (C), together with all supplements to such master netting agreement, without regard to whether such master netting agreement provides for an agreement or transaction that is not a forward contract under this paragraph, except that such master netting agreement shall be considered to be a forward contract under this paragraph only with respect to each agreement or transaction under such master netting agreement that is referred to in subparagraph (A), (B) or (C); or

''(E) a security agreement or arrangement, or other credit enhancement, directly pertaining to a contract, option, agreement, or transaction referred to in subparagraph (A), (B), (C), or (D), but not to exceed the actual value of such contract, option, agreement, or transaction on the date of the filing of the petition;'';

(B) by striking paragraph (47) and inserting the following:

''(47) 'repurchase agreement' and 'reverse repurchase agreement'—

''(A) mean—

''(i) an agreement, including related terms, which provides for the transfer of—

''(I) a certificate of deposit, mortgage related security (as defined in section 3 of the Securities Exchange Act of 1934), mortgage loan, interest in a mortgage related security or mortgage loan, eligible bankers' acceptance, or qualified foreign government security (defined for purposes of this paragraph to mean a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development); or

''(II) a security that is a direct obligation of, or that is fully guaranteed by, the United States or an agency of the United States against the transfer of funds by the transferee of such certificate of deposit, eligible bankers' acceptance, security, loan, or interest;

with a simultaneous agreement by such transferee to transfer to the transferor thereof a certificate of deposit, eligible bankers' acceptance, security, loan, or interest of the kind described in subclause (I) or (II), at a date certain that is not later than 1 year after the date of the transferor's transfer or on demand, against the transfer of funds;

''(ii) a combination of agreements or transactions referred to in clauses (i) and (iii);

''(iii) an option to enter into an agreement or transaction referred to in clause (i) or (ii); or

''(iv) a master netting agreement that provides for an agreement or transaction referred to in clause (i), (ii), or (iii), together with all supplements to such master netting agreement, without regard to whether such master netting agreement provides for an agreement or transaction that is not a repurchase agreement under this subparagraph, except that such master netting agreement shall be considered to be a repurchase agreement under this subparagraph only with respect to each agreement or transaction under such master netting agreement that is referred to in clause (i), (ii), or (iii); or

''(v) a security agreement or arrangement, or other credit enhancement, directly pertaining to a contract referred to in clause (i), (ii), (iii), or (iv), but not to exceed the actual value of such contract on the date of the filing of the petition; and

''(B) do not include a repurchase obligation under a participation in a commercial mortgage loan;'';

(C) in paragraph (48) by inserting '', or exempt from such registration under such section pursuant to an order of the Securities and Exchange Commission'' after ''1934''; and

(D) by striking paragraph (53B) and inserting the following:

''(53B) 'swap agreement'—

''(A) means—

''(i) an agreement, including the terms and conditions incorporated by reference in such agreement, that is—

''(I) an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap;

''(II) a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement;

''(III) a currency swap, option, future, or forward agreement;

''(IV) an equity index or an equity swap, option, future, or forward agreement;

''(V) a debt index or a debt swap, option, future, or forward agreement;

''(VI) a credit spread or a credit swap, option, future, or forward agreement; or

''(VII) a commodity index or a commodity swap, option, future, or forward agreement;

''(ii) an agreement or transaction that is similar to an agreement or transaction referred to in clause (i) that—

''(I) is currently, or in the future becomes, regularly entered into in the swap market (including terms and conditions incorporated by reference therein); and

''(II) is a forward, swap, future, or option on a rate, currency, commodity, equity security, or other equity instrument, on a debt security or other debt instrument, or on an economic index or measure of economic risk or value;

''(iii) a combination of agreements or transactions referred to in clauses (i) and (ii);

''(iv) an option to enter into an agreement or transaction referred to in this subparagraph;

''(v) a master netting agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), or (iv), together with all supplements to such master netting agreement and without regard to whether such master netting agreement contains an agreement or transaction described in any such clause, but only with respect to each agreement or transaction referred to in any such clause that is under such master netting agreement; except that

''(B) the definition under subparagraph (A) is applicable for purposes of this title only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, and the regulations prescribed by the Securities and Exchange Commission or the Commodity Futures Trading Commission.'';

(2) in section 741, by striking paragraph (7) and inserting the following:

''(7) 'securities contract'—

''(A) means—

''(i) a contract for the purchase, sale, or loan of a security, a mortgage loan or an interest in a mortgage loan, a group or index of securities, or mortgage loans or interests therein (including an interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any of the foregoing;

''(ii) an option entered into on a national securities exchange relating to foreign currencies;

''(iii) the guarantee by or to a securities clearing agency of a settlement of cash, securities, mortgage loans or interests therein, group or index of securities, or mortgage loans or interests therein (including any interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any of the foregoing;

''(iv) a margin loan;

''(v) any other agreement or transaction that is similar to an agreement or transaction referred to in this subparagraph;

''(vi) a combination of the agreements or transactions referred to in this subparagraph;

''(vii) an option to enter into an agreement or transaction referred to in this subparagraph;

''(viii) a master netting agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii), together with all supplements to such master netting agreement, without regard to whether such master netting agreement provides for an agreement or transaction that is not a securities contract under this subparagraph, except that such master netting agreement shall be considered to be a securities contract under this subparagraph only with respect to each agreement or transaction under such master netting agreement that is referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii); or

''(ix) a security agreement or arrangement, or other credit enhancement, directly pertaining to a contract referred to in this subparagraph, but not to exceed the actual value of such contract on the date of the filing of the petition; and

''(B) does not include a purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan;''; and

(3) in section 761(4)—

(A) by striking ''or'' at the end of subparagraph (D); *and*

[(B) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

[(C)] *(B)* by adding at the end the following:

''(F) any other agreement or transaction that is similar to an agreement or transaction referred to in this paragraph;

''(G) a combination of the agreements or transactions referred to in this paragraph;

''(H) an option to enter into an agreement or transaction referred to in this paragraph;

''(I) a master netting agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H), together with all supplements to such master netting agreement, without regard to whether such master netting agreement provides for an agreement or transaction that is not a commodity contract under this paragraph, except that such master netting agreement shall be considered to be a commodity contract under this paragraph only with respect to each agreement or transaction under such master netting agreement that is referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H); or

''(J) a security agreement or arrangement, or other credit enhancement, directly pertaining to a contract referred to in this paragraph, but not to exceed the actual value of such contract on the date of the filing of the petition.''.

(b) DEFINITIONS OF FINANCIAL INSTITUTION, FINANCIAL PARTICIPANT, AND FORWARD CONTRACT MERCHANT.—Section 101 of title 11, United States Code, *as amended by section 802(b) of this Act*, is amended—

(1) by striking paragraph (22) and inserting the following:

''(22) 'financial institution' means—

''(A)(i) a Federal reserve bank, or an entity that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, or receiver or conservator for such entity; and

''(ii) if such Federal reserve bank, receiver, or conservator or entity is acting as agent or custodian for a customer in connection with a securities contract, as defined in section 741, such customer; or

''(B) in connection with a securities contract, as defined in section 741 of this title, an investment company registered under the Investment Company Act of 1940;'';

(2) by inserting after paragraph (22) the following:

''(22A) 'financial participant' means an entity that is a party to a securities contract, commodity contract or forward contract, or on the date of the filing of the petition, has a commodity contract (as defined in section 761) with the debtor or any other entity (other than an affiliate) of a total gross dollar value of not less than $1,000,000,000 in notional or actual principal amount outstanding on any day during the previous 15-month period, or has gross mark-to-market positions of not less than $100,000,000 (aggregated across counterparties) in any such agreement or transaction with the debtor or any other entity (other than an affiliate) on any day during the previous 15-month period;''; and

(3) by striking paragraph (26) and inserting the following:

''(26) 'forward contract merchant' means a Federal reserve bank, or an entity, the business of which consists in whole or in part of entering into forward contracts as or with merchants or in a commodity, as defined or in section 761, or any similar good, article, service, right, or interest that is presently or in the future becomes the subject of dealing or in the forward contract trade;''.

(c) DEFINITION OF MASTER NETTING AGREEMENT AND MASTER NETTING AGREEMENT PARTICIPANT.—Section 101 of title 11, United States Code, *as amended by subsection (b) of this section*, is amended by inserting after paragraph (38) the following new paragraphs:

''(38A) the term 'master netting agreement'—

''(A) means an agreement providing for the exercise of rights, including rights of netting, setoff, liquidation, termination, acceleration, or closeout, under or in connection with 1 or more contracts that are described in any 1 or more of paragraphs (1) through (5) of section 561(a), or any security agreement or arrangement or other credit enhancement related to 1 or more of the foregoing; except that

''(B) if a master netting agreement contains provisions relating to agreements or transactions that are not contracts described in paragraphs (1) through (5) of section 561(a), the master netting agreement shall be deemed to be a master netting agreement only with respect to those agreements or transactions that are described in any 1 or more of the paragraphs (1) through (5) of section 561(a);

''(38B) the term 'master netting agreement participant' means an entity that, at any time before the filing of the petition, is a party to an outstanding master netting agreement with the debtor;''.

(d) SWAP AGREEMENTS, SECURITIES CONTRACTS, COMMODITY CONTRACTS, FORWARD CONTRACTS, REPURCHASE AGREEMENTS, AND MASTER NETTING AGREEMENTS UNDER THE AUTOMATIC STAY.—

(1) IN GENERAL.—Section 362(b) of title 11, United States Code, as amended by section 718 of this Act, is amended—

(A) in paragraph (6), by inserting '', pledged to, and under the control of,'' after ''held by'';

(B) in paragraph (7), by inserting '', pledged to, and under the control of,'' after ''held by'';

(C) by striking paragraph (17) and inserting the following:

''(17) under subsection (a), of the setoff by a swap participant of a mutual debt and claim under or in connection with a swap agreement that constitutes the setoff of a claim against the debtor for a payment or transfer due from the debtor under or in connection with a swap agreement against a payment due to the debtor from the swap participant under or in connection with a swap agreement or against cash, securities, or other property held by, pledged to, and under the control of, or due from such swap participant to guarantee, secure, or settle a swap agreement;'';

(D) in paragraph (26), by striking ''or'' at the end;

(E) in paragraph (27), by striking the period at the end and inserting ''; or''; and

(F) by inserting after paragraph (27) the following:

''(28) under subsection (a), of the setoff by a master netting agreement participant of a mutual debt and claim under or in connection with 1 or more master netting agreements or any contract or agreement subject to such agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with such agreements or any contract or agreement subject to such agreements against any payment due to the debtor from such master netting agreement participant under or in connection with such agreements or any contract or agreement subject to such agreements or against cash, securities, or other property held by, pledged or and under the control of, or due from such master netting agreement participant to margin, guarantee,

secure, or settle such agreements or any contract or agreement subject to such agreements, to the extent such participant is eligible to exercise such offset rights under paragraph (6), (7), or (17) for each individual contract covered by the master netting agreement in issue.''.

(2) LIMITATION.—Section 362 of title 11, United States Code, as amended by section 432(2) of this Act, is amended by adding at the end the following:

''(l) LIMITATION.—The exercise of rights not subject to the stay arising under subsection (a) pursuant to paragraph (6), (7), or (17) of subsection (b) shall not be stayed by an order of a court or administrative agency in any proceeding under this title.''.

(e) LIMITATION OF AVOIDANCE POWERS UNDER MASTER NETTING AGREEMENT.—Section 546 of title 11, United States Code, is amended—

(1) in subsection (g) (as added by section 103 of Public Law 101–311 (104 Stat. 267 et seq.))—

(A) by striking ''under a swap agreement''; and

(B) by striking ''in connection with a swap agreement'' and inserting ''under or in connection with any swap agreement''; and

(2) by inserting before subsection (i) (as redesignated by section 407 of this Act) the following new subsection:

''(h) Notwithstanding sections 544, 545, 547, 548(a)(2)(B), and 548(b), the trustee may not avoid a transfer made by or to a master netting agreement participant under or in connection with any master netting agreement or any individual contract covered thereby that is made before the commencement of the case, and except to the extent that the trustee could otherwise avoid such a transfer made under an individual contract covered by such master netting agreement (except under section 548(a)(1)(A)).''.

(f) FRAUDULENT TRANSFERS OF MASTER NETTING AGREEMENTS.—Section 548(d)(2) of title 11, United States Code, is amended—

(1) in subparagraph (C), by striking ''and'';

(2) in subparagraph (D), by striking the period at the end and inserting ''; and''; and

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

''(E) a master netting agreement participant that receives a transfer in connection with a master netting agreement or any individual contract covered thereby takes for value to the extent of such transfer, except, with respect to a transfer under any individual contract covered thereby, to the extent that such master netting agreement participant otherwise did not take (or is otherwise not deemed to have taken) such transfer for value.''.

(g) TERMINATION OR ACCELERATION OF SECURITIES CONTRACTS.—Section 555 of title 11, United States Code, is amended—

(1) by striking the section heading and inserting the following:

''§ 555. Contractual right to liquidate, terminate, or accelerate a securities contract'';

and

(2) in the first sentence, by striking ''liquidation'' and inserting ''liquidation, termination, or acceleration''.

(h) TERMINATION OR ACCELERATION OF COMMODITIES OR FORWARD CONTRACTS.—Section 556 of title 11, United States Code, is amended—

(1) by striking the section heading and inserting the following:

''§ 556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract'';

and

(2) in the first sentence, by striking ''liquidation'' and inserting ''liquidation, termination, or acceleration''.

(i) TERMINATION OR ACCELERATION OF REPURCHASE AGREEMENTS.—Section 559 of title 11, United States Code, is amended—

(1) by striking the section heading and inserting the following:

''§ 559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement'';

and

(2) in the first sentence, by striking ''liquidation'' and inserting ''liquidation, termination, or acceleration''.

(j) LIQUIDATION, TERMINATION, OR ACCELERATION OF SWAP AGREEMENTS.—Section 560 of title 11, United States Code, is amended—

(1) by striking the section heading and inserting following:

''§ 560. Contractual right to liquidate, terminate, or accelerate a swap agreement'';

(2) in the first sentence, by striking ''termination of a swap agreement'' and inserting ''liquidation, termination, or acceleration of a swap agreement''; and

(3) by striking ''in connection with any swap agreement'' and inserting ''in connection with the termination, liquidation, or acceleration of a swap agreement''.

(k) LIQUIDATION, TERMINATION, ACCELERATION, OR OFFSET UNDER A MASTER NETTING AGREEMENT AND ACROSS CONTRACTS.—Title 11, United States Code, is amended by inserting after section 560 the following [new section]:

''§ 561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts

''(a) Subject to subsection (b), the exercise of any contractual right, because of a condition of the kind specified in section 365(e)(1), to cause the termination, liquidation, or acceleration of or to offset or net termination values, payment amounts or other transfer obligations arising under or in connection with 1 or more (or the termination, liquidation, or acceleration of 1 or more)—

''(1) securities contracts, as defined in section 741(7);

''(2) commodity contracts, as defined in section 761(4);

''(3) forward contracts;

''(4) repurchase agreements;

''(5) swap agreements; or

''(6) master netting agreements,

shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by any order of a court or administrative agency in any proceeding under this title.

''(b)(1) A party may exercise a contractual right described in subsection (a) to terminate, liquidate, or accelerate only to the extent that such party could exercise such a right under section 555, 556, 559, or 560 for each individual contract covered by the master netting agreement in issue.

''(2) If a debtor is a commodity broker subject to subchapter IV of chapter 7 [of this title]—

''(A) a party may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a), except to the extent that the party has [no] positive net equity in the commodity accounts at the debtor, as calculated under *such* subchapter IV; and

''(B) another commodity broker may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract entered into or held on behalf of a customer of the debtor against any claim arising under, or in connection with, other instruments, contracts, or agreements referred to in subsection (a).

''(c) As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a national securities exchange, a national securities association, or a securities clearing agency, a right set forth in a bylaw of a clearing organization or contract market or in a resolution of the governing board thereof, and a right, whether or not evidenced in writing, arising under common law, under law merchant, or by reason of normal business practice.''.

(l) ANCILLARY PROCEEDINGS.—Section 304 of title 11, United States Code, is amended by adding at the end the following:

''(d) Any provisions of this title relating to securities contracts, commodity contracts, forward contracts, repurchase agreements, swap agreements, or master netting agreements shall apply in a case ancillary to a foreign proceeding under this section or any other section of this title, so that enforcement of contractual provisions of such contracts and agreements in accordance with their terms—

''(1) shall not be stayed or otherwise limited by—

''(A) operation of any provision of this title; or

''(B) order of a court in any case under this title;

''(2) shall limit avoidance powers to the same extent as in a proceeding under chapter 7 or 11; and

''(3) shall not be limited based on the presence or absence of assets of the debtor in the United States.''.

(m) COMMODITY BROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 766 the following:

''§ 767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, securities clearing agencies, swap participants, repo participants, and master netting agreement participants

''Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.''.

(n) STOCKBROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 752 the following:

''§ 753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, securities clearing agencies, swap participants, repo participants, and master netting agreement participants

''Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, securities clearing agency, swap participant, repo participant, financial participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.''.

(o) SETOFF.—Section 553 of title 11, United States Code, is amended—

(1) in subsection (a)(3)(C), by inserting ''(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)[(19)] *(28)*, 555, 556, 559, or 560)'' before the period; and

(2) in subsection (b)(1), by striking ''362(b)(14),'' and inserting ''362(b)(17), [362(b)(19)] *362(b)(28)*, 555, 556, 559, 560,''.

(p) SECURITIES CONTRACTS, COMMODITY CONTRACTS, AND FORWARD CONTRACTS.—Title 11, United States Code, is amended—

(1) in section 362(b)(6), by striking ''financial institutions,'' each place such term appears and inserting ''financial institution, financial participant'';

(2) in section 546(e), by inserting ''financial participant'' after ''financial institution,'';

(3) in section 548(d)(2)(B), by inserting ''financial participant'' after ''financial institution,'';

(4) in section 555—

(A) by inserting ''financial participant'' after ''financial institution,''; and

(B) by inserting before the period '', a right set forth in a bylaw of a clearing organization or contract market or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice''; and

(5) in section 556, by inserting '', financial participant'' after ''commodity broker''.

(q) CONFORMING AMENDMENTS.—Title 11 [of the United States Code], *United States Code,* is amended—

(1) in the table of sections for chapter 5—

(A) by striking the items relating to sections 555 and 556 and inserting the following:

''555. Contractual right to liquidate, terminate, or accelerate a securities contract.

''556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract.'';

(B) by striking the items relating to sections 559 and 560 and inserting the following:

''559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement.

''560. Contractual right to liquidate, terminate, or accelerate a swap agreement.'';

and

(C) by adding after the item relating to section 560 the following:

''561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts.'';

and

(2) in the table of sections for chapter 7—

(A) by inserting after the item relating to section 766 the following:

''767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.'';

and

(B) by inserting after the item relating to section 752 the following:

''753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.''.

SEC. 902. DAMAGE MEASURE.

(a) IN GENERAL.—Title 11, United States Code, is amended—

(1) by inserting after section 561 the following:

''§ 562. Damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements

''If the trustee rejects a swap agreement, securities contract (as defined in section 741), forward contract, commodity contract (as defined in section 761) repurchase agreement, or master netting agreement under section 365(a), or if a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant liquidates, terminates, or accelerates such contract or agreement, damages shall be measured as of the earlier of—

''(1) the date of such rejection; or

''(2) the date of such liquidation, termination, or acceleration.''; and

(2) in the table of sections for chapter 5 by inserting after the item relating to section 561 the following:

''562. Damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements.''.

(b) CLAIMS ARISING FROM REJECTION.—Section 502(g) of title 11, United States Code, is amended—

(1) by inserting ''(1)'' after ''(g)''; and

(2) by adding at the end the following:

''(2) A claim for damages calculated in accordance with section 561 shall be allowed under subsection (a), (b), or (c) of this section, or disallowed under subsection (d) or (e) of this section, as if such claim had arisen before the date of the filing of the petition.''.

SEC. 903. ASSET-BACKED SECURITIZATIONS.

Section 541 of title 11, United States Code, is amended—

(1) in subsection (b), by striking ''or'' at the end of paragraph (4);

(2) by redesignating paragraph (5) of subsection (b) as paragraph (6);

(3) by inserting after paragraph (4) of subsection (b) the following new paragraph:

''(5) any eligible asset (or proceeds thereof), to the extent that such eligible asset was transferred by the debtor, before the date of commencement of the case, to an eligible entity in connection with an asset-backed securitization, except to the extent that such asset (or proceeds or value thereof) may be recovered by the trustee under section 550 by virtue of avoidance under section 548(a); or''; and

(4) by adding at the end the following [new subsection]:

''(e) For purposes of this section, the following definitions shall apply:

''(1) The term 'asset-backed securitization' means a transaction in which eligible assets transferred to an eligible entity are used as the source of payment on securities, the most senior of which are rated investment grade by 1 or more nationally recognized securities rating organizations, issued by an issuer.

''(2) The term 'eligible asset' means—

''(A) financial assets (including interests therein and proceeds thereof), either fixed or revolving, including residential and commercial mortgage loans, consumer receivables, trade receivables, and lease receivables, that, by their terms, convert into cash within a finite time period, plus any rights or other assets designed to assure the servicing or timely distribution of proceeds to security holders;

''(B) cash; and

''(C) securities.

''(3) The term 'eligible entity' means—

''(A) an issuer; or

''(B) a trust, corporation, partnership, or other entity engaged exclusively in the business of acquiring and transferring eligible assets directly or indirectly to an issuer and taking actions ancillary thereto.

''(4) The term 'issuer' means a trust, corporation, partnership, or other entity engaged exclusively in the business of acquiring and holding eligible assets, issuing securities backed by eligible assets, and taking actions ancillary thereto.

''(5) The term 'transferred' means the debtor, under a written agreement, represented and warranted that eligible assets were sold, contributed, or otherwise conveyed with the intention of removing them from the estate of the debtor pursuant to subsection (b)(5), irrespective, without limitation of—

''(A) whether the debtor directly or indirectly obtained or held an interest in the issuer or in any securities issued by the issuer;

''(B) whether the debtor had an obligation to repurchase or to service or supervise the servicing of all or any portion of such eligible assets; or

''(C) the characterization of such sale, contribution, or other conveyance for tax, accounting, regulatory reporting, or other purposes.''.

SEC. 904. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—This title shall take effect on the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this title shall apply with respect to cases commenced or appointments made under any Federal or State law after the date of enactment of this Act, but shall not apply with respect to cases commenced or appointments made under any Federal or State law before the date of enactment of this Act.

TITLE X—PROTECTION OF FAMILY FARMERS

SEC. 1001. REENACTMENT OF CHAPTER 12.

(a) REENACTMENT.—

(1) IN GENERAL.—Chapter 12 of title 11, United States Code, as reenacted by section 149 of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277), and amended by this Act, is reenacted.

(2) EFFECTIVE DATE.—Subsection (a) shall take effect on [April 1, 1999] *October 1, 1999.*

(b) CONFORMING AMENDMENT.—Section 302 of the Bankruptcy, Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended by striking subsection (f).

SEC. 1002. DEBT LIMIT INCREASE.

Section 104(b) of title 11, United States Code, is amended by adding at the end the following:

''(4) The dollar amount in section 101(18) shall be adjusted at the same times and in the same manner as the dollar amounts in paragraph (1) of this subsection, beginning with the adjustment to be made on April 1, 2001.''.

SEC. 1003. ELIMINATION OF REQUIREMENT THAT FAMILY FARMER AND SPOUSE RECEIVE OVER 50 PERCENT OF INCOME FROM FARMING OPERATION IN YEAR PRIOR TO BANKRUPTCY.

Section 101(18)(A) of title 11, United States Code, is amended by striking ''the taxable year preceding the taxable year'' and inserting ''at least 1 of the 3 calendar years preceding the year''.

SEC. 1004. CERTAIN CLAIMS OWED TO GOVERNMENTAL UNITS.

(a) CONTENTS OF PLAN.—Section 1222(a)(2) of title 11, United States Code, is amended to read as follows:

''(2) provide for the full payment, in deferred cash payments, of all claims entitled to priority under section 507, unless—

''(A) the claim is a claim owed to a governmental unit that arises as a result of the sale, transfer, exchange, or other disposition of any farm asset used in the debtor's farming operation, in which case the claim shall be treated as an unsecured claim that is not entitled to priority under section 507, but the debt shall be treated in such manner only if the debtor receives a discharge; or

''(B) the holder of a particular claim agrees to a different treatment of that claim; and''.

(b) SPECIAL NOTICE PROVISIONS.—Section 1231(d) of title 11, United States Code, is amended by striking ''a State or local governmental unit'' and inserting ''any governmental unit''.

[TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS

[SEC. 1101. DEFINITIONS.

[(a) HEALTH CARE BUSINESS DEFINED.—Section 101 of title 11, United States Code, as amended by section 1004(a) of this Act, is amended—

[(1) by redesignating paragraph (27A) as paragraph (27C); and

[(2) inserting after paragraph (27) the following:

[''(27A) 'health care business'—

[''(A) means any public or private entity (without regard to whether that entity is organized for profit or not for profit) that is primarily engaged in offering to the general public facilities and services for—

[''(i) the diagnosis or treatment of injury, deformity, or disease; and

[''(ii) surgical, drug treatment, psychiatric or obstetric care; and

[''(B) includes—

[''(i) any—

[''(I) general or specialized hospital;

[''(II) ancillary ambulatory, emergency, or surgical treatment facility;

[''(III) hospice;

[''(IV) health maintenance organization;

[''(V) home health agency; and

[''(VI) other health care institution that is similar to an entity referred to in subclause (I), (II), (III), (IV), or (V); and

[''(ii) any long-term care facility, including any—

[''(I) skilled nursing facility;

[''(II) intermediate care facility;

[''(III) assisted living facility;

[''(IV) home for the aged;

[''(V) domicilary care facility; and

[''(VI) health care institution that is related to a facility referred to in subclause (I), (II), (III), (IV), or (V), if that institution is primarily engaged in offering room, board, laundry, or personal assistance with activities of daily living and incidentals to activities of daily living;''.

[(b) HEALTH MAINTENANCE ORGANIZATION DEFINED.—Section 101 of title 11, United States Code, as amended by subsection (a), is amended by inserting after paragraph (27A) the following:

[''(27B) 'health maintenance organization' means any person that undertakes to provide or arrange for basic health care services through an organized system that—

[''(A)(i) combines the delivery and financing of health care to enrollees; and

[''(ii)(I) provides—

[''(aa) physician services directly through physicians or 1 or more groups of physicians; and

[''(bb) basic health care services directly or under a contractual arrangement; and

[''(II) if reasonable and appropriate, provides physician services and basic health care services through arrangements other than the arrangements referred to in clause (i); and

[''(B) includes any organization described in subparagraph (A) that provides, or arranges for, health care services on a prepayment or other financial basis;''.

[(c) PATIENT.—Section 101 of title 11, United States Code, as amended by subsection (b), is amended by inserting after paragraph (40) the following:

[''(40A) 'patient' means any person who obtains or receives services from a health care business;''.

[(d) PATIENT RECORDS.—Section 101 of title 11, United States Code, as amended by subsection (c), is amended by inserting after paragraph (40A) the following:

[''(40B) 'patient records' means any written document relating to a patient or record recorded in a magnetic, optical, or other form of electronic medium;''.

[SEC. 1102. DISPOSAL OF PATIENT RECORDS.

[(a) IN GENERAL.—Subchapter III of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

[''§ 351. Disposal of patient records

[''If a health care business commences a case under chapter 7, 9, or 11, and the trustee does not have a sufficient amount of funds to pay for the storage of patient records in the manner required under applicable Federal or State law, the following requirements shall apply:

[''(1) The trustee shall mail, by certified mail, a written request to each appropriate Federal or State agency to request permission from that agency to deposit the patient records with that agency.

[''(2) If no appropriate Federal or State agency agrees to permit the deposit of patient records referred to in paragraph (1) by the date that is 60 days after the trustee mails a written request under that paragraph, the trustee shall—

[''(A) publish notice, in 1 or more appropriate newspapers, that if those patient records are not claimed by the patient or an insurance provider (if applicable law permits the insurance provider to make that claim) by the date that is 60 days after the date of that notification, the trustee will destroy the patient records; and

[''(B) during the 60-day period described in subparagraph (A), the trustee shall attempt to notify directly each patient that is the subject of the patient records concerning the patient records by mailing to the last known address of that patient an appropriate notice regarding the claiming or disposing of patient records.

[''(3) If, after providing the notification under paragraph (2), patient records are not claimed during the 60-day period described in paragraph (2)(A) or in any case in which a notice is mailed under paragraph (2)(B), during the 90-day period beginning on the date on which the notice is mailed, by a patient or insurance provider in accordance with that paragraph, the trustee shall destroy those records by—

[''(A) if the records are written, shredding or burning the records; or

[''(B) if the records are magnetic, optical, or other electronic records, by otherwise destroying those records so that those records cannot be retrieved.''.

[(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 350 the following:

[''351. Disposal of patient records.''.

[SEC. 1103. ADMINISTRATIVE EXPENSE CLAIM FOR COSTS OF CLOSING A HEALTH CARE BUSINESS.

[Section 503(b) of title 11, United States Code, is amended—

[(1) in paragraph (5), by striking ''and'' at the end;

[(2) in paragraph (6), by striking the period at the end and inserting ''; and''; and

[(3) by adding at the end the following:

[''(7) the actual, necessary costs and expenses of closing a health care business incurred by a trustee, including any cost or expense incurred—

[''(A) in disposing of patient records in accordance with section 351; or

[''(B) in connection with transferring patients from the health care business that is in the process of being closed to another health care business.''.

[SEC. 1104. APPOINTMENT OF OMBUDSMAN TO ACT AS PATIENT ADVOCATE.

[(a) IN GENERAL.—

[(1) APPOINTMENT OF OMBUDSMAN.—Subchapter II of chapter 3 of title 11, United States Code, is amended by inserting after section 331 the following:

[''§ 332. Appointment of ombudsman

[''(a) Not later than 30 days after a case is commenced by a health care business under chapter 7, 9, or 11, the court shall appoint an ombudsman to represent the interests of the patients of the health care business.

[''(b) An ombudsman appointed under subsection (a) shall—

[''(1) monitor the quality of patient care, to the extent necessary under the circumstances, including reviewing records and interviewing patients and physicians;

[''(2) not later than 60 days after the date of appointment, and not less frequently than every 60 days thereafter, report to the court, at a hearing or in writing, regarding the quality of patient care at the health care business involved; and

[''(3) if the ombudsman determines that the quality of patient care is declining significantly or is otherwise being materially compromised, notify the court by motion or written report, with notice to appropriate parties in interest, immediately upon making that determination.

[''(c) An ombudsman shall maintain any information obtained by the ombudsman under this section that relates to patients (including information relating to patient records) as confidential information.''.

[(2) CLERICAL AMENDMENT.—The chapter analysis for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 331 the following:

[''332. Appointment of ombudsman.''.

[(b) COMPENSATION OF OMBUDSMAN.—Section 330(a)(1) of title 11, United States Code, is amended—

[(1) in the matter proceeding subparagraph (A), by inserting ''an ombudsman appointed under section 331, or'' before ''a professional person''; and

[(2) in subparagraph (A), by inserting ''ombudsman,'' before ''professional person''.

[SEC. 1105. DEBTOR IN POSSESSION; DUTY OF TRUSTEE TO TRANSFER PATIENTS.

[(a) IN GENERAL.—Section 704(a) of title 11, United States Code, as amended by section 219 of this Act, is amended—

[(1) in paragraph (9), by striking ''and'' at the end;

[(2) in paragraph (10), by striking the period and inserting ''; and''; and

[(3) by adding at the end the following:

[''(11) use all reasonable and best efforts to transfer patients from a health care business that is in the process of being closed to an appropriate health care business that—

[''(A) is in the vicinity of the health care business that is closing;

[''(B) provides the patient with services that are substantially similar to those provided by the health care business that is in the process of being closed; and

[''(C) maintains a reasonable quality of care.''.

[(b) CONFORMING AMENDMENT.—Section 1106(a)(1) of title 11, United States Code, is amended by striking ''and 704(9)'' and inserting ''704(9), and 704(10)''.]

TITLE [XII] *XI*—TECHNICAL AMENDMENTS

SEC. [1201.] *1101.* DEFINITIONS.

Section 101 of title 11, United States Code, as amended by section [1101] *1003* of this Act, is amended—

(1) by striking ''In this title—'' and inserting ''In this title:'';

(2) in each paragraph, by inserting ''The term'' after the paragraph designation;

(3) in paragraph (35)(B), by striking ''paragraphs (21B) and (33)(A)'' and inserting ''paragraphs (23) and (35)'';

(4) in each of paragraphs (35A) and (38), by striking ''; and'' at the end and inserting a period;

(5) in paragraph (51B)—

(A) by inserting ''who is not a family farmer'' after ''debtor'' the first place it appears; and

(B) by striking ''thereto having aggregate'' and all that follows through the end of the paragraph;

(6) by striking paragraph (54) and inserting the following:

''(54) The term 'transfer' means—

''(A) the creation of a lien;

''(B) the retention of title as a security interest;

''(C) the foreclosure of a debtor's equity of redemption; or

''(D) each mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with—

''(i) property; or

''(ii) an interest in property;'';

(7) in each of paragraphs (1) through (35), in each of paragraphs (36) and (37), and in each of paragraphs (40) through (55) (including paragraph (54), as amended by paragraph (6) of this section), by striking the semicolon at the end and inserting a period; and

(8) by redesignating paragraphs (4) through (55), including paragraph (54), as amended by paragraph (6) of this section, in entirely numerical sequence.

SEC. [1202.] *1102.* ADJUSTMENT OF DOLLAR AMOUNTS.

Section 104 of title 11, United States Code, is amended by inserting ''522(f)(3), [707(b)(5),]'' after ''522(d),'' each place it appears.

SEC. [1203.] *1103.* EXTENSION OF TIME.

Section 108(c)(2) of title 11, United States Code, is amended by striking ''922'' and all that follows through ''or'', and inserting ''922, 1201, or''.

SEC. [1204.] *1104.* TECHNICAL AMENDMENTS.

Title 11, [of the] United States Code, is amended—

(1) in section 109(b)(2), by striking ''subsection (c) or (d) of''; *and*

[(2) in section 541(b)(4), by adding ''or'' at the end; and

[(3)] *(2)* in section 552(b)(1), by striking ''product'' each place it appears and inserting ''products''.

SEC. [1205.] *1105.* PENALTY FOR PERSONS WHO NEGLIGENTLY OR FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.

Section 110(j)(3) of title 11, United States Code, is amended by striking ''attorney's'' and inserting ''attorneys'''.

SEC. [1206.] *1106.* LIMITATION ON COMPENSATION OF PROFESSIONAL PERSONS.

Section 328(a) of title 11, United States Code, is amended by inserting ''on a fixed or percentage fee basis,'' after ''hourly basis,''.

SEC. [1207.] *1107.* SPECIAL TAX PROVISIONS.

Section 346(g)(1)(C) of title 11, United States Code, is amended by striking '', except'' and all that follows through ''1986''.

SEC. [1208.] *1108.* EFFECT OF CONVERSION.

Section 348(f)(2) of title 11, United States Code, is amended by inserting ''of the estate'' after ''property'' the first place it appears.

SEC. [1209.] *1109.* ALLOWANCE OF ADMINISTRATIVE EXPENSES.

Section 503(b)(4) of title 11, United States Code, is amended by inserting ''subparagraph (A), (B), (C), (D), or (E) of'' before ''paragraph (3)''.

[SEC. 1210. PRIORITIES.

[Section 507(a) of title 11, United States Code, as amended by sections 211 and 229 of this Act, is amended—

[(1) in paragraph (4)(B), by striking the semicolon at the end and inserting a period; and

[(2) in paragraph (8), by inserting ''unsecured'' after ''allowed''.

[SEC. 1211. EXEMPTIONS.

[Section 522(g)(2) of title 11, United States Code, as amended by section 311 of this Act, is amended by striking ''subsection (f)(2)'' and inserting ''subsection (f)(1)(B)''.]

SEC. [1212.] *1110.* EXCEPTIONS TO DISCHARGE.

Section 523 of title 11, United States Code, as amended by section [229] *714* of this Act, is amended—

(1) as amended by section 304(e) of Public Law 103–394 (108 Stat. 4133), in paragraph (15), by transferring such paragraph so as to insert [it] *such paragraph* after paragraph (14) of subsection (a);

[(2) in subsection (a)—

[(A) in paragraph (3), by striking ''or (6)'' each place it appears and inserting ''(6), or (15)'';

[(B) in paragraph (9), by striking ''motor vehicle or vessel'' and inserting ''motor vehicle, vessel, or aircraft''; and

[(C) in paragraph (15), as so redesignated by paragraph (1) of this subsection, by inserting ''to a spouse, former spouse, or child of the debtor and'' after ''(15)''; and]

(2) in subsection (a)(9), by striking ''motor vehicle or vessel'' and inserting ''motor vehicle, vessel, or aircraft''; and

(3) in subsection (e), by striking ''a insured'' and inserting ''an insured''.

SEC. [1213.] *1111.* EFFECT OF DISCHARGE.

Section 524(a)(3) of title 11, United States Code, is amended by striking ''section 523'' and all that follows through ''or that'' and inserting ''section 523, 1228(a)(1), or 1328(a)(1), or that''.

SEC. [1214.] *1112.* PROTECTION AGAINST DISCRIMINATORY TREATMENT.

Section 525(c) of title 11, United States Code, is amended—

(1) in paragraph (1), by inserting ''student'' before ''grant'' the second place it appears; and

(2) in paragraph (2), by striking ''the program operated under part B, D, or E of'' and inserting ''any program operated under''.

SEC. [1215.] *1113.* PROPERTY OF THE ESTATE.

Section 541(b)(4)(B)(ii) of title 11, United States Code, is amended by inserting ''365 or'' before ''542''.

SEC. [1216.] *1114.* PREFERENCES.

(a) IN GENERAL.—Section 547 of title 11, United States Code, *as amended by section 201(b) of this Act*, is amended—

(1) in subsection (b), by striking ''subsection (c)'' and inserting ''subsections (c) and (i)''; and

(2) by adding at the end the following:

''(i) If the trustee avoids under subsection (b) a security interest given between 90 days and 1 year before the date of the filing of the petition, by the debtor to an entity that is not an insider for the benefit of a creditor that is an insider, such security interest shall be considered to be avoided under this section only with respect to the creditor that is an insider.''.

(b) APPLICABILITY.—The amendments made by this section shall apply to any case that pending or commenced on or after the date of enactment of this Act.

SEC. [1217.] *1115.* POSTPETITION TRANSACTIONS.

Section 549(c) of title 11, United States Code, is amended—

(1) by inserting ''an interest in'' after ''transfer of'';

(2) by striking ''such property'' and inserting ''such real property''; and

(3) by striking ''the interest'' and inserting ''such interest''.

SEC. [1218.] *1116.* DISPOSITION OF PROPERTY OF THE ESTATE.

Section 726(b) of title 11, United States Code, is amended by striking ''1009,''.

SEC. [1219.] *1117.* GENERAL PROVISIONS.

Section 901(a) of title 11, United States Code, as amended by section [901(k)] *502* of this Act, is amended by inserting ''1123(d),'' after ''1123(b),''.

SEC. [1220.] *1118.* ABANDONMENT OF RAILROAD LINE.

Section 1170(e)(1) of title 11, United States Code, is amended by striking ''section 11347'' and inserting ''section 11326(a)''.

SEC. [1221.] *1119.* CONTENTS OF PLAN.

Section 1172(c)(1) of title 11, United States Code, is amended by striking ''section 11347'' and inserting ''section 11326(a)''.

SEC. [1222.] *1120.* DISCHARGE UNDER CHAPTER 12.

Subsections (a) and (c) of section 1228 of title 11, United States Code, are amended by striking ''1222(b)(10)'' each place it appears and inserting ''1222(b)(9)''.

SEC. [1223.] *1121.* BANKRUPTCY CASES AND PROCEEDINGS.

Section 1334(d) of title 28, United States Code, is amended—

(1) by striking ''made under this subsection'' and inserting ''made under subsection (c)''; and

(2) by striking ''This subsection'' and inserting ''Subsection (c) and this subsection''.

SEC. [1224.] *1122.* KNOWING DISREGARD OF BANKRUPTCY LAW OR RULE.

Section 156(a) of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by inserting ''(1) the term'' before ''bankruptcy''; and

(B) by striking the period at the end and inserting ''; and''; and

(2) in the second undesignated paragraph—

(A) by inserting ''(2) the term'' before ''document''; and

(B) by striking ''this title'' and inserting ''title 11''.

SEC. [1225.] *1123.* TRANSFERS MADE BY NONPROFIT CHARITABLE CORPORATIONS.

(a) SALE OF PROPERTY OF ESTATE.—Section 363(d) of title 11, United States Code, is amended by striking ''only'' and all that follows through the end of the subsection and inserting ''only—

''(1) in accordance with applicable nonbankruptcy law that governs the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust; and

''(2) to the extent not inconsistent with any relief granted under subsection (c), (d), (e), or (f) of section 362.''.

(b) CONFIRMATION OF PLAN FOR REORGANIZATION.—Section 1129(a) of title 11, United States Code, as amended by section 212 of this Act, is amended by adding at the end the following:

''(15) All transfers of property of the plan shall be made in accordance with any applicable provisions of nonbankruptcy law that govern the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust.''.

(c) TRANSFER OF PROPERTY.—Section 541 of title 11, United States Code, is amended by adding at the end the following:

''(f) Notwithstanding any other provision of this title, property that is held by a debtor that is a corporation described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code may be transferred to an entity that is not such a corporation, but only under the same conditions as would apply if

the debtor had not filed a case under this title.''.

(d) APPLICABILITY.—The amendments made by this section shall apply to a case pending under title 11, United States Code, on the date of enactment of this Act, except that the court shall not confirm a plan under chapter 11 of this title without considering whether this section would substantially affect the rights of a party in interest who first acquired rights with respect to the debtor after the date of the petition. The parties who may appear and be heard in a proceeding under this section include the attorney general of the State in which the debtor is incorporated, was formed, or does business.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require the court in which a case under chapter 11 is pending to remand or refer any proceeding, issue, or controversy to any other court or to require the approval of any other court for the transfer of property.

SEC. [1226.] *1124.* PROTECTION OF VALID PURCHASE MONEY SECURITY INTERESTS.

Section 547(c)(3)(B) of title 11, United States Code, is amended by striking ''20'' and inserting ''30''.

SEC. [1227.] *1125.* EXTENSIONS.

Section 302(d)(3) of the Bankruptcy, Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended—

(1) in subparagraph (A), in the matter following clause (ii), by striking ''or October 1, 2002, whichever occurs first''; and

(2) in subparagraph (F)—

(A) in clause (i)—

(i) in subclause (II), by striking ''or October 1, 2002, whichever occurs first''; and

(ii) in the matter following subclause (II), by striking ''October 1, 2003, or''; and

(B) in clause (ii), in the matter following subclause (II)—

(i) by striking ''before October 1, 2003, or''; and

(ii) by striking '', whichever occurs first''.

SEC. [1228.] *1126.* BANKRUPTCY JUDGESHIPS.

(a) SHORT TITLE.—This section may be cited as the ''Bankruptcy Judgeship Act of 1999''.

(b) TEMPORARY JUDGESHIPS.—

(1) APPOINTMENTS.—The following judgeship positions shall be filled in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:

(A) One additional bankruptcy judgeship for the eastern district of California.

(B) Four additional bankruptcy judgeships for the central district of California.

(C) One additional bankruptcy judgeship for the southern district of Florida.

(D) Two additional bankruptcy judgeships for the district of Maryland.

(E) One additional bankruptcy judgeship for the eastern district of Michigan.

(F) One additional bankruptcy judgeship for the southern district of Mississippi.

(G) One additional bankruptcy judgeship for the district of New Jersey.

(H) One additional bankruptcy judgeship for the eastern district of New York.

(I) One additional bankruptcy judgeship for the northern district of New York.

(J) One additional bankruptcy judgeship for the southern district of New York.

(K) One additional bankruptcy judgeship for the eastern district of Pennsylvania.

(L) One additional bankruptcy judgeship for the middle district of Pennsylvania.

(M) One additional bankruptcy judgeship for the western district of Tennessee.

(N) One additional bankruptcy judgeship for the eastern district of Virginia.

(2) VACANCIES.—The first vacancy occurring in the office of a bankruptcy judge in each of the judicial districts set forth in paragraph (1) that—

(A) results from the death, retirement, resignation, or removal of a bankruptcy judge; and

(B) occurs 5 years or more after the appointment date of a bankruptcy judge appointed under paragraph (1);

shall not be filled.

(c) EXTENSIONS.—

(1) IN GENERAL.—The temporary bankruptcy judgeship positions authorized for the northern district of Alabama, the district of Delaware, the district of Puerto Rico, the district of South Carolina, and the eastern district of Tennessee under section 3(a) (1), (3), (7), (8), and (9) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) are extended until the first vacancy occurring in the office of a bankruptcy judge in the applicable district resulting from the death, retirement, resignation, or removal of a bankruptcy judge and occurring—

(A) 8 years or more after November 8, 1993, with respect to the northern district of Alabama;

(B) 10 years or more after October 28, 1993, with respect to the district of Delaware;

(C) 8 years or more after August 29, 1994, with respect to the district of Puerto Rico;

(D) 8 years or more after June 27, 1994, with respect to the district of South Carolina; and

(E) 8 years or more after November 23, 1993, with respect to the eastern district of Tennessee.

(2) APPLICABILITY OF OTHER PROVISIONS.—All other provisions of section 3 of the Bankruptcy Judgeship Act of 1992 remain applicable to such temporary judgeship positions.

(d) TECHNICAL AMENDMENT.—The first sentence of section 152(a)(1) of title 28, United States Code, is amended to read as follows: ''Each bankruptcy judge to be appointed for a judicial district as provided in paragraph (2) shall be appointed by the United States court of appeals for the circuit in which such district is located.''.

(e) TRAVEL EXPENSES OF BANKRUPTCY JUDGES.—Section 156 of title 28, United States Code, is amended by adding at the end the following:

''(g)(1) In this subsection, the term 'travel expenses'—

''(A) means the expenses incurred by a bankruptcy judge for travel that is not directly related to any case assigned to such bankruptcy judge; and

''(B) shall not include the travel expenses of a bankruptcy judge if—

''(i) the payment for the travel expenses is paid by such bankruptcy judge from the personal funds of such bankruptcy judge; and

''(ii) such bankruptcy judge does not receive funds (including reimbursement) from the United States or any other person or entity for the payment of such travel expenses.

''(2) Each bankruptcy judge shall annually submit the information required under paragraph (3) to the chief bankruptcy judge for the district in which the bankruptcy judge is assigned.

''(3)(A) Each chief bankruptcy judge shall submit an annual report to the Director of the Administrative Office of the United States Courts on the travel expenses of each bankruptcy judge assigned to the applicable district (including the travel expenses of the chief bankruptcy judge of such district).

''(B) The annual report under this paragraph shall include—

''(i) the travel expenses of each bankruptcy judge, with the name of the bankruptcy judge to whom the travel expenses apply;

''(ii) a description of the subject matter and purpose of the travel relating to each travel expense identified under clause (i), with the name of the bankruptcy judge to whom the travel applies; and

''(iii) the number of days of each travel described under clause (ii), with the name of the bankruptcy judge to whom the travel applies.

''(4)(A) The Director of the Administrative Office of the United States Courts shall—

''(i) consolidate the reports submitted under paragraph (3) into a single report; and

''(ii) annually submit such consolidated report to Congress.

''(B) The consolidated report submitted under this paragraph shall include the specific information required under paragraph (3)(B), including the name of each bankruptcy judge with respect to clauses (i), (ii), and (iii) of paragraph (3)(B).''.

TITLE [XIII] *XII*—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

SEC. [1301.] *1201.* EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided otherwise in this Act, this Act and the amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall not apply with respect to cases commenced under title 11, United States Code, before the effective date of this Act.

The committee amendments were agreed to.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, before we start this very important bankruptcy reform legislation, first, thanks for working out the necessary parliamentary arrangements for bringing this bill up are owed to our majority leader, the Senator from Mississippi, and our minority leader, the Democratic leader, the Senator from South Dakota. So I thank them very much.

Then secondly, not only because this bill is up now on the floor of the Senate but also for the process of getting it through the Judiciary Committee, we, obviously, thank the Senator from Utah, the chairman of the Judiciary Committee, Mr. HATCH, for his leadership at the level of the committee and for a lot of things that had to be worked out to get us to the floor. And also thanks to the Senator from Vermont, the ranking Democratic member of the Judiciary Committee, for his cooperation.

Since the beginning of the year, I have had the opportunity to work with the ranking minority member of our subcommittee that I chair, the Subcommittee on Administrative Oversight and the Courts, the Senator from New Jersey, Mr. TORRICELLI. Working with him has been a real treat, always with efforts to reach agreement. And for people throughout this country who have a tendency to be cynical about Washington, because of the lack of cooperation between the Democratic Party and the Republican Party, I wish they could feel the working relationship Senator TORRICELLI, a Democrat, and I have had working on this legislation from its original introduction, with his not agreeing to everything I

introduced—he was a cosponsor—but with a spirit that throughout this process, which has gone on since January to this point of bringing the bill up on the floor of the Senate, that we would work cooperatively and in a spirit of cooperation to reach further compromises. I hope that brings us to a point where we do not have a lot of controversial amendments on the floor of the Senate, at least as they relate to the bankruptcy subject, the relevant amendments.

There will be a lot of amendments that have been in this bipartisan unanimous-consent agreement that are considered nongermane amendments, which will be brought up, that are controversial. We expected that to be part of the process. But for the amendments we have that relate to bankruptcy, I think there will be a lot fewer amendments because of the cooperation Senator TORRICELLI has shown in this compromise.

For the second time in 2 years, the Senate is considering fundamental bankruptcy reform. Last year, we passed a bankruptcy reform bill but the Senate was prevented from considering the final conference report at the very end of the 105th Congress. This year, we have the chance to finish this important work. We've been waiting for some time to get this bill up on the floor, and now that we're here, I'm anxious to begin the debate.

Bankruptcy is one of the most complicated subjects we will consider this year. So, at the outset, Mr. President, I think it's important for me as the chairman of the subcommittee with jurisdiction over bankruptcy to take a few minutes to describe what bankruptcy reform is really all about in commonsense terms that we can all understand. Simply put, bankruptcy is a court proceeding where people get their debts wiped away. Every time a debt is wiped away through bankruptcy somebody loses money. That's plain and simple common sense. Of course, when somebody who extends credit has their obligation wiped away in bankruptcy, they are forced to make a decision. Should this loss simply be swallowed as a cost of business? Or do you raise prices for other customers to make up for your losses?

When bankruptcy losses are rare or infrequent, lenders can just swallow the loss. But when bankruptcies are frequent and common, lenders have to raise their prices to offset losses. For this reason, Treasury Secretary Larry Summers testified at his confirmation hearing before the Senate Finance Committee that bankruptcies tend to drive up interest rates. Mr. President, if you believe Secretary Summers, bankruptcies are everyone's problem. Regular hardworking Americans have to pay higher prices for goods and services as a result of bankruptcies. The bankruptcy bill we're considering will discourage bankruptcies, and therefore lessen upward pressure on interest rates and higher prices by making it harder for people who can repay their debts to wipe them away. It seems like common sense to require people who can repay their debts to pull their own weight. But under our current bankruptcy laws, someone can get full debt cancellation in chapter 7 with no questions asked. If we pass S. 625, bankruptcy judges and trustees will start asking questions about ability to repay. And, if someone seeking bankruptcy can repay, they will be channeled into Chapter 13 of the Bankruptcy Code, which requires people to repay some portion of their debts as a pre-condition for limited debt cancellation. Of course, people who can't repay can still use the bankruptcy system as they would have before. But, for people with higher incomes who can repay their debts, the free ride will be over.

The basic bankruptcy policy question the Senate has to answer is this: Should people with means be required to pay at least some of their debts under Chapter 13 or not? Right now, the current bankruptcy system is oblivious to the financial condition of someone asking to be excused from paying his debts. The richest captain of industry could walk into a Bankruptcy Court tomorrow and walk out with his debts erased. And, as I described earlier, the rest of America will pay higher prices for goods and services as a result.

I would ask my colleagues to think about that for a second. If we had no bankruptcy system at all, and we were starting from scratch, would we design a system that lets the rich walk away from their debts and shift the costs to society at large, including the poor and the middle class? I don't think that any of us here would design such a system. But somehow, that's exactly the system we have now. I could easily imagine the fiery rhetoric from our more liberal friends if we on the Republican side were to even suggest that the Senate create a bankruptcy system that lets the wealthy and the well-to-do walk away from their debts and stick working Americans with the tab. But we have just such a system in place today.

Mr. President, if Senators ask themselves the question ''Who wins and who loses under current law, and who will win and who will lose if we pass S. 625,'' then I think that the importance of bankruptcy reform becomes pretty obvious. If you believe President Clinton's own Treasury Secretary, society at large loses under the current system when bankruptcies drive up interest rates. Of course, it's the deadbeats who walk away from their debts who win under the current system. If we pass this bill, then the American people will win as upward pressure on interest rates and prices is removed. And people who look at bankruptcy as a convenient financial planning tool will lose.

Mr. President, I think our situation is urgent. Our bankruptcy system is spiraling out of control. These are good times in our Nation. Thanks to the fiscal discipline initiated by Congress, and the hard work of the American people, we have the first balanced budget in a generation. Unemployment is low, we have a burgeoning stock market and most Americans are optimistic about the future. But in the midst of such prosperity, about one and a half million Americans declared bankruptcy just in 1998. Based on filings for the first two quarters of 1999, it looks like there will be just under 1.4 million bankruptcy filings for this year. To put this in some historical context, since 1990 the rate of personal bankruptcy filings has increased almost 100 percent. Now, I don't think that anyone knows all the reasons underlying the bankruptcy crisis. But I think I can talk about what's not at the root of the bankruptcy crisis. I have a chart here that shows the dramatic increase in bankruptcies since 1993. During the same timeframe, as the chart shows, unemployment has declined just as dramatically and real wages have risen to an all-time high.

The economic numbers tell us that the bankruptcy crisis isn't the result of people who can't get jobs. And the jobs that people do have are paying more than ever. So, the bankruptcy crisis isn't about desperate people confronting layoffs and underemployment. With the economy doing so well, and with so many Americans with high-quality, good-paying jobs, we have to look deep into the eroding moral values of some to find out what's driving the bankruptcy crisis. Some people flat out don't want to honor their obligations and are looking for an easy way out. In the opinion of this Senator, a significant part of the bankruptcy crisis is basically a moral crisis. Some people just don't have a sense of personal responsibility.

It seems clear to me that our lax bankruptcy system must bear some of the blame for the bankruptcy crisis. Just as the welfare system we used to have encouraged people not to get jobs and encouraged people not to even think about pulling their own weight, our lax bankruptcy system doesn't even ask people to consider paying what they owe. Such a system obviously contributes to the fraying of the moral fiber of our Nation. Why pay your bills when you can walk away with no questions asked? Why honor your obligations when you can take the easy way out through bankruptcy? If we don't tighten the bankruptcy system, this moral erosion will certainly continue.

Mr. President, the polls are very clear that the American people want the bankruptcy system tightened up. In my home State of Iowa, 78 percent of Iowans surveyed favor bankruptcy reform. And the picture is the same nationally. According to the PBS program ''Techno-Politics,'' almost 70 percent of Americans support bankruptcy reform. The American people seem to sense that the bankruptcy crisis is fundamentally a moral crisis. According

to a poll conducted by the Democratic polling firm of Penn & Schoen on perceptions of bankruptcy, 84 percent of Americans think that bankruptcy is more socially acceptable today than a few years ago. Of course, Penn & Schoen is a Democratic polling firm used by President Clinton. So, I think that this number is very telling given that it was produced by a liberal polling firm.

In my State of Iowa, the editorial page of the Des Moines Register has summed up the problem we have with the bankruptcy system by stating that bankruptcy ''was never intended as the one-stop, no-questions-asked solution to irresponsibility.'' I totally agree. So, let's look at the situation we face today. We have a bankruptcy system which fosters irresponsibility and which operates as a regressive system for redistributing economic resources from America's working families to the wealthy. In effect, blue collar factory workers are paying the tab for well-compensated professionals to live high on the hog.

Mr. President, as we move forward to debate bankruptcy reform, I believe that we must keep in mind the fact that the bankruptcy crisis is both an economic problem and moral problem. If we pass meaningful bankruptcy reform this year, as I hope and expect that we will, the Senate can remove a drag on the economy and at the same time contribute the rebuilding of our Nation's moral foundations.

Mr. President, over 30 years ago, Senator Albert Gore, Sr.—the father of the Vice-President—introduced a bill to means-test Chapter 7 debtors. In his introductory statement, in words that still ring true today, he described the similarities between special tax loopholes and lax bankruptcy laws. Senator Gore said that bankruptcy is like a special interest tax loophole in that someone gets out of paying his fair share at the expense of hardworking Americans who play by the rules. I think that Senator Gore had it exactly right all the way back then.

In the last Congress we almost closed the Chapter 7 loophole. The Senate and House both passed good bills, and we made them both better in a conference report that received overwhelming bipartisan support in the other body. But we ran out of time in the Senate. I've made every effort to be fair and bipartisan throughout this process. When Senator TORRICELLI became my ranking member at the beginning of this year, I went to him and asked him to work with me on a new bankruptcy bill. Senator TORRICELLI asked for several modifications to last year's bankruptcy bill to respond to concerns raised by Members on his side of the aisle. I agree to make many of these changes. The means-test is much more flexible in this year's bill, giving judges greater discretion to consider the individual circumstances of each debtor. The bill contains much tougher penalties for using threats to coerce debtors into paying debts which could be wiped away once they are in bankruptcy. The bill also requires the Justice Department to concentrate law enforcement resources on enforcing consumer protection laws against abusive debt collection practices, and allows State law enforcement to enforce State consumer protections in bankruptcy court. The committee report lists these modifications in greater detail and summarizes the major changes from last year's conference report. Mr. President, when all of these many changes are considered in a fair and reasonable way, I believe that it will be clear that a great majority of Senators can support S. 625 as it is right now. But there's more. The Grassley-Torricelli amendment contains even more changes to ensure that lower income Americans are not disadvantaged by this reform. A provision to impose personal liability on debtor attorneys—which I strongly suppport—has been removed. And the Grassley-Torricelli amendment contains numerous changes to the small business title of the bankruptcy bill to add new flexibility.

Shortly, I will cosponsor an amendment with Senator TORRICELLI to require credit card companies to give consumers meaningful information about minimum payments on credit cards. Consumers will be warned against making only minimum payments, and there will be an example to drive this point home. Finally, consumers will be given a toll-free phone number to call where they can get information about how long it will take to pay off their own credit card balances if they make only the minimum payments. This new information will truly educate consumers. This new information will improve the financial literacy of American consumers.

In the Judiciary Committee, S. 625 was passed on a strong, bipartisan vote of 14–4. All Republicans and half of the Democrats voted for the bill. So, we have a good bill and one that most Members of the Senate should be able to support at the end of the day. With so many consumer protections and disclosures, I'm confident that the Senate will pass S. 625 with strong support.

In addition to benefitting society at large, lessening upward pressures on interest rates, S. 625 makes a number of changes which I believe will be very beneficial to especially vulnerable segments of our society. Child support claimants have been given the highest priority when the assets of a bankruptcy estate are distributed to creditors. Bankruptcy trustees and creditors of bankrupts are required to give information about the location of deadbeat parents who owe child support, turning our bankruptcy courts into a low cost locator service for custodial parents. And finally, under S. 625 parents owning child support can erase a wider array of debts than is typically the case, thereby preventing private creditors from competing with child support claims in a post-bankruptcy environment. This is an important point that I think everyone should realize. Under the Senate bill, child support will never compete with private creditors after bankruptcy. This is a unique feature of this year's Senate bill, so many Members may not be aware of it. I would ask Senators interested in child support and bankruptcy to study section 314 of the bill.

S. 625 also makes Chapter 12 of the Bankruptcy Code permanent. This means that America's family farms are guaranteed the ability to reorganize as our farm economy continues to be weak. As we all know from our recent debate on emergency farm aid, while prices have rebounded somewhat recently, farmers in my home State of Iowa and across the Nation are getting some of the lowest prices ever for pork, corn and soybeans. Clearly, this bill is an important step in preserving the integrity of our farming economy and preserving the family farm.

S. 625 contains changes to deal with the complex problem of international bankruptcies. S. 625 will speed up the Chapter 11 process for small businesses and will reduce the risk of domino-like failures in financial markets.

In Conclusion, S. 625 is good for family farmers, good for small businesses, good for single parents who depend on child support and good for consumers. If you care about making people in string financial shape pull their own weight, you should vote for this bill. If you care about the lax morality associated with letting people who have the clear ability to pay walk away from their debts with no question asked, you should vote for this bill. When the time comes, I'm sure that common sense will reign and the Senate will pass S. 625, with strong support.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I am pleased we are finally considering the Bankruptcy Reform Act of 1999. I would like to express my personal appreciation to Senator LOTT for his efforts, along with those of Senator DASCHLE, which resulted in this opportunity for floor consideration of the bill. Also, I am grateful for the hard work of Senator GRASSLEY, the chairman of the Judiciary Committee's Subcommittee on Administrative Oversight and the Courts, along with Senator TORRICELLI, the ranking Member of the subcommittee, for their tireless efforts in working out this bipartisan bill. I also thank Senators SESSIONS, BIDEN, and others for their dedication and hard work on this bankruptcy reform bill.

As I have said before, I remain confident that given the opportunity to consider the merits of this legislation, the Senate will pass this bill with overwhelming, bipartisan support. As we consider S. 625, I am hopeful that we will keep in mind the broad support for the substance of this important legislation. I hope we will see quick passage

of these much needed reforms to the bankruptcy system, because the reform proposals have been studied by Congress at length, they are bipartisan, and they are fair.

First, the reforms proposed in this bill have been deliberated at length. Indeed, Congress has been engaged in the consideration of this issue for several years, and the Subcommittee on Administrative Oversight and the Courts, which is chaired by Senator GRASSLEY, has held numerous hearings on the issue of bankruptcy reform. The subcommittee heard extensive testimony from literally dozens of witnesses on this subject.

Second, this bill is truly bipartisan. During our consideration of this bill at both the subcommittee and full Judiciary Committee levels, numerous changes suggested by the minority were included in the bill. We have been able to reach a number of compromises on this legislation in order to respond to the concern of both parties. I would like to take this opportunity to once again thank Senators GRASSLEY and TORRICELLI for their bipartisan efforts to create this balanced bill.

Finally, this bill is fair. One of the principles that guided the authors of our country's original bankruptcy laws, and which is guiding us as we overhaul these laws today, is the concept of a fresh start. The bankruptcy system was designed to provide a fresh start to people in serious financial difficulty, who have no other way out of their predicament. Mr. President, S. 625 does just that. It ensures that people in the most serious financial difficulty will continue to have access to the debt relief they need. At the same time, this legislation ensures that more of the people who have the capacity to repay their debts are required to do so.

Depending on what study you believe, anywhere from 6 to 15 percent of bankruptcy filers are using bankruptcy as a financial planning tool, running up debts and erasing them under laws that consider income irrelevant—all without any noticeable impact on their lifestyle. I would doubt that any of my colleagues feel that these are the sort of filers who need a fresh start. What they need is a lesson in personal responsibility.

I believe that S.625 accomplishes both goals. The bill continues to make bankruptcy an accessible option for those who truly need it. But, it makes it more difficult for spendthrifts—those people who have no desire to change their excessive lifestyles and see bankruptcy as a convenient way to erase their debts.

It is no secret that the current bankruptcy system is broken and that Congress must fix it to preserve the opportunity for those individuals in financial straits to obtain a ''fresh start.'' Despite this country's strong economy—unemployment is down and inflation is low—the rate of personal bankruptcy filings has increased dramatically. Instead of bankruptcy being a safety net, it has become for some a convenient financial management tool.

I find it unacceptable and inherently unfair that those who pay their bills have to foot the bill for those who are able to pay, but choose not to. It has been conservatively estimated that personal bankruptcies cost every household $400 per year, and it takes fifteen responsible borrowers to cover the cost of one bankruptcy of convenience.

The goal of our bankruptcy system has always been to protect those who need protecting—to provide those who experience genuine and serious financial hardship the opportunity to wipe the slate clean. We must return our system back to its original mission.

Bankruptcy reform is not a Republican or a Democratic issue—it is a consumer issue. According to a recent poll, 76 percent of Americans believe 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. This survey merely reflects the American public's belief that individuals should be responsible for their own actions. S. 625 helps remedy the glaring problems of today's bankruptcy system be creating a needs-based system to determine the chapter under which a person should file for bankruptcy.

Mr. President, the House bankruptcy reform bill passed by an overwhelming margin of 313 to 108. Half of the House Democratic Caucus joined with every House Republican to support a bill with more stringent measures than those we are considering in the Senate.

S. 625 contains new measures to protect against fraud in bankruptcy, such as a requirement that debtors supply income tax return sand pay stubs, audits of bankruptcy cases, and limits on repeat bankruptcy filings. It eliminates a number of loopholes, such as the one that allows debtors to transfer their interest in real property soothers who then file for bankruptcy relief and invoke the automatic stay. And, it puts some controls on the ability of debtors get large case advances on their credit cards and to pay luxury goods on the eve of filing for bankruptcy.

At the same time, s. 625 provides many unprecedented new consumer protections. It imposes penalties upon creditors who refuse to negotiate in good faith with debtors prior to declaring bankruptcy. Also, it imposes penalties on creditors who wilfullly fail to properly credit payments made by the debtor in a chapter 13 plan, and for creditors who threaten to file motions in order to coerce a reaffirmation without justification. Moreover, the bill imposes new measures to discourage abusive reaffirmation practices.

It also addresses the problem of bankruptcy mills, firms that aggressively promote bankruptcy as a financial planning tool, and often end up hurting unwitting debtors by putting them in bankruptcy when it may not be in their best interest. The legislation also imposes penalties on bankruptcy petition preparers who mislead debtors.

Importantly, S. 625 makes major strides in trying to break the cycle of indebtedness. It educates debtors with regard to the alternatives available to them, sets up a financial management education pilot program for debtors, and requires credit counseling for debtors.

I am particularly proud that the bill makes extensive reform of the bankruptcy laws in order to protect our children. I have authored provisions to ensure that bankruptcy cannot be used by deadbeat dads to avoid paying child support and alimony. Under my provisions, the obligation to pay child support and alimony is moved to a first priority status, as opposed to its current place at seventh in line behind attorneys fees and other special interests. My measures also ensure the collection of child support and alimony payments by, among other things, exempting state child support collection authorities from the ''automatic stay'' that otherwise prevents collection of debts after a debtor files for bankruptcy, and by exempting from discharge virtually all obligations one ex-spouse owes another.

S. 625 also includes a provision to create new legal protections for a large class of retirement savings in bankruptcy. This measure has widespread support from a long list of groups, ranging from the American Association of Retired Persons, to the Small Business Council of America and the National Council on Teacher Retirement.

Let me take this opportunity also to point out that the assets of some pension plans already are protected from bankruptcy proceedings. The United States Supreme Court has ruled in *Patterson* v. *Shumate*, reported at 504 U.S. 753 (1992), that assets of pension plans which have, and are required by law to have, anti-alienation provisions, are excluded from bankruptcy estates. Let me be clear that my amendment is intended to expand the protection of retirement savings to protect assets that were not previously protected. My amendment is not intended in any way to diminish the protections offered under existing law and under the United States Supreme Court's decision in *Patterson* v. *Shumate*, but, rather, is intended to provide protection to other retirement plans and accounts not currently protected.

I am proud to propose several enhancements to the bill that primarily are designed to protect consumers and further provide incentives for consumers to take personal responsibility in dealing with debt management.

In the area of domestic support, as I indicated earlier, Senator TORRICELLI and I intend to build upon the new legal protections we have created, as part of the underlying bill, for ex-spouses and children who are owed

child support and alimony. The changes will further strengthen the ability of ex-spouses and children to collect the payments they are owed, and will make changes to a number of existing provisions in the bill to clarify that they will not directly or indirectly undermine the collection of child support or alimony payments.

I must highlight just a few of these important enhancements: our amendment prevents bankruptcy from holding up child custody and domestic violence cases. It facilitates wage withholding to collect child support from deadbeat parents. In addition, our amendment helps avoid administrative roadblocks to get kids the support they need. It makes staying current on child support a condition of discharge in bankruptcy. Also, our amendment makes the payment of child support arrears a condition of plan confirmation. Finally, it allows for the payment of child support with interest by those with means.

In the area of debtor education, I have developed an amendment that will protect from creditors contributions made to education IRAs and qualified state tuition savings programs for educational expenses. This is a significant protection for those who honestly put money away for the benefit of their children and grandchildren's future schooling. The potential that education savings accounts will be abused in bankruptcy is addressed by the amendment's requirement that only contributions made more than a year prior to bankruptcy are protected. I believe that protecting educational savings accounts is particularly important because college savings accounts encourage families to save for college, thereby increasing access to higher education. Nationwide, there are more than a million educational savings accounts, meaning there are more than a million children who could potentially benefit from this amendment. As much as I believe that bankruptcy laws need to be reformed to prevent abuse and to ensure debtors take personal responsibility, the ability to use dedicated funds to pay the educational costs of children should not be jeopardized by the bankruptcy of their parents or grandparents.

I developed a debt counseling incentive provision, which builds on the credit counseling provisions currently in S. 625. It removes any disincentive for debtors to use credit counseling services by prohibiting credit counseling services from reporting to credit reporting agencies that an individual has received debt management or credit counseling, and establishes a penalty for credit counseling services that do. Debt management education is vital to reducing the number of Americans who, because of poor financial planning skills, are forced to declare bankruptcy. Providing credit counseling—instruction regarding personal financial management—to current and potential bankruptcy filers will help curb bankruptcy filings.

In addition, I intend to offer an amendment that is designed to curb fraud in bankruptcy filings. This amendment puts in place new procedures and provides new resources to enhance of bankruptcy fraud laws. It will require (1) that bankruptcy courts develop procedures for referring suspected fraud to the FBI and the U.S. Attorney's Office for investigation and prosecution and (2) that the Attorney General designate one Assistant U.S. Attorney and one FBI agent in each judicial district as having primary responsibility for investigating and prosecuting fraud in bankruptcy.

I also plan to offer an amendment that allows the victim of a crime of violence or drug trafficking offense to move the bankruptcy court to dismiss a voluntary petition filed by a debtor who was convicted of the crime of violence or drug trafficking offense. To protect women and children who may be owed payments by such a debtor, however, the amendment still allows the bankruptcy petition to continue if the debtor can show that the filing of the petition is necessary to ensure his ability to meet domestic support obligations. Bankruptcy is not an entitlement—it is a process by which certain qualifying individuals with substantial debts may cancel their debts and obtain a ''fresh start.'' Under this amendment, violent criminals and drug traffickers—individuals who have chosen to engage in serious, criminal conduct—would be precluded from availing themselves of the benefits of bankruptcy protection.

Mr. President, if we do not take the opportunity to reform our bankruptcy system, every family in my own State of Utah and throughout the Country, many of whom struggle to make ends meet, will continue to bear the financial burden of those who take advantage of the system. Last year alone, approximately $45 billion in consumer debt was erased in personal bankruptcies. Losses of this magnitude are passed on the American families at an estimated cost—if we use low estimates—of $400 for every household in American every year.

Rampant banckruptcy filings are a big problem. In 1998, 1.4 million Americans filed for bankruptcy. That was more Americans than graduated from college. That was also more Americans than were on active military duty.

Not long ago, I received a letter from a long list of organizations, ranging from the U.S. Chamber of Commerce to the National Ski and Snowboard Retailers Association, the American Sheep Industry Association, the National Cattlemen's Beef Association and the National Multi-Housing Council. In the letter, they drove home the importance of this legislation to small businesses. I would like to read a quote from that letter:

> Delay of this will . . . hurt America's small businesses—the heart and soul of this nation. These hard-working entrepreneurs, trying to live out their American dream, can be financially devastated by one ''bankruptcy of convenience''. Additionally, frivolous bankruptcy filings force businesses to charge more for goods and services. This is why small business owners throughout the country are calling on Congress to repair our fundamentally flawed bankruptcy system—they've waited long enough.

In closing, let me say I hope we can move through this bill in a timely and orderly fashion. I hope Members who intend to offer amendments do so sooner rather than later, so we may consider as many amendments as we can and hopefully finish consideration of this bill by early next week. I look forward to doing what I can to help Senators GRASSLEY and TORRICELLI move this process along.

I do not think this is going to be difficult given the many compromises already reached in this legislation. This bill is fair, balanced, and long overdue.

PRIVILEGE OF THE FLOOR

Mr. HATCH. Mr. President, I ask unanimous consent during consideration of S. 625, the following staffers be extended the privilege of the floor: Rene Augustine, Makan Delrahim, Kolan Davis, John McMickle, Kyle Sampson, and Leah Belaire.

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

Mr. HATCH. Mr. President, I again commend Senators GRASSLEY and TORRICELLI for the great work they have done and all members on the Senate Judiciary Committee for having worked so hard to get this bill ready for presentation today. I hope we can pass it quickly. With that, I end my remarks and turn the time over to Senator SESSIONS.

The PRESIDING OFFICER (Mr. GRASSLEY). The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I thank Senator HATCH, who made very impressive remarks on this subject, for his leadership as chairman of the Judiciary Committee. I particularly wish to express my appreciation to the Presiding Officer who has led this effort since I have been in the Senate to reform our bankruptcy court system. Make no mistake about it, we are talking about a Federal court system that provides the ability for individual Americans, who legitimately owe debts to people not to pay their debts and to wipe those debts out.

This is a historic American principle. We have had bankruptcy courts. They are referred to in the Constitution of the United States. They are uniquely and totally a Federal court procedure.

I think it is appropriate for us to make timely changes as the nature of our times in court change. We review what is happening and make sure our law is effective to accomplish the best and highest ideals of the American people.

We last passed historic bankruptcy reform in 1978. We have not since that time confronted the issue squarely and fundamentally and comprehensively to see what is happening and see what we

can do about it. Any Federal court system must be fair, it must be coherent and logical, it must be commonsensical, and it must help us further our economic growth and vitality as a nation.

At the same time, any legal system we establish, as the Chair so eloquently said, has a moral component. We need to make sure as a nation that our bankruptcy laws encourage the highest and best ideals of the American people. In fact, all laws should do that; particularly, I suggest, bankruptcy laws. We believe, as Americans, that people who get hopelessly in debt ought to be able to start over and not have their lives forever burdened by debts they could never repay. That is the historic principle. We should not retreat from that, and certainly this bill reflects no retreat from that.

But it is never a good thing to go into bankruptcy. It is an unfortunate event, when people reach a point in their lives when they are unable to pay a just debt they incurred because they got some benefit from that debt. They borrowed money to buy a TV set; they borrowed money to buy a car; they borrowed money to take a trip. Somebody loaned them that money. The purpose of that loan was to have it repaid, and most people believe they ought to repay that debt. If ever in this country we believe that we do not have to pay debts, because it is inconvenient or difficult, we have a real problem because the ability of honest and hard-working people to obtain loans is going to be much more difficult.

An individual citizen should pay his or her debt. It is possible—and we made great progress, Mr. President, under your leadership—to create a system that does allow people to start over. But at the same time, it does not reward those who lightly walk away from debts they have every ability to repay either in whole or in part. Fundamentally, the way this system works is very unusual, in many respects. If a person makes a salary of $80,000 and if that person has a debt of $50,000 and that is the only debt they have, it may strike you they could easily pay it off in 2 or 3 years without a great deal of strain, perhaps. It may strike Americans as strange to realize, regardless of their ability to pay it off in relatively short order, they could walk into bankruptcy court, file under chapter 7, and wipe out that debt and not ever have to pay it. Some people do that and abuse the system.

I heard recently of an individual who made $35,000 a year, had a $1,500 debt, and filed for bankruptcy because he did not want to pay that debt. That kind of thing happens in our court. That is an extreme example, but there are less extreme examples of it on a routine basis. If a person is able to pay back a part of their debt, why should they not?

You say, well, it was for a hospital. Why should the hospital not get paid if he can pay some of his legitimate hospital bills? Why would we not want them to do that? Why should we say to an honest person who struggles to pay the hospital bill: You are just a chump; you are the clever guy, you went and got a lawyer, paid him $1,000, and he is going to wipe out your $3,000 debt to the hospital. If a person cannot pay their hospital bill, if they cannot pay their other bills, if their income will not support it, then bankruptcy is for them. But there are abuses, I assure you, and they are quite common—too common, I suggest.

There is a strange tendency in the filings, whether you file under chapter 13 or chapter 7—as you know, when you file in chapter 7, you simply offer up your assets, wipe out all your debts and walk away, never to have to pay any of those debts again. If you file under chapter 13, the court will work with you and your attorney and develop a repayment plan for all or a portion of that debt. They will stay the interest that is accruing on the debts. They will say how much ought to be paid to each creditor. They will keep those creditors from suing or filing any harassment action against the person paying them off until the debts are paid.

In my home State of Alabama, in Birmingham, which is where chapter 13 payments began quite a number of years ago, over half, maybe more than 60 percent of the individual citizens, for some reason—for various reasons—have chosen to file under chapter 13 and pay back all or a portion of their debts. But in some of the larger urban areas of this country, that figure is even under 10 percent. Routinely, the lawyers come in and advise their clients to file under chapter 7. They file under chapter 7 and wipe out all their debts when many of those could easily pay them back.

There are some good reasons why people would want to file under chapter 13 and pay back a lot of the debts they owe. They will be able to have more self respect as individuals if they pay off their debts. It stops the creditors from suing them, the phone calls, and the harassment that might come when you owe many different debts. You have a better credit rating when you have paid off your debts, and you are able to keep certain items you might not be able to keep otherwise. There are other advantages to filing chapter 13.

If a court were to decide, as they could under our new law, that you have the ability to pay back and you are shifted to chapter 13, it is not all bad. There are many reasons why a careful lawyer representing a client would suggest chapter 13 is a good way to go.

So we have a system today that is very enticing to the irresponsible. We have a system today that is driven by a lot of different factors. One factor is the advertisements we see on television describing how to avoid your debts.

People see those advertisements and then go to the attorneys who specialize in bankruptcy. The attorneys tell them: You have these debts, and the easy thing to do is file chapter 7; I will file your bankruptcy for $700, $1,000, and you will not have to pay any more debts. You have to put everything you have on your credit card for the next 3 months. Do not pay any bills; do not pay any of your payments on any of your notes; take that money and give it to me; set aside the rest of it; we will file bankruptcy and just wipe it all out.

That is what is happening in America today. People are induced to do that.

I thought about it: Do they know? People get depressed and get panicky. They do not know what to do. People are suing them and threatening them. They go to their lawyer and ask for advice. I am of the opinion that at least a significant minority of those individuals want to pay their debts, but for various reasons they are in trouble and unable.

I visited in my hometown of Mobile an outstanding institution, a nonprofit credit counseling agency. That agency meets with families who are in financial trouble. The people at this agency sit down with these families and help them work out a budget. It helps the family members understand the consequences of spending. It helps them to set priorities on which debt to pay first. It helps them to set up a savings plan. Sometimes they will even receive the check and pay certain debts that are required and give the family a certain amount of cash to use for their weekly or monthly bills.

Normally, they call the credit card companies, the banks, and other people who have claims against the family and negotiate a lower interest rate. They are able to do that. Companies will do it. And the families can pay off those debts in that fashion. It is highly successful.

One of the main reasons for divorce in America today is financial difficulty. That is a known fact. As a matter of fact, it is the main reason. These nonprofit agencies encourage people to undergo marital counseling. A lot of people are in financial trouble because of alcoholism. Credit counseling or nonprofit agencies care about the people who come before them and help them get alcoholism treatment or help them get into AA.

Many gamblers are in financial trouble. One member of the family gambles and has lost the money. This is a known fact. They get people into Gamblers Anonymous and help save their family.

Maybe they need mental health treatment. They can oftentimes get them into those treatment facilities. That kind of thing is healthy.

One of the things I suggested, something with which the chairman, Senator GRASSLEY, and others on the committee agreed, is before you file for bankruptcy, you have to contact a credit counseling agency and discuss with them the possibility of choosing an alternative to filing for bankruptcy. The truth is, most people want to pay their debts. They just do not know how

to do it in a way that will be OK in light of the creditors pressing on them.

We believe that can be a significant step forward in helping people in debt. They can be counseled by experts in money management on how to handle their money and get out of debt on their own, how to maintain their self-respect and pride, and to actually pay off the debts.

If you get a loan from your brother-in-law or if you borrow money from the bank, you ought to pay it back if you can. This bill encourages that.

There are people with high incomes who are filing for bankruptcy today. We have heard the stories of young lawyers and young professionals who get a new car, have student loans and $5,000 or $6,000 in credit card bills, and the creditors are calling. They do not really want to slow down. They can just file for bankruptcy and wipe out these debts. That is not right. We will be focusing on that.

It will not burden poor people. Credit counselors will have to be approved by the bankruptcy court. They will be nonprofit individuals who will be audited on a regular basis. These are the steps I believe will encourge people to avoid filing bankruptcy.

This bill will be a major step forward for families who are entitled to child support and alimony. They will be moved to the top of the priority list. It will be a great step forward for them. Child support and alimony will be improved.

A bankruptcy system for farmers that is adjusted to their unique problems will be enhanced and made permanent by this legislation. Senator GRASSLEY has been a champion of those issues for many years, and he has achieved that again in this bill. We will make it permanent with this bill.

I respect the work the Senator from Iowa is doing. This is a good piece of legislation. It calls on individuals to pay what they can. It allows judges to consider the circumstances involved before an order is given. It will improve the respect businesses and Americans have for bankruptcy if they know it is not being abused as it is today. We can stop it, and we can do better. This bill will do that.

There are loopholes that good lawyers have learned to exploit. I do not blame the lawyers for it. If we have it in the law of Congress that says this is appropriate, they are going to use it to the benefit of their clients.

We had a circumstance in which a tenant's 1-year lease had expired. He had not paid his debts. The landlord wanted to evict him. He filed for bankruptcy. People are filing all over America and getting a stay of legal action, causing the landlord to hire a lawyer and wait several more months before he can get the person removed from the premises. Maybe he never intended to lease it for more than 1 year anyway. Maybe he had another tenant to take the place after 12 months. That person, through abuse of the bankruptcy system, could do that. That is very common in America.

Many of these problems are being addressed. I know the chairman believes strongly that creditors ought not have lawyers go down to court all the time. The bill allows you to represent yourself, if you choose, in bankruptcy court under many circumstances.

This legislation will improve the system of law in Federal courts. It will have a more just result. It will stop individuals who are able to pay back all or a portion of their debts from walking into court and wiping out their debts. This bill will stop that.

For people in serious debt who fall below the median income of America, they will be able to choose chapter 7 or 13. But for those with higher incomes, if they have the ability to pay the debts, we think this bill will make them do so, or at least a portion of what they owe, if the judge so orders. It is a step in the right direction.

I am proud to serve on the subcommittee which Senator GRASSLEY chairs. This bill is a step forward for our courts. I hope as we move forward we will have the support we had previously. It passed in this body last year with 94 out of 100 votes. It is essentially the same bill. It passed in our committee by a vote of 14–4. It passed the House with 303 votes to 100. It is a popular bill. It has broad bipartisan support. It has dragged on for far too long. It is time for us to see it to conclusion.

I thank the chairman for his leadership, determination, and persistence in driving this bill to a successful conclusion.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

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

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

MESSAGES FROM THE HOUSE

At 1:29 p.m., a message from the House of Representatives, delivered by Mr. Barry, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2389. An act to restore stability and predictability to the annual payments made to States and counties containing National Forest System lands and public domain lands managed by the Bureau of Land Management for use by the counties for the benefit of public schools, roads, and other purposes.

At 2:59 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 75. Joint resolution making further continuing appropriations for the fiscal year 2000, and for other purposes.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 3194) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2000, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. YOUNG of Florida, Mr. LEWIS of California, and Mr. OBEY as the managers of the conference on the part of the House.

ENROLLED JOINT RESOLUTION SIGNED

A message from the House of Representatives, received on today, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 75. Joint resolution making further continuing appropriations for the fiscal year 2000, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–6014. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Brazil; to the Committee on Foreign Relations.

EC–6015. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Israel; to the Committee on Foreign Relations.

EC–6016. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to the United Arab Emirates; to the Committee on Foreign Relations.

EC–6017. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed license for the export of defense articles or defense services

sold commercially under a contract in the amount of $50,000,000 or more to Japan; to the Committee on Foreign Relations.

EC–6018. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Thailand; to the Committee on Foreign Relations.

EC–6019. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Japan; to the Committee on Foreign Relations.

EC–6020. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to NATO; to the Committee on Foreign Relations.

EC–6021. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed Manufacturing License Agreement with the United Kingdom; to the Committee on Foreign Relations.

EC–6022. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed Manufacturing License Agreement with Turkey; to the Committee on Foreign Relations.

EC–6023. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–6024. A communication from the Assistant Secretary of Defense for Health Affairs, transmitting, pursuant to law, a report relative to the TRICARE Program for fiscal year 1999; to the Committee on Armed Services.

EC–6025. A communication from the Acting Executive Director, Commodity Futures Trading Commission, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–6026. A communication from the Inspector General, Nuclear Regulatory Commission, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–6027. A communication from the Executive Secretary, Harry Truman Scholarship Foundation, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–6028. A communication from the Senior Liaison Officer, Office of Government Liaison, the John F. Kennedy Center for the Performing Arts, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–6029. A communication from the Staff Director, Commission on Civil Rights, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–6030. A communication from the Acting Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–6031. A communication from the Chairman, Defense Nuclear Facilities Safety Board, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–6032. A communication from the Chairman, National Labor Relations Board, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–6033. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–6034. A communication from the Director, Office of Resource Management, Federal Housing Finance Board, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–6035. A communication from the Budget and Fiscal Officer, the Woodrow Wilson Center, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–6036. A communication from the Executive Director, Advisory Council on Historic Preservation, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THOMPSON, from the Committee on Governmental Affairs, without amendment:

H.R. 100. A bill to establish designations for United States Postal Service buildings in Philadelphia, Pennsylvania.

H.R. 197. A bill to designate the facility of the United States Postal Service at 410 North 6th Street in Garden City, Kansas, as the ''Clifford R. Hope Post Office''.

H.R. 915. A bill to authorize a cost of living adjustment in the pay of administrative law judges.

H.R. 1191. A bill to designate certain facilities of the United States Postal Service in Chicago, Illinois.

H.R. 1251. A bill to designate the United States Postal Service building located at 8850 South 700 East, Sandy, Utah, as the ''Noal Cushing Bateman Post Office Building''.

H.R. 1327. A bill to designate the United States Postal Service building located at 34480 Highway 101 South in Cloverdale, Oregon, as the ''Maurine B. Neuberger United States Post Office''.

By Mr. THOMPSON, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 1377. A bill to designate the facility of the United States Postal Service at 13234 South Baltimore Avenue in Chicago, Illinois, as the ''John J. Buchanan Post Office Building''.

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

H.J. Res. 54. A joint resolution granting the consent of Congress to the Missouri-Nebraska Boundary Compact.

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

H. Con. Res. 141. A concurrent resolution celebrating One America.

S. Res. 118. A resolution designating December 12, 1999, as ''National Children's Memorial Day''.

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amendment to the title:

S. 276. A bill for the relief of Sergio Lozano, Faurico Lozano and Ana Lozano.

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 302. A bill for the relief of Kerantha Poole-Christian.

S. 1019. A bill for the relief of Regine Beatie Edwards.

By Mr. THOMPSON, from the Committee on Governmental Affairs, without amendment:

S. 1295. A bill to designate the United States Post Office located at 3813 Main Street in East Chicago, Indiana, as the ''Lance Corporal Harold Gomez Post Office''.

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 1418. A bill to provide for the holding of court at Natchez, Mississippi in the same manner as court is held at Vicksburg, Mississippi, and for other purposes.

By Mr. JEFFORDS, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 1809. A bill to improve service systems for individuals with developmental disabilities, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted on November 3, 1999:

By Mr. HELMS for the Committee on Foreign Relations:

David H. Kaeuper, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Congo.

Nominee: David H. Kaeuper.

Post: Republic of Congo.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self: none.
2. Spouse: none.
3. Children and Spouses: none.
4. Parents: none.
5. Grandparents: none.
6. Brothers and Spouses: none.
7. Sisters and Spouses: Miriam (sister) and Alan Rosar, 250.00, 10/98, Rep. David McIntosh; 250.00, 10/96, Rep. David McIntosh; 100.00, 10/94, Rep. David McIntosh; 100.00, —/94, Sen. Richard Lugar.

James B. Cunningham, of Pennsylvania, to be a Representative of the United States of America to the Sessions of the General Assembly of the United Nations during his tenure of service as Deputy Representative of the United States of America to the United Nations.

John E. Lange, of Wisconsin, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Botswana.

Nominee: John E. Lange.
Post: U.S. Ambassador to Botswana.
Nominated: June 9, 1999.
The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.
Contributions, amount, date, and donee:
1. Self: none.
2. Spouse: Alejandra M. Lange, none.
3. Children and Spouses: Julia A. Lange, none.
4. Parents: Edward W. Lange, deceased; Marion E. Lange, none.
5. Grandparents: Paul and Delia Lange, deceased; George and Katherine Bosch, deceased.
6. Brothers and Spouses: (No brothers).
7. Sisters and Spouses: Cynthia and Dale Bennett, none; Barbara and David Wentland, none.

Delano Eugene Lewis, Sr., of New Mexico, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of South Africa.
Nominee: Delano E. Lewis.
Post: The Republic of South Africa.
Nominated: June 9, 1999.
The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.
Contributions, amount, date, and donee:
1. Self: Delano E. Lewis, Sr., $200.00, 1996, Dem. Natl. Comm.; $200.00, 1994, Dem. Natl. Comm.; $100.00, 1996, Loretta Sanchez, H.R. Calif; $100.00, 1996, Connie Morella, H.R. MD; $100.00, 1994, Connie Morella, H.R. MD; $100.00, 1998, Kevin Chavous, DC Mayor.
2. Spouse: Gayle Lewis, NA.
3. Children and Spouses: a. Delano E. Lewis, Jr. and Jacqueline Lewis; NA; b. Geoffrey Paul Lewis, Sr., $100.00, 9/94, Ron Magnus, DC City Council; and Lisa Lewis, NA. c. Brian Patrick Lewis, NA; d. Phill Lewis and Megan Lewis—jointly, $500.00 7/98, Barbara Boxer, U.S. Senate.
4. Raymond E. Lewis, father, NA; Enna Lewis, mother, deceased before reporting period, NA.
5. Grandparents: deceased before reporting period, a. Matilda Lewis Goss and Ernest Lewis, b. Martha Wordlow and Ned Wordlow.
6. Brothers and Spouses: none.
7. Sisters and Spouses: none.

Avis Thayer Bohlen, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be an Assistant Secretary of State (Arms Control). (New Position)

Donald Stuart Hays, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Representative of the United States of America to the United Nations for U.N. Management and Reform, with the rank of Ambassador.

Donald Stuart Hays, of Virginia, to be an Alternate Representative of the United States of America to the Sessions of the General Assembly of the United Nations during his tenure of service as Representative of the United States of America to the United Nations for U.N. Management and Reform.

Michael Edward Ranneberger, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Mali.
Nominee: Michael E. Ranneberger.
Post: Mali.
Nominated: June 28, 1999.
The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.
Contributions, amount, date and donee:
1. Self: none.
2. Spouse: none.
3. Children and Spouses: none.
4. Parents: Edward Ranneberger, none.
5. Grandparents: deceased.
6. Brothers and Spouses: Robert Ranneberger, none.
7. Sisters and Spouses: none.

Harriet L. Elam, of Massachusetts, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Senegal.
Nominee: Harriet L. Elam.
Post: U.S. Amb. to the Republic of Senegal:
Nominated: July 1, 1999.
The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.
Contributions, amount, date and donee:
1. Self: $50.00, 1995, Sen. John Kerry, (D) MA; $125.00, 1998, Cong. Jesse Jackson, Jr. (D) IL.
2. Spouse: N/A, I am single.
3. Children and Spouses: None.
4. Parents: Robert H. and Blanche D. Elam (deceased since 1974); neither of them made campaign contributions.
5. Grandparents: Henrietta Lee and Sherman Justin Lee (deceased); since both were deceased before I was born, I cannot comment on the question posed.
6. Brothers and Spouses: Judge Harry J. Elam and Mrs. Barbara C. Elam (no contributions); Charles H. Elam (deceased 1997—none); Clarence R. Elam (deceased 1985—none).
7. Sisters and Spouses: Annetta H. Capdeville (sister, currently in a nursing home with Alzheimers, no campaign contributions); Andrew L. Capdeville (brother in law, is blind, and has made no campaign contributions).

Gregory Lee Johnson, of Washington, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Swaziland.
Nominee: Gregory Lee Johnson.
Post: Kingdom of Swaziland.
Nominated: July 1, 1999.
The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.
Contributions, amount, date, and donee:
1. Self: none.
2. Spouse: Lyla J. Johnson, none.
3. Children and Spouses: Carter K. Johnson (son), none; Kimberly A. Johnson (daughter), none.
4. Parents: Edith Johnson (mother), none; Orville L. Johnson (father/deceased), none.
5. Grandparents: Mamie (Evans) Robertson (deceased), none; William Robertson (deceased), none; Viola Brown (deceased), none; Buford Johnson (deceased), none.
6. Brothers and Spouses: Dennis P. Johnson, none; Pauline Johnson, none.
7. Sisters and Spouses: no sisters, none.

Jimmy J. Kolker, of Missouri, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Burkina Faso.
Nominee: Jimmy Kolker.
Post: Ambassador to Burkina Faso.
Nominated: July 1, 1999.
The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.
Contributions, amount, date, and donee:
1. Self: $650, 1998, Rush Holt For Congress; $200, 1996, Rush Holt For Congress.
2. Spouse: Britt-Marie Forslund, none.
3. Children: Anne and Eva Kolker: none.
4. Parents: Leon Kolker, Harriette Coret, none.
5. Grandparents: Max and Rose Kolker, deceased; Fannie and Joe Buckner, deceased.
6. Brothers and spouses: Danny Kolker and Annette Fromm: $400, 1996, Rush Holt For Congress; $100, 1996, Democratic National Ctte; $25, 1994, John Selph for Congress.

Joseph W. Prueher, of Tennessee, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of China.
Nominee: Joseph W. Prueher.
Post: People's Republic of China.
Nominated: September 8, 1999.
The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.
Contributions, amounts, date, and donee:
1. Myself: none.
2. Spouse: Suzanne P. Prueher, none.
3. Children and Spouse: Anne B. Prueher, none; Joshua W. and Elizabeth F. Prueher (wife), none.
4. Parents: Bertram J. Prueher, deceased. Jean F. Prueher, $25.00, 1996 and 1997, Sen. Bill Frist.
5. Grandparents: deceased.
6. Sisters and Spouses: Elizabeth A. and Daniel Thornton, none; Martha B. Conzelman and James G. Conzelman, Jr., none.

Mary Carlin Yates, of Washington, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Burundi.
Nominee: Mary Carlin Yates.
Post: Burundi.
Nominated: September 22, 1999.
The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.
Contributions, amount, date, and donee:
1. Self: Mary Carlin Yates, none.
2. Spouse: John M. Yates, none.
3. Children and spouses: Catherine, John, Maureen, Paul, Greg Yates, none.
4. Parents: Barbara and Edward T. Carlin, deceased.
5. Grandparents: deceased.
6. Brothers and spouses: Ted Carlin, Jr., and Phyllis Carlin, none.

7. Sisters and spouses: Patty Carlin Fabrikant and Murvin Fabrikant, none.

Charles Taylor Manatt, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Dominican Republic.

Nominee: Charles Taylor Manatt.

Post: Ambassador to the Dominican Republic.

Nominated September 28, 1999.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self: see attached.
2. Spouse: see attached.
3. Children and spouses: Timothy T. Manatt, none; Michele Manatt Anders, see attached; Wolfram Anders, none; Daniel C. Manatt, see attached.
4. Parents: William Price Manatt, deceased; Lucille Helen Taylor Manatt, deceased.
5. Grandparents: John R. and Nonie Manatt, deceased; Charles and Gertie Taylor, deceased.
6. Brothers and spouses: Names Richard P. Manatt and Jackie Manatt, none.
7. Sisters and spouses, none.

Federal Contributions 1995–1996

Charles T. Manatt:
DNC Services Corp, DNC—4/19/95—$10,000
Clinton/Gore '96 Primary Committee—5/26/95—$1,000
DNC Services Corp, DNC—12/22/95—$10,000
DNC Services Corp, DNC—2/23/96—$250
Karen McCarthy for Congress—3/24/96—$250
Krogmeier for Congress—3/14/96—$350
Beshear for US Senate—5/28/96—$500
Friends of Max Cleland for the US Senate Inc—6/4/96—$500
Coffin for Congress—6/28/96—$250
Reed Committee—4/24/96—$1,000
Friends of Senator Carl Levin—6/14/96—$250
Julian C. Dixon Democrat for Congress—5/29/96—$500
Toricelli for US Senate—6/25/96—$1,000
Friends of Tom Strickland—7/12/96—$500
Kerrey for US Senate—2/16/96—$1,000
Clinton/Gore '96 Gen Election Legal/Acctg Compliance—9/26/96—$1,000
Boswell for Congress—10/4/96—$500
Docking for US Senate—10/7/96—$400
Karpan for Wyoming—10/17/96—$250
Swett for Senate—10/23/96—$250
Coopersmith for Congress 10/31/96—$500
Democratic Congressional Campaign Committee—3/30/95—$1,000
Golden State PAC (Manatt, Phelps & Phillips)—4/27/95—$1,181
Bill Bradley for US Senate—6/9/95—$1,000
Friends of Max Baucus—4/19/95—$500
Kerry Committee—6/20/95—$500
Kerry Committee—6/23/95—$250
Kerry Committee—6/16/95—$1,000
Wyden for Senate—12/8/95—$500
Fazio for Congress—11/22/95—$500
Friends of Jane Harman—12/29/95—$1,000
Leahy for US Senator Committee—8/7/95—$250
Murray for Congress—2/28/96—$500
Blumenauer for Congress—3/25/96—$500
Price for Congress—3/27/96—$500
Friends of Mark Warner—5/13/96—$500
Friends of Jane Harman—5/7/96—$1,000
Friends of Senator Rockefeller—6/17/96—$1,000
Kerry Committee—6/4/96—$250
Glen D. Johnson for Congress Committee—9/30/96—$300
Citizens for Harkin—7/26/96–$1000
Spike Wilson for Congress—10/9/96–$200
Rick Weiland for Congress—10/15/96–$300
Luther for Congress Volunteer Committee—10/4/96–$250
Doggett for US Congress—10/9/96–$250
Golden State PAC (Manatt, Phelps & Phillips)—8/23/96–$1,178
Friends of Mark Warner—10/9/96–$500
Steve Owens for Congress—10/29/96–$250
Ken Bentsen for Congress—11/23/96–$250
Friends of Bob Graham—7/10/96–$1,000
Citizens Committee for Ernest F. Hollings—(for 1998—Primary) 7/96—$1,000
Daniel C. Manatt (son): DNC Services Corp/DNC—5/14/96–$250
Kathleen K. Manatt (wife): Citizens for Harkin—7/26/96–$1,000
Michele A. Manatt (daughter):
DNC Services Corp/DNC—5/28/96–$250
Clinton/Gore '96 Gen Election Legal & Accounting Compliance—$1,000

Federal Contributions 1997–1998

Charles T. Manatt:
Gephardt in Congress—5/15/97–$1,000
Friends of Chris Dodd—6/12/97–$1,000
Friends of Byron Dorgan—4/17/97–$1,000
Citizens Committee for Ernest F. Hollings (for 1998 General)—10/31/97–$1,000
Mary Landrieu for Senate—7/2/97–$250
Ferraro for Senate—3/19/98–$1,000
Rush for Congress—1/10/98–$500
Boswell for Congress—5/5/98–$500
Boswell for Congress—9/9/97–$500
COMSAT PAC—5/11/98–$1,000
Friends for Harry Reid—10/12/98–$1,000
Friends of Blanch Lincoln—10/8/98–$1,000
Nancy Pelosi for Congress—6/17/97–$500
Citizens for Joe Kennedy—6/19/97–$250
Luther for Congress—6/7/97–$250
Leahy for US Senator—4/2/97–$250
A lot of People Supporting Tom Daschle 3/21/97–$1,000
Golden State PAC (Manatt, Phelps) 6/25/97–$1,422
Julian C. Dixon—Democrat for Congress 9/23/97–$1,000
Friends of Barbara Boxer—11/13/97–$1,000
Evan Bayh Committee—11/4/97–$500
Ken Bentsen for Congress—10/2/97–$500
Friends of Jane Harman—7/14/97–$1,000
Baesler for Senate—3/17/98–$500
Evan Bayh Committee—2/23/98–$500
Sherman for Congress—4/13/98–$250
Steve Owens for Congress—6/20/98–$250
Baesler for Senate Committee—10/8/98–$1,000
Golden State PAC—10/9/98–$1,329
Nagle for US Senate—1/5/97–$500
Kathleen K. Manatt:
Friends of Chris Dodd—6/12/97–$1,000
DNC Services Corp/DNC—4/29/97–$1,000
Friends of Jane Harman—7/24/97–$1,000
DNC Services Corp/DNC—6/8/98–$1,000
Kerry Committee—6/23/98–$1,000
Baesler for Senate—10/8/98–$1,000
Leadership '98 (FKA Friends of Albert Gore, Jr., Inc)—10/27/98–$1,000

Gary L. Ackerman, of New York, to be a Representative of the United States of America to the Fifty-fourth Session of the General Assembly of the United Nations.

Martin S. Indyk, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Israel.

Nominee: Indyk, Martin Sean.

Post: Tel Aviv, Israel.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self: None.
2. Spouse: Jill Indyk, none.
3. Children and spouses: Sarah and Jacob, none.
4. Parents: Mary and John Indyk, none.
5. Grandparents: Deceased.
6. Brothers: Ivor Indyk, none.
7. Sisters: Shelley Indyk, none.

Anthony Stephen Harrington, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federative Republic of Brazil.

Nominee: Anthony S. Harrington.

Post: Ambassador to Brazil.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self: (see attached schedule).
2. Spouse: Hope R. Harrington (see attached schedule).
3. Children: Adam R. and Michael A. Harrington, none.
4. Parents: Atwell L. and Louise Harrington, deceased.
5. Grandparents: Smith Harrington and Callie Chapman, deceased.
6. Brothers: Not applicable.
7. Sisters: Not applicable.

FEDERAL CAMPAIGN CONTRIBUTION REPORT—SCHEDULE

Donor, amount, date, donee:

Self: $525, 3/13/95, Hogan & Hartson PAC
Spouse: $100, 9/11/95, Kerrey Committee
Self: $100, 2/21/96, Kerrey Committee
Self: $1,125, 3/14/96, Hogan & Hartson PAC
Self: $250, 3/26/96, Price for Congress
Self: $200, 6/26/96, Friends of Mark Warner
Self: $100, 6/26/96, Stuber for Congress
Self: $100, 10/26/96, Eastaugh for Congress
Self: $1,125, 6/12/97, Hogan & Hartson PAC
Self: $250, 7/24/97, Friends of Byron Dorgan
Self: $1,300, 3/18/98, Hogan & Hartson PAC
Spouse: $100, 3/26/98, Pinder for Congress
Self: $250, 4/25/98, Friends of Chris Dodd
Spouse: $100, 6/11/98, Pinder for Congress
Self: $400, 6/15/98, Leahy for Congress
Self: $200, 7/19/98, David Price for Congress
Self: $50, 10/17/98, Pinder for Congress
Self: $1,250, 3/11/99, Hogan & Hartson PAC
Self: $1,000, 6/22/99, Ciizens for Sarbanes
Self: $1,000, 7/4/99, Gore 2000
Spouse: $1,000, 7/4/99, Gore 2000
Spouse: $1,000, 8/28/99, H.R. Clinton Exploratory Committee
Self: $1,000, 8/28/99, H.R. Clinton Exploratory Committee

Craig Gordon Dunkerley, of Massachusetts, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, for the Rank of Ambassador during his tenure of Service as Special Envoy for Conventional Forces in Europe.

Alan Phillip Larson, of Iowa, to be Under Secretary of State (Economic, Business and Agricultural Affairs).

Robert J. Einhorn, of the District of Columbia, to be an Assistant Secretary of State (Non-proliferation). (New Position)

Lawrence H. Summers, of Maryland, to be United States Governor of the International Monetary Fund for a term of five years; United States Governor of the International Bank for Reconstruction and Development for a term of five years; United States Governor of the Inter-American Development Bank for a term of five years; United States Governor of the African Development Bank for a term of five years; United States Governor of the Asian Development Bank; United States Governor of the African Development Fund; United States Governor of the European Bank for Reconstruction and Development.

James B. Cunningham, of Pennsylvania, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Deputy Representative of the United States of America to the United Nations, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

Norman A. Wulf, of Virginia, a Career Member of the Senior Executive Service, to be a Special Representative of the President, with the rank of Ambassador.

Willene A. Johnson, of New York, to be United States Director of the African Development Bank for a term of five years.

Edward S. Walker, Jr., of Maryland, a Career Member of the Senior Foreign Service, Class of Career Minister, to be an Assistant Secretary of State (Near Eastern Affairs).

James D. Bindenagel, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, for the rank of Ambassador during tenure of service as Special Envoy and Representative of the Secretary of State for Holocaust Issues.

William B. Bader, of Virginia, to be an Assistant Secretary of State (Educational and Cultural Affairs). (New Position)

Peter T. King, of New York, to be a Representative of the United States of America to the Fifty-fourth Session of the General Assembly of the United Nations.

J. Stapleton Roy, of Pennsylvania, a Career Member of the Senior Foreign Service with the Personal Rank of Career Ambassador, to be an Assistant Secretary of State (Intelligence and Research).

Joseph R. Crapa, of Virginia, to be an Assistant Administrator of the United States Agency for International Development.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. HELMS. Mr. President, for the Committee on Foreign Relations, I report favorably nomination lists which were printed in the RECORDS of February 23, 1999, and September 8, 1999, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

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

Foreign Service nominations beginning Samuel Anthony Rubino, and ending Christopher Lee Stillman, which nominations were received by Senate and appeared in CONGRESSIONAL RECORD of February 23, 1999.

Foreign Service nominations beginning George Carner, and ending Steven G. Wisecarver, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 8, 1999.

Foreign Service nominations beginning Johnnie Carson, and ending Susan H. Swart, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 8, 1999.

Foreign Service nominations beginning Rueben Michael Rafferty, and ending Stephen R. Kelly, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 8, 1999.

Foreign Service nominations beginning C. Miller Crouch, and Gary B. Pergl, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 8, 1999.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted on November 4, 1999:

By Mr. HATCH for the Committee on the Judiciary:

Ann Claire Williams, of Illinois, to be United States Circuit Judge for the Seventh Circuit;

Virginia A. Phillips, of California, to be United States District Judge for the Central District of California;

Faith S. Hochberg, of New Jersey, to be United States District Judge for the District of New Jersey;

Daniel J. French, of New York, to be United States Attorney for the Northern District of New York for the term of four years; and

Donna A. Bucella, of Florida, to be United States Attorney for the Middle District of Florida for the term of four years.

(The above nominations were reported with the recommendation that they be confirmed.)

By Ms. SNOWE for Mr. WARNER, for the Committee on Armed Services:

John K. Veroneau, of Virginia, to be an Assistant Secretary of Defense.

By Mr. WARNER, for the Committee on Armed Services:

Cornelius P. O'Leary, of Connecticut, to be a Member of the National Security Education Board for a term of four years; and

Alphonso Maldon, Jr., of Virginia, to be an Assistant Secretary of Defense.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Gen. John P. Jumper, 7457

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. Gregory S. Martin, 6337

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Bruce A. Carlson, 4082

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under Title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Stephen B. Plummer, 9541

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. William F. Smith, III, 2744

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general, medical corps

Col. Lester Martinez-Lopez, 1323

The following named officers for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., section 12203:

To be major general

Celia L. Adolphi, 1255
James W. Comstock, 5456
Robert M. Kimmitt, 0719
Paul E. Lima, 5295
Thomas J. Matthews, 5463
Jon R. Root, 3255
Joseph L. Thompson, III, 2211
John R. Tindall, Jr., 1967
Gary C. Wattnem, 0832

To be brigadier general

Alan D. Bell, 4514
Kristine K. Campbell, 7499
Wayne M. Erck, 5508
Stephen T. Gonczy, 6064
Robert L. Heine, 0778
Paul H. Hill, 7335
Rodney M. Kobayashi, 6985
Thomas P. Maney, 4820
Ronald S. Mangum, 2280
Randall L. Mason, 7302
Paul E. Mock, 9132
Collis N. Phillips, 1258
Michael W. Symanski, 1020
Theodore D. Szakmary, 7249
David A. VanKleeck, 9555
George H. Walker, Jr., 7542
William K. Wedge, 9145

(The above nominations were reported with the recommendation that they be confirmed)

Mr. WARNER. Mr. President, for the Committee on Armed Services, I report favorably nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

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

Navy 15 nominations beginning George R. Arnold, and ending Todd S. Weeks, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 18, 1999

Air Force 507 nominations beginning Joseph A. Abbott, and ending Thomas J. Zuzack, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 27, 1999.

Army 1 nomination of Joel R. Rhoades, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of October 27, 1999.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CAMPBELL:

S. 1851. A bill to amend the Elementary and Secondary Education Act of 1965 to ensure that seniors are given an opportunity to serve as mentors, tutors, and volunteers for certain programs; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BENNETT:

S. 1852. A bill to authorize the Secretary of the Interior to enter into contracts with the Weber Basin Water Conservancy District, Utah, to use Weber Basin Project facilities

for the impounding, storage, and carriage of nonproject water for domestic, municipal, industrial, and other beneficial purposes; to the Committee on Energy and Natural Resources.

By Ms. COLLINS (for herself and Ms. SNOWE):

S. 1853. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel FRITHA; to the Committee on Commerce, Science, and Transportation.

By Mr. HATCH (for himself, Mr. KOHL, and Mr. DEWINE):

S. 1854. A bill to reform the Hart-Scott-Rodino Antitrust Improvements Act of 1976; to the Committee on the Judiciary.

By Mr. MURKOWSKI:

S. 1855. A bill to establish age limitations for airmen; to the Committee on Commerce, Science, and Transportation.

By Mr. SCHUMER (for himself and Mr. TORRICELLI):

S. 1856. A bill to amend title 28 of the United States Code to authorize Federal district courts to hear civil actions to recover damages or secure relief for certain injuries to persons and property under or resulting from the Nazi government of Germany; to the Committee on the Judiciary.

By Mr. DOMENICI:

S. 1857. A bill to provide for conveyance of certain Navajo Nation lands located in northwestern New Mexico and to resolve conflicts among the members of such Nation who hold interests in allotments on such lands; to the Committee on Indian Affairs.

By Mr. BREAUX:

S. 1858. A bill to revitalize the international competitiveness of the United States-flag maritime industry through tax relief; to the Committee on Finance.

By Mr. GRAMS:

S. 1859. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit to taxpayers investing in economically distressed rural communities, and for other purposes; to the Committee on Finance.

By Mr. GRAMS:

S. 1860. A bill to amend the Internal Revenue Code of 1986 to expand income averaging to small agriculture-related businesses; to the Committee on Finance.

S. 1861. A bill to amend the Internal Revenue Code of 1986 to provide comprehensive tax relief for small family farmers, and for other purposes; to the Committee on Finance.

By Mr. JEFFORDS:

S. 1862. A bill entitled ''Vermont Infrastructure Bank Program''; to the Committee on Environment and Public Works.

By Mr. BAUCUS:

S. 1863. A bill to amend the Internal Revenue Code of 1986 to provide an incentive to small businesses to establish and maintain qualified pension plans by allowing a credit against income taxes for contributions to, and start-up costs of, the plan; to the Committee on Finance.

By Mr. BURNS:

S. 1864. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit to primary health providers who establish practices in health professional shortage areas; to the Committee on Finance.

By Mr. DEWINE (for himself and Mr. DOMENICI):

S. 1865. A bill to provide grants to establish demonstration mental health courts; to the Committee on the Judiciary.

By Mr. SMITH of New Hampshire (for himself, Mr. BAUCUS, Mr. CRAPO, Mr. REID, Mr. CHAFEE, Mr. LOTT, Mr. DASCHLE, Mr. WARNER, Mr. INHOFE, Mr. THOMAS, Mr. BOND, Mr. VOINOVICH, Mr. BENNETT, Mrs. HUTCHISON, Mr. MOYNIHAN, Mr. LAUTENBERG, Mr. GRAHAM, Mr. LIEBERMAN, Mrs. BOXER, Mr. WYDEN, Ms. SNOWE, Ms. COLLINS, Mr. REED, Mr. DODD, Mr. KENNEDY, Mr. KERRY, Mr. LEAHY, Mr. JEFFORDS, and Mr. GREGG):

S. 1866. A bill to redesignate the Coastal Barrier Resources System as the ''John J. Chafee Coastal Barrier Resources System''; considered and passed.

By Mr. SMITH of New Hampshire:

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

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. INHOFE (for himself, Mr. WARNER, Mr. ROBERTS, and Mr. LOTT):

S. Res. 220. A resolution expressing the sense of the Senate regarding the February 2000 deployment of the U.S.S. Eisenhower Battle Group and the 24th Marine Expeditionary Unit to an area of potential hostilities and the essential requirements that the battle group and expeditionary unit have received the essential training needed to certify the warfighting proficiency of the forces comprising the battle group and expeditionary unit; to the Committee on Armed Services.

STATEMENTS OF INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CAMPBELL:

S. 1851. A bill to amend the Elementary and Secondary Education Act of 1965 to ensure that seniors are given an opportunity to serve as mentors, tutors, and volunteers for certain programs; to the Committee on Health, Education, Labor, and Pensions.

THE SENIORS AS VOLUNTEERS IN OUR SCHOOLS ACT OF 1999

Mr. CAMPBELL. Mr. President, today I introduce the ''Seniors As Volunteers in Our Schools Act of 1999,'' a bill which will be an important step in ensuring that our schools provide a safe and caring place for our children to learn and grow. This bill will help build lasting partnerships between our local school systems, our children and our country's growing number of senior citizens.

Under the bill, school administrators and teachers are encouraged to use qualified seniors as volunteers in federally funded programs and activities authorized by the Elementary and Secondary Education Act (ESEA.) It specifically encourages the use of seniors as volunteers in the safe and drug free schools programs, Indian education programs, the 21st Century Community before- and after-school programs and gifted and talented programs. I believe the best way to get older Americans to serve as volunteers is to ask them. My bill does just that.

The Seniors as Volunteers in Our Schools Act creates no new programs; rather it suggests another allowable use of funds already allocated. The discretion whether to take advantage of this new resource continues to remain solely with the school systems.

Studies show that consistent guidance by a mentor or caring adult can help reduce teenage pregnancy, substance abuse and youth violence. Evidence also shows that the presence of adults on playgrounds, and in hallways and study halls, stabilizes the learning environment. And recently, the Colorado School Safety Summit, convened by Governor Bill Owens, recommended connecting each child to a caring adult as a way to reduce youth violence.

Our country is in the midst of an age revolution. There are twice as many older adults today as there were 30 years ago. America now possesses not only the largest, but also the healthiest, best-educated, and most vigorous group of seniors in history.

In the years ahead, an increasing number of us will be living decades longer than our own parents and grandparents. We need to think of those extra years of life as a resource. I believe seniors can be role models and share the wisdom, experience, and skills they have acquired over a lifetime of learning.

I know firsthand of the importance of mentoring based on my own experiences as a teacher. A mentor can have a profound positive impact on a child's life.

What better way to expand the number of mentors than to invite our seniors/elders to volunteer in schools? What better way to make our schools safer for our children than to have more adults visibly involved?

I do not expect this legislation to solve all the problems confronting our schools today. But, I see it as a practical way to help make our schools safer, more caring places for our children. If our institutions create opportunities that allow them to make a genuine contribution, I believe America's growing senior population can play an important role in supporting our nations' schools. And, older adults have what the working-age population lacks: time.

I urge my colleagues to support passage of this legislation.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 1851

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 ''Seniors as Volunteers in Our Schools Act''.

SEC. 2. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

SEC. 3. GOVERNOR'S PROGRAMS.

Section 4114(c) (20 U.S.C. 7114(c)) is amended—

(1) in paragraph (11), by striking ''and'' after the semicolon;

(2) by redesignating paragraph (12) as paragraph (13); and

(3) by inserting after paragraph (11) the following:

''(12) drug and violence prevention activities that use the services of appropriately qualified seniors for activities that include mentoring, tutoring, and volunteering; and''.

SEC. 4. LOCAL DRUG AND VIOLENCE PREVENTION PROGRAMS.

Section 4116(b) (20 U.S.C. 7116(b)) is amended—

(1) in paragraph (2), by inserting ''(including mentoring by appropriately qualified seniors)'' after ''mentoring'';

(2) in paragraph (2)(C)—

(A) in clause (ii), by striking ''and'' after the semicolon;

(B) in clause (iii), by inserting ''and'' after the semicolon; and

(C) by adding after clause (iii) the following:

''(iv) drug and violence prevention activities that use the services of appropriately qualified seniors for such activities as mentoring, tutoring, and volunteering;'';

(3) in paragraph (4)(C), by inserting ''(including mentoring by appropriately qualified seniors) after ''mentoring programs''; and

(4) in paragraph (8), by inserting ''and which may involve appropriately qualified seniors working with students'' after ''settings''.

SEC. 5. NATIONAL PROGRAMS.

Section 4121(a) (20 U.S.C. 7131(a)) is amended—

(1) in paragraph (10), by inserting '', including projects and activities that promote the interaction of youth and appropriately qualified seniors'' after ''responsibility''; and

(2) in paragraph (13), by inserting '', including activities that integrate appropriately qualified seniors in activities, such as mentoring, tutoring, and volunteering'' after ''title''.

SEC. 6. GIFTED AND TALENTED CHILDREN.

Section 10204(b)(3) (20 U.S.C. 8034(b)(3)) is amended by striking ''and parents'' and inserting '', parents, and appropriately qualified senior volunteers''.

SEC. 7. 21ST CENTURY COMMUNITY LEARNING CENTERS.

Section 10904(a)(3) (20 U.S.C. 8244(a)(3)) is amended—

(1) in subparagraph (D), by striking ''and'' after the semicolon;

(2) by redesignating subparagraph (E) as subparagraph (F); and

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

''(E) a description of how the school or consortium will encourage and use appropriately qualified seniors as volunteers in activities identified under section 10905; and''.

SEC. 8. AUTHORIZED SERVICES AND ACTIVITIES.

Section 9115(b) (20 U.S.C. 7815(b)) is amended—

(1) in paragraph (6), by striking ''and'' after the semicolon;

(2) in paragraph (7), by striking the period and inserting ''; and''; and

(3) by inserting after paragraph (7) the following:

''(8) activities that recognize and support the unique cultural and educational needs of Indian children, and incorporate appropriately qualified tribal elders and seniors.''.

SEC. 9. IMPROVEMENTS OF EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN.

Section 9121(c) (20 U.S.C. 7831(c)) is amended—

(1) by redesignating subparagraph (K) as subparagraph (L);

(2) in subparagraph (J), by striking ''or'' after the semicolon; and

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

''(K) activities that recognize and support the unique cultural and educational needs of Indian children, and incorporate appropriately qualified tribal elders and seniors; or''.

SEC. 10. PROFESSIONAL DEVELOPMENT.

Section 9122(d)(1) (20 U.S.C. 7832(d)(1)) is amended by striking the period the second place it appears and inserting '', and may include programs designed to train tribal elders and seniors.''.

SEC. 11. NATIVE HAWAIIAN COMMUNITY-BASED EDUCATION LEARNING CENTERS.

Section 9210(b) (20 U.S.C. 7910(b)) is amended—

(1) by redesignating paragraph (3) as paragraph (4);

(2) in paragraph (2), by striking ''and''; and

(3) by inserting after paragraph (2) the following:

''(3) programs that recognize and support the unique cultural and educational needs of Native Hawaiian children, and incorporate appropriately qualified Native Hawaiian elders and seniors; and''.

SEC. 12. ALASKA NATIVE STUDENT ENRICHMENT PROGRAMS.

Section 9306(b) (20 U.S.C. 7935(b)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following:

''(3) activities that recognize and support the unique cultural and educational needs of Alaskan Native children, and incorporate appropriately qualified Alaskan Native elders and seniors;''.

By Mr. BENNETT:

S. 1852. A bill to authorize the Secretary of the Interior to enter into contracts with the Weber Basin Water Conservancy District, Utah, to use Weber Basin Project facilities for the impounding, storage, and carriage of nonproject water for domestic, municipal, industrial, and other beneficial purposes; to the Committee on Energy and Natural Resources.

THE USE OF WEBER BASIN PROJECT FACILITIES FOR NONPROJECT WATER

● Mr. BENNETT. Mr. President, I am pleased to take a step in addressing the long-term water needs of Summit County, Utah. The bill I am introducing today authorizes the Secretary of the Interior to enter into contracts with the Weber Basin Water Conservancy District. This legislation would permit non-federal water intended for domestic, municipal, industrial, and other uses to utilize federal facilities of the original Weber Basin Project for various purposes such as storage and transportation.

In this case, the Smith Morehouse Dam and Reservoir was constructed by the Weber Basin Water Conservancy District in the early 1980's using local funding resources in order to create a supply of non-federal project water. However, it has been determined that there is currently a need to deliver approximately 5,000 acre feet of this non-federal Smith Morehouse water in conjunction with approximately 5,000 acre feet of federal Weber Basin project water to the Snyderville Basin area of Summit County, Utah and to Park City, Utah.

In 1996, the Weber Basin Water Conservancy District entered into a Memorandum of Understanding and Agreement to deliver this water approximately 14 miles from Weber Basin Weber River sources within a certain time frame and dependent upon the execution of an Interlocal Agreement with Park City and Summit County. The Warren Act requires that legislation be enacted to enable the District to move ahead with this agreement with Summit County and Park City to deliver the water utilizing built Weber Basin Project facilities built by the Bureau of Reclamation.

There is an immediate need for the delivery of water to this area. The Utah State Engineer halted the approval of new groundwater developments in the area last year. At the same time, Summit county is experiencing tremendous growth; in fact it is one of the highest growth areas in the state. The areas to be served are within the area taxed by the Weber Basin District, and there is a definite need for a public entity to build a project to supply an adequate, reliable, and cost effective water delivery project to meet the future demands of this area.

Since there is precedent allowing the wheeling of non-federal water through federal facilities, my colleagues should realize that this is a non-controversial piece of legislation. Therefore, I hope that Congress will move quickly to pass this legislation next session and I look forward to working closely with my colleagues on the Energy Committee to move it quickly.●

By Mr. HATCH (for himself, Mr. KOHL, and Mr. DEWINE):

S. 1854. A bill to reform the Hart-Scott-Rodino Antitrust Improvements Act of 1976; to the Committee on the Judiciary.

THE HART-SCOTT-RODINO ANTITRUST IMPROVEMENTS ACT OF 1999

Mr. HATCH. Mr. President, I am pleased to introduce today the Hart-Scott-Rodino Antitrust Improvements Act of 1999. I also am pleased to note that joining with me in sponsoring this important bipartisan legislation are Senators DEWINE and KOHL the chairman and ranking member of the Antitrust, Business Rights and Competition Subcommittee of the Committee on the Judiciary. I thank my colleagues on both sides of the aisle for their efforts and cooperation in working to craft this balanced reform measure which is long overdue.

The Hart-Scott-Rodino Antitrust Improvements Act of 1976 requires companies contemplating a merger of acquisition to file a premerger notification with the Antitrust Division of the Department of Justice or the Federal Trade Commission if the size of the companies and the size of the proposed transaction are greater than certain

monetary thresholds. These monetary thresholds have not been changed—even for inflation—since the legislation was originally enacted in 1976, over 23 years ago. When the statute was first enacted, Congress intended to limit the scope of the Hart-Scott-Rodino Act to very large companies involved in very large transactions. At that time, the House Judiciary Committee reported that the statute would apply ''only to the largest 150 mergers annually: These are the most likely to 'substantially lessen competition'—the legal standard of the Clayton act.'' However, because the monetary thresholds in the statute have never been updated, nearly 5,000 transactions were reported.

Because these monetary thresholds have not been kept current, companies frequently are required to notify the Antitrust Division and the FTC of proposed transactions that do not raise competitive issues. As a result, the agencies are required to expend valuable resources performing needless reviews of transactions that were never intended to be reviewed. In short, current law unnecessarily imposes a costly regulatory and financial burden upon companies, particularly upon small businesses, as well as a sizable drain on the resources of the agencies. Because of the unnecessarily low monetary thresholds, the current Act simply fails to reflect the true economic impact of mergers and acquisitions in today's economy.

In addition, after a premerger notification is filed, the Hart-Scott-Rodino Act imposes a 30-day waiting period during which the proposed transaction may not close and the Antitrust Division or the FTC conducts an antitrust investigation. Prior to the expiration of this waiting period, the agency investigating the transaction may make a ''second request''—a demand for additional information or documentary material that is relevant to the proposed transaction. Unfortunately, many second requests require the production of an enormous volume of materials, many of which are unnecessary for even the most comprehensive merger review. Complying with such second requests has become very burdensome, often costing companies in excess of $1 million to comply. Second requests also extend the waiting period for an additional 20 days, a period of time which does not begin to run until the agencies have determined that the transacting companies have ''substantially complied'' with the second request. This procedure results in many lawful transactions being unnecessarily delayed for extended periods of time.

Mr. President, the legislation that I am introducing today will correct these problems with the Hart-Scott-Rodino Act. First, the legislation increases the size-of-transaction threshold from $15 million to $35 million, effectively exempting from the Act's notification requirement mergers and acquisitions that, based on the FTC's data, do not pose any competitive concerns. Such mergers make up at least one-third of transactions reported in 1999. Therefore, this modest legislation provides significant regulatory and financial relief for small- and medium-sized companies. In addition, the legislation indexes the threshold for inflation, so that the problem of an expanding economy outgrowing the statute's monetary threshold will not recur.

In addition to providing regulatory and financial relief for companies, another purpose of this legislation is to ensure that the Antitrust Division and the FTC efficiently allocate their finite resources to those transactions that truly deserve antitrust scrutiny. To ensure budget neutrality, the legislation adjusts the amount of the filing fee that parties must submit with their notification: For transactions valued between $35 million and $100 million, the filing fee remains unchanged at $45,000; for transactions valued at more than $100 million, the filing fee is increased to $100,000. I have worked with the business community to ensure that this filing fee adjustment is fair by imposing a higher fee on transactions which likely will require more of the agencies' resources to review. Although I would prefer that the filing fees be eliminated completely, in the interest of seeing the reforms in this bill become law, this legislation does not include such a measure.

Second, this legislation reforms the second request process by limiting the scope of the information and documents that the agencies may require transacting companies to produce. Under this legislation, second requests must be limited to information that (1) is not unreasonably cumulative or duplicative and (2) does not impose a cost or burden on the transacting parties that substantially outweighs any benefit to the agencies in conducting their antitrust review. If a company believes that the second request does not meet this standard, then that company may petition a United States magistrate judge for review of the second request. Similarly, if the company produces information and documents pursuant to a second request, but the agency determines that the company has not ''substantially compiled'' with the request, then the company also may petition the magistrate judge for a determination on substantial compliance. To ensure that proposed transactions are not unreasonably delayed, the bill provides deadlines by which the agency must notify a company of its failure to comply with a second request and also imposes certain controls, so that the process is not tied up in litigation by either the transacting party or the government.

Finally, this legislation requires that the Antitrust Division and the FTC jointly report to Congress annually regarding the second request process and jointly publish guidelines on how companies can comply with second requests.

Mr. President, the bill that I am introducing today sets forth reforms to the Hart-Scott-Rodino Act that are long overdue. It provides significant regulatory and financial relief for businesses, while ensuring that transactions that truly deserve antitrust scrutiny will continue to be reviewed. As this bill moves through the legislative process, I remain willing to address any concerns any of my colleagues may have, and look forward to working with the Administration to see that this proposed legislation becomes law, thereby providing relief for small business that is long overdue. I urge my colleagues to support the Hart-Scott-Rodino Antitrust Improvements Act of 1999.

Mr. KOHL. Mr. President, I rise today to co-sponsor the Hart-Scott-Rodino Antitrust Improvements Act of 1999 and to commend Chairman HATCH for his efforts on this legislation. This measure would amend the Hart-Scott-Rodino Act and make several changes to enhance the merger review process undertaken by the Antitrust Division of the Department of Justice and the Federal Trade Commission. We believe that reforms to this statute are long overdue—the threshold hasn't been changed since the statute's enactment in 1976—but we also view the proposals in this legislation as a starting point, and not necessarily the last word on this subject.

The Hart-Scott-Rodino Act is crucial to the enforcement of competition policy in today's economy—it ensure that the antitrust agencies have sufficient time to review mergers and acquisitions prior to their completion. The statute requires that, prior to consummating a merger or acquisition of a certain minimum size, the companies involved must formally notify the antitrust agencies and must provide certain information regarding the proposed transaction. For those transactions covered by the Act, the parties to a merger or acquisition may not close their transaction until the expiration of a thirty day waiting period after making their Hart-Scott-Rodino Act filing. This waiting period may be extended by the antitrust agencies requesting additional information from the parties to the transaction in which case, under current law, the parties may not complete the deal until twenty days after supplying the government with the requested information.

While this statute has a very laudable purpose, especially with the tremendous numbers of mergers and acquisitions taking place in recent years, some of its provisions are in need of revision. Most importantly, while inflation has caused the value of a dollar to drop by more than a half in the past 25 years, the monetary test that subjects a transaction to the provisions of the statute has not been revised since the law's enactment in 1976. As a result, many transactions that are of a relatively small size and pose little antitrust concerns are nevertheless swept

into the ambit of the Hart-Scott-Rodino review process. This legislation would raise the size of transaction covered by the Hart-Scott-Rodino Act from $15 million to $35 million. This will both lessen the agencies' burden of reviewing small transactions unlikely to seriously affect competition and enable the agencies to allocate their resources to properly focus on those transactions most worthy of scrutiny. Further, exempting smaller transactions from the Hart-Scott-Rodino process will significantly lessen regulatory burdens and expenses imposed on small businesses. The parties to these smaller transactions will no longer need to pay the $45,000 filing fee—or face the often even more onerous legal fees and other expenses typically incurred in preparing a Hart-Scott-Rodino filing—for mergers and acquisitions that usually don't pose any competitive concerns.

In exempting this class of transactions from Hart-Scott-Rodino review, however, it is important that we not cause the antitrust agencies to lose the funding they need to carry out their increasingly demanding mission of enforcing the nation's antitrust laws. Therefore, we have attempted to ensure that our measure is revenue-neutral—indeed, it would raise filing fees for transactions valued at over $100,000,000, which makes sense because these transactions require more scrutiny. In considering this legislation, of course, we will need to carefully study the budgetary implications of this reform to ensure that our goal of revenue-neutrality has been met. As this measure moves forward, however, we ought to consider whether bigger deals of, say, $1 billion or $10 billion and over should require higher fees.

This legislation makes other changes designed to enhance the efficiency of the pre-merger review process. The waiting period has been extended from twenty to thirty days after the parties' compliance with the government's request for additional information, a more realistic waiting period in this era of increasingly complex mergers generating enormous amounts of relevant information and documents. As in the Federal Rules of Civil Procedure, when a deadline for action occurs on a weekend or holiday, the deadline is extended to the next business day. This simple provision will eliminate gamesmanship by parties who currently may time their compliance so that the waiting period ends on a weekend or holiday, effectively shortening the waiting period to the previous business day.

Mr. President, some have expressed concerns regarding the difficulties and expense imposed on business in complying with allegedly overly burdensome or duplicative government requests for additional information. So we believe that it is reasonable to consider methods to prevent abuse of this process by overbroad or unreasonable requests. Therefore, this legislation includes provisions to amend the statute to add a right of appeal to a U.S. Magistrate Judge to adjudicate disputes regarding the propriety of government requests for additional information. We have not reached any final conclusions regarding the wisdom of these provisions; they are certainly worth ''floating'' as ideas, and the process will determine if they should be included as part of a final product. Further, we should keep in mind that if this right of appeal provision is enacted it will impose significant additional litigation burdens on the antitrust agencies which might require a corresponding increase in funding for these agencies. Our goal, again, is to improve the functioning of the pre-merger review system which is so vital to antitrust enforcement and, in that context, this provision deserves at least a supportive ''look.''

Mr. President, let me make one additional point. We recognize that all will not agree with the necessity or efficacy of all of these reform proposals. We are, of course, willing to consider any modification to this legislation that will advance our goals of a more efficient merger review process. But virtually everyone agrees that Hart-Scott-Rodino needs to be updated and we're pleased that this measure moves us forward.

By Mr. MURKOWSKI:

S. 1855. A bill to establish age limitations for airmen; to the Committee on Commerce, Science, and Transportation.

THE AIRLINE PILOT RETIREMENT AGE

Mr. MURKOWSKI. Mr. President, I rise to introduce legislation that attempts to diminish the scope of a problem that is facing our air transport industry, namely a critical shortage of pilots. The pilot shortage is starting to have effects in many rural states.

In response to this problem. I am today introducing a bill that would repeal the Federal Aviation Administration (FAA) rule which now requires pilots who fly under Part 121 to retire at ago 60. Under my legislation, pilots in excellent health would be allowed to continue to pilot commercial airliners until their 65th birthday.

The Age 60 rule was instituted 40 years ago when commercial jets were first entering service. The rule was established without the benefit of medical or scientific studies or public comment. The most recent study, the results of which were released in 1993, examined the correlation between age and accident rate as pilots approach 60. That study found no increase in accidents.

The FAA contends that although science does not dictate retirement at the age of 60, it is the age range when sharp increases in disease mortality and morbidity occur. In FAA's view it is too risky to allow older pilots to fly the largest aircraft, carrying the greatest number of passengers over the longest non-stop distances, in the highest density traffic.

However, 44 countries worldwide have relaxed then age 60 rule within the last ten years primarily because the pilot shortage is a worldwide phenomenon. Many of these air carriers currently fly into U.S. airspace.

One of the ways carriers are attempting to adapt to the shortage is to lower their flight time requirements. In my view, this is a risk factor the FAA should be concerned about.

How did this shortage occur? The reason is simple: There has been an explosive growth of the major airlines worldwide, and there's a shortage of military pilots who used to feed the system. In addition, there is an aging pilot pool that must retire at age 60.

Add to this domino effect the decline in the number of people learning to fly, due primarily to the cost, and the pool of available pilots has shrunk.

The shortage acutely affects my home state of Alaska because we depend on air transport far more than any other state. Rural residents in Alaska have no way out other than by air service. There are no rural routes, state or interstate highways serving most rural residents in Alaska and the airplane for many of them is their lifeline to the outside world.

The pilot shortage has left Alaskan carriers scrambling for pilots. Alaska's carriers must hire from the available pilot pool in the lower 48. Many of these pilots view flying in Alaska as a stepping stone that allows them to build up flight time. Although they get great flying experience in my home state, in nearly all instances when a pilot gets a higher-pay job offer with a larger carrier in the lower 48, he leaves Alaska.

According to the Alaska Air Carriers Association, raising the retirement age to 65 will help alleviate the shortage and keep experienced pilots flying and serving rural Alaskans.

Mr. President, I would note that what is happening across the country is that the major carriers are luring pilots from commuter airlines, who in turn recruit from the air charter and corporate industry, who in turn hire flight instructors, agriculture pilots, etc. Which leaves rural carriers strapped. The big fish are feeding off the little ones.

Small carriers simply cannot compete with the salaries, benefits and training costs of the major carriers. They simply do not have the financial resources.

According to figures provided by the Federal Aviation Administration, there were 694,000 pilots in 1988 and 616,342 in 1997. Within that number, private pilot certificates fell from approximately 300,000 in 1988 to 247,604 in 1997. Commercial certificates, like air taxi and small commuter pilots, fell from 143,000 in 1988 to 125,300 in 1997. The number of total pilots in Alaska fell from more than 10,000 in 1988 to approximately 8,700 in 1997.

However, light is beginning to show at the end of the tunnel.

Organizations such as the Aircraft Owners and Pilots Association (AOPA) and the General Aviation Manufacturers Association (GAMA) have been monitoring this shortage for some time and have stepped up to the plate to get people interested in flying. AOPA has started a pilot mentoring program in 1994 and approximately 30,000 have entered the program. GAMA's ''Be a Pilot'' program is starting to bring more potential pilots into flight training.

Even the Air Force is starting to institute new programs to keep pilots.

In Alaska, as a result of a precedent-setting program involving Yute Air, the Association of Village Council Presidents, the University of Alaska, Anchorage, Aero Tech Flight Service, Inc., and the FAA, a program was developed to train rural Alaska Natives to fly. Seven are on their way to pilot careers.

Also, the number of students working on pilot licenses at the University's Flight Technology program has almost doubled in two years.

It is my hope that the shortage has hit rock bottom. But even so, it will take years before a cadre of qualified pilots is ready to take to the friendly skies.

Mr. President, the time has come for Congress to wrestle with this problem. As long as a pilot can pass the rigorous medical exam, he or she should be allowed to fly. Air service is critical to keep commerce alive, especially in rural states.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1855

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AGE AND OTHER LIMITATIONS.

(a) GENERAL.—Notwithstanding any other provision of law, beginning on the date that is 30 days after the date of enactment of this Act—

(1) section 121.383(c) of title 14, Code of Federal Regulations, shall not apply;

(2) no certificate holder may use the services of any person as a pilot on an airplane engaged in operations under part 121 of title 14, Code of Federal Regulations, if that person is 65 years of age or older; and

(3) no person may serve as a pilot on an airplane engaged in operations under part 121 of title 14, Code of Federal Regulations, if that person is 65 years of age or older.

(b) CERTIFICATE HOLDER.—For purposes of this section, the term ''certificate holder'' means a holder of a certificate to operate as an air carrier or commercial operator issued by the Federal Aviation Administration.

By Mr. DOMENICI:

S. 1857. A bill to provide for conveyance of certain Navajo Nation lands located in northwestern New Mexico and to resolve conflicts among the members of such Nation who hold interests in allotments on such lands; to the Committee on Indian Affairs.

● Mr. DOMENICI. Mr. President, I am pleased today to be introducing the Bisti PRLA Dispute Resolution Act, which will resolve a conflict regarding coal mining leases in New Mexico. A coal company and the Navajo Nation have been deadlocked within the Department of Interior appeals process regarding preference right lease applications (PRLAs) in the Bisti region of northwestern New Mexico. When enacted, this legislation will resolve a complex set of issues arising from legal rights the Arch Coal Company acquired in federal lands, which are now situated among lands which constitute tribal property and the allotments of members of the Navajo Nation. Both the company and the Nation support this legislation to resolve the situation.

There are many reasons the solution embodied in this bill achieves broad benefits to the interested parties and the public. It will allow the Navajo Nation to complete the land selections that were made in 1981 to promote tribal member resettlement following the partition of lands in Arizona. It also guarantees that Arch Coal, Inc. will be compensated for the economic value of its coal reserves. An independent panel will make recommendations to the Secretary of Interior regarding the fair market value of the coal reserves, gives the company bidding rights, protects a state's financial interest in its share of federal Mineral Leasing Act payments, and allows the Navajo Nation full fee ownership in their lands.

The Secretary of Interior will issue a certificate of bidding rights to Arch Coal upon relinquishment of its interests in the PLRAs. The amount of that certificate will equal the fair market value of the coal reserves as defined by the Department of Interior's regulations. A panel consisting of representatives of the Department of Interior, Arch Coal, and the Governors of Wyoming and New Mexico will help determine fair market value. While the Interior Department is authorized to exchange PRLAs for bidding rights, the Department has not done so, largely because of the difficulty it perceives in determining the fair market value of the coal reserves. The panel method in this legislation will promote the objectivity of that process.

Upon the relinquishment of the PRLAs and the issuance of a certificate of bidding rights, the Department of Interior will execute patents to the Navajo Nation of the selected lands encompassed by the PRLAs. This is a win-win situation for all parties involved; is endorsed by the affected parties, and is a fair resolution to this ongoing problem. I hope for prompt action on this legislation early next year.●

By Mr. BREAUX:

S. 1858. A bill to revitalize the international competitiveness of the United States-flag maritime industry through tax relief; to the Committee on Finance.

THE NATIONAL SECURITY SEALIFT ENHANCEMENT ACT OF 1999

Mr. BREAUX. Mr. President, I am pleased today to introduce tax reform legislation that is long overdue in the effort to revitalize the nation's fourth arm of defense, the United States flag merchant marine. My bill, the National Security Sealift Enhancement Act of 1999, would provide targeted tax relief to enable the United States-flag ocean-going commercial fleet to better compete with foreign-flag commercial fleets registered in nations that have exempted companies from taxes.

Currently, United States companies operating U.S.-flag vessels, and foreign-flag vessels operating under the application of national laws such as Japan or France, are forced to compete against companies that operate vessels under flag-of-convenience registries. Flag-of-convenience shipping registries operate under the legal authority of nations such as Panama, Liberia, Vanuatu, or the Marshall Islands, and attract shipping companies because of the deminimus regulatory costs they impose on companies operating under their flag. All of these nations exempt companies from taxes on income, and employees operating on the vessels do not pay tax on income they earn working aboard. The owners can employ foreign laborers, usually from third world nations, for very little pay, often working in unacceptable conditions. Additionally, the vessel operations are not required to comply with rigorous United States Coast Guard safety and environmental standards, and these operators use private companies to inspect their vessels to ensure that they are in compliance with international safety laws.

Mr. President, we are all well aware of the critical role played by the American maritime industry in the economy of Louisiana and our nation. In my home state alone, the total economic impact of that industry was estimated in 1997 to be over $28 billion, supporting approximately 230,000 jobs throughout Louisiana. That economic impact constitutes almost 30 percent of the total gross state product for Louisiana. Louisiana companies were among the first to respond to the nation's call to provide for the rapid transport of critical equipment, munitions, and supplies to the Persian Gulf in those critical days following the 1990 Iraqi invasion of Kuwait. However, the very existence of the American flag fleet, and thus the related economic and national defense benefits that flow from that fleet, are severely threatened by U.S. tax rules that unfairly hamper and restrict American shipping.

I have worked from the first days of my arrival in the Congress to strengthen the U.S.-flag maritime industry and level the playing field in international shipping. Despite the well-intentioned efforts of the Congress, the Maritime Administration and other federal agencies to support the U.S.-flag commercial fleet, unfavorable and clearly non-competitive U.S. tax policies have led

to the continuing decline of that fleet. In fact, according to statistics maintained by the Maritime Administration, the commercial fleet of the United States has fallen into 11th place internationally, in total carrying capacity, ranking behind those fleets of Panama, Liberia, Malta, the Bahamas, and other nations who offer significant economic and tax advantages to their commercial vessels and crews.

These same issues have also plagued other industrialized nations that operate shipping under the application of national laws and policies. For instance, between the period of 1975 and 1992, the national flag fleet operations in terms of deadweight carrying capacity decreased by 94% in the United Kingdom, 98% in Norway, 73% in France, 53% in Germany, 73% in Sweden, 98% in Denmark, and 47% in Japan.

In order to combat decreases in the operation of shipping under national registries, nations have taken steps to provide direct subsidies or indirect support schemes that help owners offset the higher costs of operating under national laws. Other nations, such as Denmark and Norway, have created what are called international registries, or open registries, and have reduced taxes and societal costs to help offset the costs as compared to flag-of convenience vessels. Out of the eleven largest shipping registries, by carrying capacity, seven operate as flag-of-convenience registries or open registries. The other four nations are Greece, Japan, the People's Republic of China (which operates it's fleet as a governmentally controlled entity), and the United States.

Mr. President, what is even more astounding is that the percentage of cargoes carried by U.S.-flag vessels in the foreign trades has also declined precipitously. At the end of World War II, after we had been forced to rebuild our shipping fleet in order to satisfy our defense logistic needs, almost 60 percent of the U.S. oceanborne commerce in international trade was carried aboard U.S.-flag vessels. Today, that figure is a mere 3 percent. To state this another way, 97 out of every 100 tons of cargo imported into or exported from the United States is carried aboard foreign-flagged ships. Through a wide variety of favorable tax incentives, including in most cases a total exemption from taxation, many foreign jurisdictions have succeeded in developing commercial maritime fleets that far exceed the capacity of that in the U.S.

What truly concerns me is that the United States is rapidly undermining its very national security through its failure to enable the U.S.-flag commercial fleet to compete on an equal footing with foreign-flagged shipping. I recognize the strategic importance of the U.S.-flag merchant marine and American merchant mariners, and share the views of other senior political and military leaders that the ability of the U.S. to move its military personnel and supplies overseas quickly and effectively is critical to its national security. The United States cannot rely on foreign allies to achieve our national security objectives. We must be able to act decisively, and to act unilaterally, when our strategic interests are jeopardized. To ensure the maritime industry's ability to accomplish this crucial task, the military utilizes privately-owned U.S.-flagged commercial vessels to supplement the military's own transportation systems in both times of war and peace. Without such capability, the military would have to build and operate, at a significantly greater expense to the government and ultimately the U.S. taxpayers, many more military transport vessels to ensure it can effectively respond to military contingencies in a timely manner.

As General Colin Powell so accurately observed following the Persian Gulf War in 1991:

> Our [nation's] strategy requires us to be able to project power quickly and effectively across the oceans to deal with the crisis we couldn't avoid or predict. Sealift will be critical to fulfilling this strategic requirement. . . . [The military] also acknowledges that the merchant marine and our maritime industry will be vital to our national security for many years to come . . .

We simply cannot stand idly by while this vital national security asset is undercut through counter productive tax policies that do not allow the U.S.-flag commercial fleet to operate competitively, in the most competitive of all markets—that of international shipping.

Mr. President, to preserve that vital national security asset, I believe it is essential to provide a tax environment for U.S.-flag carriers that more closely approaches the favorable tax treatment provided by other maritime nations to their own merchant fleets, while also creating incentives for the construction of new vessels in U.S. shipyards. Foreign tax incentives have significantly undermined the ability of the U.S. to retain a viable commercial fleet for defense purposes and to enhance the balance of trade. By way of example, U.S.-flag commercial vessel operators must pay a 34 percent tax on corporate income and a 50 percent duty on vessel repairs made in foreign countries; they are subject to far more restrictive (and expensive) Coast Guard and other federal operational and safety requirements; and their crewmembers engaged in the foreign trade do not share in the tax relief otherwise provided to U.S. citizens working abroad. On the other hand, owners of foreign-flagged vessels of the Bahamas, Liberia, Malta, Panama and many other countries are totally exempt from any taxation. Therefore, it is not surprising to see that the Bahamas, Liberia, Malta, and Panama have four of the top five commercial fleets in the world, and that vessel owners from around the world regularly register their ships with these countries to avoid taxation.

Mr. President, I am not proposing to exempt U.S.-flag vessel owners from U.S. income taxes. Rather, I have developed a comprehensive yet narrowly focused bill that provides the necessary relief to alleviate the tax burden on the U.S.-flag fleet. This legislation is designed to provide a tax environment for U.S.-flag carriers that more closely approaches the favorable tax treatment provided by other maritime nations to their own merchant fleets. The Act includes the following provisions:

Capital Construction Fund (CCF) Reform. Title I of the Act would expand the CCF to allow deposits of earnings from U.S. flag, foreign-built ships to be contributed to a CCF for the construction of vessels in the United States. Qualified withdrawals from a CCF would continue to apply only to U.S. built vessels and would be expanded to include vessels that operate between coastwise points of the United States. Contributions to a CCF would no longer be treated as preference items under the corporate Alternative Minimum Tax, and owners of U.S. flag ships would also be allowed to deposit into a CCF the duty arising from foreign ship repairs.

Election to Expense U.S. Flag Vessels. Significantly, for the majority of the foreign flag commercial fleet, there is no applicable depreciation schedule for commercial vessels because those vessels and their corporate owners and operators are totally exempt from income taxation. Other maritime nations that impose income taxes on commercial vessel operations still have depreciation schedules far more lenient than the anti-competitive 10-year schedule applicable to U.S.-flagged vessels. Therefore, in order to be internationally competitive, Title II of the Act would enable the owner of any U.S. flag vessel engaged in the international trade of the U.S. to fully deduct that vessel in the year in which the vessel is acquired and documented under the U.S. flag.

Seaman's Wage Exclusion. Consistent with the current policies and objectives of Section 911 of the Internal Revenue Code, Title III of the Act would extend the foreign earned income exclusion to American merchant mariners by changing the definition of ''foreign country'' to include a principal place of employment aboard a commercial vessel operating outside the United States, and amending the foreign residence test to include work aboard a vessel.

Alternative Minimum Tax Relief. In order to be internationally competitive, Title IV of the Act repeals the Alternative Minimum Tax (AMT) with respect to shipping income. No such tax exists on commercial vessels of any other foreign country, and the changes proposed elsewhere in this Act will essentially be meaningless if the AMT continues to apply to shipping income.

Deduction of Expenses. The existing tax provision which permits the deduction of expenses with respect to conventions, seminars or other meetings on U.S.-flag cruise vessels traveling between U.S. ports would be expanded by

Title V of the Act to include U.S.-flag cruises between the United States and foreign ports.

Mr. President, absent the tax reforms in the attached proposal, U.S.-flag carriers in Louisiana and elsewhere will continue to face a formidable tax cost disadvantage against foreign flag carriers, who pay little or no tax to their home countries. This cost differential impedes the ability of U.S.-flag carriers to compete in the global marketplace, as evidenced by the ever growing share of non-U.S. flag carriers currently carrying this nation's imports and exports. It is universally recognized that key components of a strong national economy are a strong national merchant marine and shipyard industrial base, and it is now appropriate to alleviate the tax burden on the U.S.-flag fleet and simultaneously promote construction in U.S. shipyards. I urge my colleagues to strongly support this legislation for the good of our American flag fleet and the security of our nation.

I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 1858

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 ''National Security Sealift Enhancement Act of 1999''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
TITLE I—CAPITAL CONSTRUCTION FUND
Sec. 101. Amendments of Internal Revenue Code of 1986.
Sec. 102. Amendment to the Tariff Act of 1930.
Sec. 103. Effective date.
TITLE II—ELECTION TO EXPENSE UNITED STATES FLAG VESSELS
Sec. 201. Election to expense certain United States flag vessels.
TITLE III—INCOME EXCLUSION FOR MERCHANT SEAMEN
Sec. 301. Income of merchant seaman excludable from gross income as foreign earned income.
TITLE IV—EXEMPTION FROM ALTERNATIVE MINIMUM TAX
Sec. 401. Exemption from alternative minimum tax for corporations that operate United States flag vessels.
TITLE V—CONVENTIONS OF UNITED STATES-FLAG CRUISE SHIPS
Sec. 501. Conventions on United States-flag cruise ships.

TITLE I—CAPITAL CONSTRUCTION FUND

SEC. 101. AMENDMENTS OF INTERNAL REVENUE CODE OF 1986.

(a) TREATMENT OF CERTAIN LEASE PAYMENTS.—

(1) Paragraph (1) of section 7518(e) of the Internal Revenue Code of 1986 is amended by striking ''or'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', or'', and by inserting after subparagraph (C) the following new subparagraph:

''(D) the payments of amounts which reduce the principal amount (as determined under regulations) of a qualified lease of a qualified vessel or container which is part of the complement of an eligible vessel.''.

(2) Paragraph (4) of section 7518(f) of such Code is amended by inserting ''or to reduce the principal amount of any qualified lease'' after ''indebtedness''.

(b) AUTHORITY TO MAKE DEPOSITS UNDER THE TARIFF ACT OF 1930.—

(1) Paragraph (1) of section 7518(a) of such Code is amended by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', and'', and by adding at the end the following new subparagraph:

''(E) the amount elected for deposit under subsection (i) of section 466 of the Tariff Act of 1930 (19 U.S.C. 1466).''.

(2) Subparagraph (A) of section 7518(d)(2) of such Code is amended to read as follows:

''(A) amounts referred to in subsections (a)(1)(B) and (E).''.

(c) AUTHORITY TO MAKE DEPOSITS FOR PRIOR YEARS BASED ON AUDIT ADJUSTMENTS.—Subsection (a) of section 7518 of such Code is amended by adding at the end thereof the following new paragraph:

''(4) DEPOSITS FOR PRIOR YEARS.—To the extent permitted by joint regulations, deposits may be made in excess of the limitation described in paragraph (1) (and any limitation specified in the agreement) for the taxable year if, by reason of a change in taxable income for a period taxable year that has become final pursuant to a closing agreement or other similar agreement entered into during the taxable year, the amount of the deposit could have been made for such prior taxable year.''.

(d) TREATMENT OF CAPITAL GAINS AND LOSSES.—

(1) Paragraph (3) of section 7518(d) of such Code is amended to read as follows:

''(3) CAPITAL GAIN ACCOUNT.—The capital gain account shall consist of—

''(A) amounts representing long-term capital gains (as defined in section 1222) on assets held in the fund, reduced by

''(B) amounts representing long-term capital losses (as defined in such section) on assets held in the fund.''.

(2) Subparagraph (B) of section 7518(d)(4) of such Code is amended to read as follows:

''(B)(i) amounts representing short-term capital gains (as defined in section 1222) on assets held in the fund, reduced by

''(ii) amounts representing short-term capital losses (as defined in such section) on assets held in the fund,''.

(3) Subparagraph (B) of section 7518(g)(3) of such Code is amended by striking ''gain'' and all that follows and inserting ''long-term capital gain (as defined in section 1222), and''.

(4) The last sentence of subparagraph (A) of section 7518(g)(6) of such Code is amended by striking ''20 percent (34 percent in the case of a corporation)'' and inserting ''the rate applicable to net capital gain under such section 1(h)(1)(C) or 1201(a), as the case may be''.

(e) COMPUTATION OF INTEREST WITH RESPECT TO NONQUALIFIED WITHDRAWALS.—

(1) Subparagraph (C) of section 7518(g)(3) of such Code is amended—

(A) by striking clause (i) and inserting the following new clause:

''(i) no addition to the tax shall be payable under section 6651, and'', and

(B) by striking ''paid at the applicable rate (as defined in paragraph (4))'' in clause (ii) and inserting ''paid in accordance with section 6601''.

(2) Subsection (g) of section 7518 of such Code is amended by striking paragraph (5) and (6) as paragraphs (4) and (5), respectively.

(3) Subparagraph (A) of section 7518(g)(5) of such Code, as redesignated by paragraph (2), is amended by striking ''paragraph (5)'' and inserting ''paragraph (4)''.

(f) OTHER CHANGES.—

(1) Paragraph (2) of section 7518(b) of such Code is amended by striking ''interest-bearing securities approved by the Secretary'' and inserting ''interest-bearing securities and other income-producing assets (including accounts receivable) approved by the Secretary''.

(2) The last sentence of paragraph (1) of section 7518(e) of such Code is amended by striking ''and containers'' each place it appears.

(3) Subparagraph (B) of section 543(a)(1) of such Code is amended to read as follows:

''(B) interest on amounts set aside in a capital construction fund under section 607 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1177), or in a construction reserve fund under section 511 of such Act (46 App. U.S.C. 1161),''.

(4) Subsection (c) of section 56 of such Code is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(5) Section 7518(e) is amended by adding at the end the following new paragraph:

''(3) QUALIFIED WITHDRAWAL.—In the case of amounts in any fund as of the date of the enactment of this paragraph, and any earnings thereon, for purposes of this subsection, the term 'qualified withdrawal' has the meaning given such term by applying subsection (i)(2) as of such date.''

''(g) DEFINITIONS.—Subsection (i) of Section 7518 of such Code is amended to read as follows:

''(i) DEFINITIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), terms used in this section shall have the same meaning as in section 607(k) of the Merchant Marine Act, 1936.

''(2) OTHER DEFINITIONS.—For the purposes of this section—

''(A) The term 'eligible vessel' means any vessel—

''(i) documented under the laws of the United States, and

''(ii) operated in the foreign or domestic commerce of the United States or in the fisheries of the United States.

''(B) QUALIFIED VESSEL.—The term 'qualified vessel' means any vessel—

''(i) constructed in the United States and, if reconstructed, reconstructed in the United States,

''(ii) documented under the laws of the United States, and

''(iii) which the person maintaining the fund agrees with the Secretary will be operated in the fisheries of the United States, or in the United States foreign, Great Lakes, noncontiguous domestic trade, or other oceangoing domestic trade between two coastal points in the United States or in support of operations conducted on the Outer Continental shelf.

''(C) VESSEL.—The term 'vessel' includes containers or trailers intended for use as part of the complement of one or more eligible vessels and cargo handling equipment which the Secretary determines is intended for use primarily on the vessel. The term 'vessel' also includes an ocean-going towing vessel or an ocean-going barge or comparable towing vessel or barge operated on the Great Lakes.

''(D) FOREIGN COMMERCE.—The terms 'foreign commerce' and 'foreign trade' have the meanings given such terms in section 905 of the Merchant Marine Act, 1936, except that these terms should include commerce or trade between foreign ports.

''(E) QUALIFIED LEASE.—The term 'qualified lease' means any lease with a term of at least 5 years.''

SEC. 102. AMENDMENT TO THE TARIFF ACT OF 1930.

Section 466 of the Tariff Act of 1930 (19 U.S.C. 1466) is amended by adding at the end the following new subsection:

''(i) ELECTION TO DEPOSIT DUTY INTO A CAPITAL CONSTRUCTION FUND IN LIEU OF PAYMENT TO THE SECRETARY OF THE TREASURY.—At the election of the owner or master of any vessel referred to in subsection (a) of this section which is an eligible vessel (as defined in section 7518(i)(2) of the Internal Revenue Code of 1986), the portion of any duty imposed by subsection (a) which is deposited in a fund established under section 607 of the Merchant Marine Act, 1936 shall be treated as paid to the Secretary of the Treasury in satisfaction of the liability for such duty.''

SEC. 103. EFFECTIVE DATE.

(A) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this title shall apply to taxable years ending after the date of the enactment of this Act.

(b) CHANGES IN COMPUTATION OF INTEREST.—The amendments made by section 101(e) shall apply to withdrawals made after December 31, 1998, including for purposes of computing interest on such a withdrawal for periods on or before such date.

(c) QUALIFIED LEASES.—The amendments made by section 101(a) shall apply to leases in effect on, or entered into after, December 31, 1998.

(d) AMENDMENT TO THE TARIFF ACT OF 1930.—The amendment made by section 102 shall apply with respect to entries not yet liquidated by December 31, 1998, and to entries made on or after such date.

TITLE II—ELECTION TO EXPENSE UNITED STATES FLAG VESSELS

SEC. 201. ELECTION TO EXPENSE CERTAIN UNITED STATES FLAG VESSELS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 179A the following new section:

''SEC. 179B. DEDUCTION FOR UNITED STATES FLAG VESSELS.

''(a) TREATMENT AS EXPENSES.—A taxpayer may elect to treat the cost of any vessel that is a qualified United States flag vessel as an expense which is not chargeable to its capital account.

''(b) YEAR IN WHICH DEDUCTION ALLOWED. The deduction under subsection (a) shall be allowed for the taxable year in which the vessel first becomes a qualified United States flag vessel.

''(c) DEFINITIONS.—

''(1) QUALIFIED UNITED STATES FLAG VESSEL.—For purposes of this section, the term 'qualified United States flag vessel'' means a United States flag vessel that is operated exclusively in the foreign trade of the United States.

''(2) COST.—For purposes of this section, the term 'cost' means an amount equal to the lesser of—

''(A) the purchase price of the vessel, or

''(B) the adjusted basis of the vessel, determined under section 1011, at the time that the vessel becomes a qualified United States flag vessel.

''(d) BASIS REDUCTION.—

(1) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

(2) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property which is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.''

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 263(a) of such Code is amended by striking ''or'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting ''; or'', and by adding at the end the following new subparagraph:

''(I) expenditures for which a deduction is allowed under section 179B.''.

(2) Subparagraph (B) of section 312(k)(3) of such Code is amended by striking ''or 179A'' each place it appears and inserting '', 179A, or 179B''.

(3) Subparagraph (C) of section 1245(a)(2) of such Code is amended by inserting ''179B,'' after ''179A,''.

(4) The table of sections for part VI of subchapter B of chapter 1 of such Code is amended by inserting after the item relating to section 179A the following new item:

''Sec. 179B. Deduction for United States flag vessels.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

TITLE III—INCOME EXCLUSION FOR MERCHANT SEAMEN

SEC. 301. INCOME OF MERCHANT SEAMAN EXCLUDABLE FROM GROSS INCOME AS FOREIGN EARNED INCOME.

(a) SECTION 911 EXCLUSION.—Section 911(d) of the Internal Revenue Code of 1986 (relating to citizens or residents of the United States living abroad) is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following:

''(9) APPLICATION TO CERTAIN MERCHANT MARINE CREWS.—In applying this section to an individual who is a citizen or resident of the United States and who is employed for a minimum of 90 days during a taxable year as a regular member of the crew of a vessel or vessels owned, operated, or chartered by a United States citizen—

''(A) the individual shall be treated as a qualified individual without regard to the requirements of paragraph (1); and

''(B) any earned income attributable to services performed by that individual so employed on such vessel while it is engaged in transportation between the United States and a foreign country or possession of the United States shall be treated (except as provided by subsection (b)(1)(B)) as foreign earned income regardless of where payments of such income are made.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after the date of the enactment of this Act.

TITLE IV—EXEMPTION FROM ALTERNATIVE MINIMUM TAX

SEC. 401. EXEMPTION FROM ALTERNATIVE MINIMUM TAX FOR CORPORATIONS THAT OPERATE UNITED STATES FLAG VESSELS.

(a) IN GENERAL.—Section 55 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(f) EXEMPTION FOR CORPORATIONS THAT OPERATE UNITED STATES FLAG VESSELS.—

''(1) IN GENERAL.—The tentative minimum tax of a corporation shall be zero for any taxable year in which the corporation is a qualified corporation.

''(2) DEFINITIONS.—For purposes of this subsection—

''(A) QUALIFIED CORPORATION.—The term 'qualified corporation' means any domestic corporation if—

''(i) substantially all of the assets of such corporation are related to the maritime transportation business, and

''(ii) such corporation owns or demise charters a fleet of 4 or more qualified United States flag vessels.

''(B) QUALIFIED UNITED STATES FLAG VESSEL.—The term 'qualified United States flag vessel' means a United States flag vessel having a deadweight tonnage of not less than 10,000 deadweight tons that is operated exclusively in the foreign trade of the United States during each of the 360 days immediately preceding the last day of the taxable year. Days during which the vessel is drydocked, surveyed, inspected, or repaired shall be considered days of operation for purposes of this subsection.

''(C) FOREIGN TRADE.—The term 'foreign trade' has the meaning given to such term by section 7518(i)(2).''

b. EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after the date of the enactment of this Act.

TITLE V—CONVENTIONS ON UNITED STATES-FLAG CRUISE SHIPS

SEC. 501. CONVENTIONS ON UNITED STATES-FLAG CRUISE SHIPS.

(a) IN GENERAL.—Section 274(h)(2) of the Internal Revenue Code of 1986 (relating to conventions on cruise ships) is amended by striking ''that—'' and all that follows through ''possessions of the United States.'' and inserting ''that the cruise ship is a vessel registered in the United States.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act.

By Mr. GRAMS:

S. 1859. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit to taxpayers investing in economically distressed rural communities, and for other purposes; to the Committee on Finance.

RURAL REVITALIZATION ACT OF 1999

S. 1860. A bill to amend the Internal Revenue Code of 1986 to expand income averaging to small agriculture-related businesses; to the Committee on Finance.

INCOME AVERAGING LEGISLATION

S. 1861. A bill to amend the Internal Revenue Code of 1986 to provide comprehensive tax relief for small family farmers, and for other purposes; to the Committee on Finance.

FARMER TAX RELIEF ACT OF 1999

Mr. GRAMS. Mr. President, I rise today to offer a multi-faceted package of tax cuts and federal program changes to help our nation's farmers weather this period of low commodity prices. I will first note that this bill is obviously not a cure-all for the farmers' plight, but significant tax reform is an essential component of creating an environment where farmers can thrive. Regulatory reform, crop insurance reform, and improvements in our agriculture trade policies are also critical elements of boosting farm income.

The bill I introduce is a collection of tax reform concepts that have been considered individually, but not as a package of comprehensive relief to farmers. Some were in the congressional tax cut package that the President summarily vetoed, denying relief to farmers, middle class workers, and small business owners. All of the provisions of this bill would benefit the farm community, and should not be tossed aside due to partisan posturing as was the case with this past summer's tax relief bill. By offering this multi-part

legislation, I hope to provide a vehicle to move comprehensive tax relief for an important sector in the American economy and culture that has not shared in the prosperity of recent years.

The first provision in this legislation is the Farm and Ranch Risk Management Accounts, which were also a part of the recent tax cut bill that the President vetoed. This provision would allow producers to put up to 20% of net farm income in a tax deferred account where the funds could be held in reserve for up to five years for financial emergencies. Farmers operate in a volatile market, and they need all the risk management tools we can provide. When farmers earn a profit they usually invest in additional farm assets, and this would give them a tax incentive and opportunity to instead save more income as a buffer during down cycles.

The second provision of my tax bill would accelerate the 100% deductibility of health insurance premiums for the self-employed to make them immediately effective, rather than the full phase-in by 2003. I will note again that this was one of the critical provisions in the tax cut bill that was vetoed by the President, and is also included in my health care legislation. Farmers should not receive the same tax considerations on health benefits as everyone else who obtains insurance through their employment, so that they do not have to choose between decent health care and other necessities of life. This provision equalizes the tax treatment for these farmers.

The third provision would raise the effective exemption from estate taxes to $5 million and raise the gift tax exemption to $25,000. According to USDA figures, farmers are six times more likely to face inheritance taxes than other Americans. Farmers must farm more and more acres now to just eke out a humble income. Thus, they accumulate large capital investments through the years that provide them a modest living, but when they die their estate is treated as if they were very rich, and many have never even had a new pickup. Many of these families want to leave their property to their children, so that they can continue the heritage of farming the land. However, the estate tax can reach such prohibitive levels that sometimes the property must be sold to satisfy the insatiable tax revenue appetite of the federal government.

At the present time, the average age of farmers is 58 years old. We are just a few years from a period of significant transfers of real property from one generation to another. With all the obstacles to success that producers currently face, why is the federal government adding to their burdens by jeopardizing the time honored tradition of passing the family farm down from generation to generation, when it only generates one percent of federal taxes? Taxes should be gathered to pay for the necessities of government, not to transfer wealth from one segment of the population to another. And even if you believe that such wealth transfer is a legitimate function of tax policy, can we at least agree that family farms should be shielded from the takings? The estate tax can be as high as 55%, which is unfair, threatening the continuity of family-owned businesses.

The next provision amends the tax code to treat lands which are contiguous to a principal residence and which were farmed for five years before the principal residence as part of such residence, allowing it to be part of the exclusion of gain from the sale of the principal residence. This allows older farmers to sell their property without facing extraordinary capital gains taxes as a consequence.

The legislation also acknowledges that farm income can fluctuate significantly from year to year, and that farmers need a break when income goes does significantly after several good years. The bill thus includes a provision to reach back into a previous tax year and pull income from good years into a current down year. Farmers would then be recompensed for tax overpayments from previous years. Current law permits farmers to lower their tax burdens in good years by averaging in income from less profitable past periods, but it does not allow previous good years to be averaged in to current low income levels. This provision would provide this assistance to struggling farmers, again, giving them some tools to work within a very volatile market.

The bill also includes a provision to exempt from the alternative minimum tax certain income from unincorporated farms. Thanks to initiatives to provide tax credits to working families, many farm families would be able to reduce their tax burden if they were not bumping up against the alternative minimum tax. This correction is needed because the alternative minimum tax also does not always permit farmers to take advantage of current laws concerning farmer income averaging.

My legislation contains a provision to exclude from gross income up to $350,000 of capital gain from the transfer of property in complete or partial satisfaction of qualified farm indebtedness of a taxpayer, subject to means testing. This would exclude capital gains taxes from the forced liquidations of farm property.

The bill also ensures that farm landlords are treated the same as small business people and other commercial landlords, and removes the requirement that they pay self-employment tax on cash rent income. This item corrects an IRS technical advice memorandum to ensure that farmers, like other real estate owners, do not have to pay self-employment taxes on income from cash rent.

The measure also amends current law to emphasis certain beneficial farm program goals. They include a requirement that USDA, when approving applications for loans and grants under the Consolidated Farm and Rural Development Act, places a high priority on projects that encourage the creation of farmer-owner facilities that process value-added agricultural products; an amendment to the Federal Agriculture Improvement and Reform Act to give USDA discretion to use funds for rural development technical assistance; an amendment to the Rural Development Act to emphasize market development education and technical assistance for operators of small- and medium-sized farms, in addition to production assistance. The amendment also requires USDA to explore new marketing avenues such as direct farm to consumer markets, local value-added processing, and farmer-owned cooperatives.

We need a renaissance of new thinking and new marketing opportunities for our farmers. I want to ensure that existing programs are focused on helping farmers receive a larger share of the value of their products. As I have said before, I've always been struck by how we have a Department of Housing and Urban Development and a Department of Agriculture, but no real government emphasis on rural development. I hope that these provisions can help rebuild our rural economies.

The next two components of the bill restore a tax-exemption for value-added farmer-owned cooperatives that was taken away by a recent IRS ruling, and extends declaratory judgment relief for the cooperatives affected by this ruling.

Finally, the bill also includes a provision that increases the threshold amount that triggers when a farmer and employed farm worker would have to pay payroll taxes. The current threshold is $150, and this bill would raise it to $3,000. Farmers need the flexibility to be able to hire part-time workers, such as other nearby farmers or teenagers during the summer. We should free them from the burden and paperwork of having to pay payroll taxes on a minimal amount of expenditures on employees. This $150 figure in current law obviously does not reflect current realities on the farm, and Congress should make this much needed adjustment in the threshold figure.

Again, I believe that it is important to emphasize that major tax relief for farmers is a critical component of making Freedom to Farm work, and that's why I'm introducing this bill. I hope that hearings will be held next year on Freedom to Farm, and some adjustments my need to be made to current law. In fact, I have my own bill pending that would extend the term for producers' marketing loans from nine months up to thirty-six months, to give farmers more flexibility, and thus more market power, in determining when to put their grain on the market. No one on this side of the aisle argues that Freedom to Farm is perfect, but there are fundamental concepts in the bill that farmers requested and I believe still want, such as the freedom to

make their own decisions on what and how much to plant. I believe farmers want to plant for the market, not the government.

This bill reflects my commitment to try to deliver on the promises to farmers that were made when Freedom to Farm was passed, such as trade expansion, fast track authority, regulatory reform, and crop insurance reform.

Of course, if the administration was truly attempting to be accommodating the needs of the farm community, there would be less need for the regulatory reform bills currently pending. I know American farmers can complete worldwide, but we cannot drag our feet on creating a climate in which they can succeed. I believe this farmer tax relief bill is a critical piece of the puzzle.

Mr. President, the second tax relief measure I am introducing today would expand income averaging to small agriculture-related businesses.

Before 1986, American farmers, agricultural-related businesses and others could apply income averaging for tax purposes. But the Tax Reform Act of 1986 entirely eliminated income averaging. Congress acted primarily on the assumption that tax reduction would substantially reduce the number of taxpayers whose fluctuating incomes could subject them to higher progressive rates and there was no need for income average. While it was understandable that Congress took such action at that time, I believe it was clearly a mistake because Congress completely ignored the nature of agriculture and our rural communities.

Today, low commodity prices have made the income of American farmers and agriculture-related businesses fluctuate more wildly than that of any other group of taxpayers. In my own state of Minnesota, income in farm communities had decreased dramatically in recent years.

In response to this critical situation, Congress reinstated income averaging for individual farmers temporarily in the Taxpayer Relief Act of 1997, and last year Congress made it permanent for farmers. This was good change and I was pleased to join Senator BURNS and others in passing this important legislation. In my package of tax relief for farmers just discussed, I have added new flexibility for farmers to use income averaging to their benefit.

Unfortunately, Congress unintentionally left one important group out of last year's relief legislation. American small agriculture-related businesses, those who work hard to provide seeds, fertilizer, farming equipment and other farm products for farmers, whose income depends on farmers' income, are not included in current law providing income averaging. As a result, these small businesses are facing hardship and need this relief as well.

Expanding income averaging to small agriculture-related businesses would provide modest, but much needed, assistance to these businesses and allow them to continue serving farmers and rural communities. It also is consistent with the approach Congress took in the past regarding income averaging. Unlike the permanent income averaging for farmers, my legislation would sunset income averaging for agriculture-related businesses in three years. In addition, it only covers small businesses, not big corporations.

Mr. President, the third tax bill I will introduce today is the Rural Revitalization Tax Credit (RRTC) Act. This bill fits into my overall goal of making rural America a better place to live.

The objective is to attract business investment to rural areas to provide jobs for those who value life in the small towns of rural America. These jobs can also be invaluable for farm families suffering hard times through low commodity prices, crop diseases or weather disasters. Full or part time jobs can often help farmers help their family farms in down cycles.

This legislation is designed to encourage business investment in high poverty rural communities. It would create rural revitalization tax credits which include a development credit that is provided to any company locating in high poverty rural communities. A company would receive a 6 percent tax credit annually of the amount of the investment, which amounts to about 25 percent of the value of the original investment over 7 years.

It also creates a wage tax credit which allows employers in high poverty rural communities to receive up to $3,000 per employee hired in that community. In addition, qualified businesses are allowed to write off up to $37,500 as an expense the cost of depreciable, tangible personal property. This proposal is similar to urban empowerment zone proposals introduced in the Congress. We want to apply it to rural America as well.

Mr. President, this measure will not solve all the problems that farmers and people in rural areas are facing, but I believe it is one way to create more economic opportunities in our rural communities to preserve and improve the excellent quality of life in these areas.

I send the three bills to the desk and ask that they be assigned to the appropriate committees.

The PRESIDING OFFICER. The bills will be received and appropriately referred.

Mr. GRAMS. I thank the President. I yield the floor.

By Mr. JEFFORDS:

S. 1862. A bill entitled ''Vermont Infrastructure Bank Program''; to the Committee on Environment and Public Works.

VERMONT INFRASTRUCTURE BANK PROGRAM

Mr. JEFFORDS. Mr. President, I rise today to introduce legislation to permit my home state of Vermont to enter the State Infrastructure Bank (SIB) program. Before the enactment of the Transportation Equity Act for the 21st Century (TEA–21) all 50 states were qualified for SIB revolving funds. These funds are capitalized with federal and state contributions and used to provide loans and other sorts of non-grant aid to transportation projects. TEA–21 expanded the SIB program to California, Florida, Missouri, and Rhode Island. With this bill, I am proposing to add Vermont as a participant in the SIB program.

The SIB program functions to authorize loans to public or private organizations to cover the whole or partial costs of an approved project, and to make allowances for the planning and development of funding streams for repayment, which would not begin until five years after the completion of the project. Also, there is a provision in the TEA–21 for the creation of a multistate infrastructure bank system among the pilot states. In this system, states are encouraged to share both funds and ideas for curbing pollution and traffic problems and encouraging other forms of transportation.

It is my feeling that Vermont can be a national model on the efficiency of meeting clean air standards and managing sprawl while promoting economic growth. Under the SIB program the Vermont Agency of Transportation (VAOT) will collaborate with other state agencies and local organizations such as the Chittenden County Metropolitan Planning Organization (CCMPO) in order to reduce traffic, pollution, and growth problems that arise.

In order to fulfill these goals through creative, cutting-edge projects, VAOT will require sufficient funds. To secure these funds, the legislation that I am introducing today would extend the SIB program to include Vermont. This program will be an invaluable resource in the funding of projects that will prevent our beautiful state from moving in the direction of gridlock and congestion.

Vermont can be a model for the nation—an example for other states facing similar issues of finding a balance between growth and livability. Vermont's participation in the SIB program would provide more options to find the solutions that will permit this proper balance to be attained.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 1862

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STATE INFRASTRUCTURE BANK PILOT PROGRAM.

Section 1511(b)(1)(A) of the Transportation Equity Act for the 21st Century (23 U.S.C. 181 note; 112 Stat. 251) is amended by inserting ''Vermont,'' after ''Florida''.

By Mr. BAUCUS:

S. 1863. A bill to amend the Internal Revenue Code of 1986 to provide an incentive to small businesses to establish and maintain qualified pension plans

by allowing a credit against income taxes for contributions to, and start-up costs of, the plan; to the Committee on Finance.

SMALL EMPLOYER PENSION START-UP INCENTIVE ACT

Mr. BAUCUS. Mr. President, I rise to introduce a bill I believe will provide important benefits for our country's small businesses and the millions of people who work for them. The Small Employer Pension Start-up Incentive Act (SEPSI) will provide help to small businesses who want to help their employees save for their retirement.

Congress has spent a great deal of time recently exploring the impact on our country of the impending wave of baby boomer retirements. Much of this debate has centered around strengthening the Social Security Trust Fund, so we can keep the promise we made to all working Americans that Social Security will be there for them when they retire. During this debate, however, we have all but neglected the important role the private pension system plays in American's retirement security.

Social Security was never intended to provide the sole source of income for our retirees. Despite that, however, it is the only source of retirement income for 16% of elderly Americans. And it is the primary source of income for two-thirds of all retirees. Unless we can change this disturbing trend, preserving Social Security for the 21th Century will not be enough—there will still be far too many Americans who will spend their retirement years one step away from poverty.

In addition to preserving Social Security, we must help Americans better prepare for their retirement years. When the President submitted this budget this year, he proposed dedicating most of our projected surpluses to create Universal Savings Accounts for all Americans. I strongly believe the concept behind the USA proposal was a good one. If our projected surpluses actually materialize, we have an unprecedented opportunity to plan for our nation's future, to make the kinds of investments that will pay off for ourselves and for our children. Helping strengthen our private pension system is one of those key investments we should be making now, before the wave of retirements begins.

An important place to start is with our small businesses and their employees. Over 38 million workers in this country work for small businesses, that is, companies with less than 100 employees each. And even though almost everyone employed by a large company has access to a pension plan through their employer, only 20% of small business employees have pension plans available where they work. This means 31 million working Americans have no opportunity to save for their retirement through their employers.

Small business owners don't offer plans, not because they don't want to, but because they simply can't afford to. Administrative costs are disproportionately high for businesses with few employees, as are the costs associated with meeting all of the regulatory requirements that can apply to pension plans. And their employees, who frequently earn minimum wage and don't have access to health insurance either, couldn't afford to set money aside for their retirement even if their employers offered pension plans.

The bill I am introducing today will help reverse this trend. The Small Employer Pension Start-up Incentive Act will provide two new tax credits to small businesses that are providing pension plans to their employees for the first time. The first credit will help defray the administrative costs that accompany starting a new pension plan. It will provide up to $500 per year in tax relief for small businesses to compensate for the administrative costs they incur in providing a new plan. The credit would be available for three years, for employers with up to 100 workers.

The second credit goes right to the heart of the pension problem—it helps subsidize the contributions employers make into a new plan on behalf of their employees. Studies have shown that pension participation increases dramatically when employers offer to match employee savings. But in far too many small businesses, neither the employer nor the employee can afford to set aside the money. My bill will provide a 50% tax credit for any employer contributions into a new pension plan on behalf of their lower paid employees, up to a maximum of 3% of the salaries of these workers. The credit will be available for the first 5 years of any new qualified pension plan offered by a small business employing up to 50 workers.

I believe that enactment of the Small Employer Pension Start-up Incentive Act will help dramatically increase the number of Americans working for small businesses that can begin saving for their retirement. Providing these tax credits to small businesses, along with the other pension reform proposals that are included in S. 741, the Pension Coverage and Portability Act I introduced with Senators GRAHAM and GRASSLEY, will go a long way toward helping Americans plan for a secure retirement in the 21st century.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 1863

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 ''Small Employer Pension Start-up Incentive Act''.

SEC. 2. CREDIT FOR SMALL EMPLOYER PENSION PLAN CONTRIBUTIONS AND START-UP COSTS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following new section:

''SEC. 45D. SMALL EMPLOYER PENSION PLAN CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, in the case of an eligible employer, the small employer pension plan credit determined under this section for any taxable year is an amount equal to the sum of—

''(1) 50 percent of the qualified employer contributions of the taxpayer for the taxable year, and

''(2) the qualified start-up costs paid or incurred by the taxpayer during the taxable year.

''(b) LIMITATIONS.—

''(1) LIMITS ON CONTRIBUTIONS.—For purposes of subsection (a)(1)—

''(A) qualified employer contributions may only be taken into account for each of the first 5 taxable years ending after the date the employer establishes the qualified employer plan to which the contribution is made, and

''(B) the amount of the qualified employer contributions taken into account with respect to any qualified employee for any such taxable year shall not exceed 3 percent of the compensation (as defined in section 414(s)) of the qualified employee for such taxable year.

''(2) LIMITS ON START-UP COSTS.—The amount of the credit determined under subsection (a)(2) for any taxable year shall not exceed—

''(A) $500 for each of the first, second, and third taxable years ending after the date the employer established the qualified employer plan to which such costs relate, and

''(B) zero for each taxable year thereafter.

''(c) DEFINITIONS.—For purposes of this section—

''(1) ELIGIBLE EMPLOYER.—

''(A) IN GENERAL.—The term 'eligible employer'' means, with respect to any year, an employer which has no more than—

''(i) for purposes of subsection (a)(1), 50 employees, and

''(ii) for purposes of subsection (a)(2), 100 employees,

who received at least $5,000 of compensation from the employer for the preceding year.

''(B) 2-YEAR GRACE PERIOD.—An eligible employer who establishes and maintains a qualified employer plan for 1 or more years and who fails to be an eligible employer for any subsequent year shall be treated as an eligible employer for the 2 years following the last year the employer was an eligible employer.

''(C) REQUIREMENT FOR NEW QUALIFIED EMPLOYER PLANS.—Such term shall not include an employer if the employer (or any predecessor employer) established or maintained a qualified employer plan with respect to which contributions were made, or benefits were accrued, for service in the 3 taxable years ending prior to the first taxable year in which the credit under this section is allowed.

''(2) QUALIFIED EMPLOYER CONTRIBUTIONS.—

''(A) IN GENERAL.—The term 'qualified employer contributions' means, with respect to any taxable year, any employer contributions made on behalf of a qualified employee to a qualified employer plan for a plan year ending with or within the taxable year.

''(B) EMPLOYER CONTRIBUTIONS.—The term 'employer contributions' shall not include any elective deferral (within the meaning of section 402(g)(3)).

''(3) QUALIFIED EMPLOYEE.—The term 'qualified employee' means an individual who—

''(A) is eligible to participate in the qualified employer plan to which the employer contributions are made, and

''(B) is not a highly compensated employee (within the meaning of section 414(q)) for the year for which the contribution is made.

''(4) QUALIFIED START-UP COSTS.—The term 'qualified start-up costs' means any ordinary and necessary expenses of an eligible employer which are paid or incurred in connection with—

''(A) the establishment or maintenance of a qualified employer plan in which qualified employees are eligible to participate, and

''(B) providing educational information to employees regarding participation in such plan and the benefits of establishing an investment plan.

''(5) QUALIFIED EMPLOYER PLAN.—The term 'qualified employer plan' has the meaning given such term in section 4972(d).

''(d) SPECIAL RULES.—

''(1) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52, or subsection (n) or (o) of section 414, shall be treated as one person. All qualified employer plans of an employer shall be treated as 1 qualified employer plan.

''(2) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowable under this chapter for any qualified start-up costs or qualified employer contributions for which a credit is determined under subsection (a).

''(3) ELECTION NOT TO CLAIM CREDIT.—This section shall not apply to a taxpayer for any taxable year if such taxpayer elects to have this section not apply for such taxable year.''.

(b) CREDIT ALLOWED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) of the Internal Revenue Code of 1986 (defining current year business credit) is amended by striking ''plus'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting '', plus'', and by adding at the end the following new paragraph:

''(13) in the case of an eligible employer (as defined in section 45D(c)), the small employer pension plan credit determined under section 45D(a).''.

(c) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 45D. Small employer pension plan credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred or contributions made in connection with qualified employer plans established after December 31, 1999.

By Mr. BURNS:

S. 1864. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit to primary health providers who establish practices in health professional shortage areas; to the Committee on Finance.

THE HEALTH CARE ACCESS IMPROVEMENT ACT

● Mr. BURNS. Mr. President, I rise today to introduce a bill which will dramatically expand rural America's access to modern health care.

The Health Care Access Improvement Act creates a significant tax incentive, which encourages doctors, dentists, physician assistants, licensed mental health providers, and nurse practitioners to establish practices in underserved areas. Until now, rural areas have not been able to compete with the financial draw of urban settings and therefore have had trouble attracting medical professionals to their communities. The $1,000 per month tax credit will allow health care workers to enjoy the advantages of rural life without drastic financial sacrifices. But the real winners in this bill are the thousands of Americans whose access to health care is almost impossible due to a lack of doctors and dentists in small town America.

There are nine counties in the great state of Montana which do not have even one doctor. In these rural settings, agriculture is often the only employer. Farming and ranching is hard, dangerous work. Serious injuries can happen in an instant. And while Montanans have always been known as a heartier breed of people, we get sick too. It is unreasonable to expect the farmer who has had a run-in with an auger or the elderly rancher's widow to drive two hours or more to get stitched up or to have a crown on a tooth replaced. As doctors, dentists, physicians assistants, mental health providers, and nurse practitioners are attracted to under-served areas, Montanans and others in isolated communities will finally enjoy the medical treatment they deserve.

Mr. President, everyone wins with this legislation. Rural Montana, rural America, and providers all benefit from increased access, service and a better quality of life. I look forward to this legislation's quick passage.●

By Mr. DEWINE (for himself and Mr. DOMENICI):

S. 1865. A bill to provide grants to establish demonstration mental health courts; to the Committee on the Judiciary.

AMERICA'S LAW ENFORCEMENT AND MENTAL HEALTH PROJECT ACT OF 1999

● Mr. DEWINE. Mr. President, I rise today to introduce ''America's Law Enforcement and Mental Health Project. This bill is designed to address the impact that the increased deinstitutionalization of America's mentally ill has had on our criminal justice system. This is a serious problem affecting both the health and safety of our Nation. Essentially, the situation we have today in our prisons and jails is the result of over thirty years of cuts in the budgets of mental health institutions, as well as the outlawing of involuntary commitments. Faced with fewer dollars and greater legal requirements, these mental health care facilities began de-institutionalizing America's mentally ill in record numbers. According to one estimate, the number of persons finding treatment in mental health facilities plummeted from 560,000 in 1955 to just 100,000 in 1989.

A recent Justice Department study revealed that 16 percent of all inmates in America's State prisons and local jails today are mentally ill. The American Jails Association estimates that 600,000 to 700,000 seriously mentally ill persons each year are being booked into local jails alone. In my own home State of Ohio, 18 percent of all prison inmates were in mental health programs last year. That's the highest percentage in the country.

Far too many of our nation's mentally ill persons have ended up in our prisons and jails. In fact, today, the Los Angeles County Jail is the largest mental health care institution in our country. It treats 3,200 seriously mentally ill people every day. The impact on law enforcement has been significant. Institutions and agencies designed to fight crime have had to spend valuable time and scarce resources providing mental health services to prisoners. In Ohio, nearly 1 in 5 prisoners need special psychiatric services or accommodations.

Tragically, many mentally ill inmates could have received proper treatment from a variety of private and public sources before they ended up in the prison system. Part of the problem is a serious lack of coordination between our local law enforcement and social service systems. The interaction within law enforcement—between our courts and prisons—is even worse. All too often, the mentally ill act out their symptoms on the streets. They are arrested for minor offenses and wind up in jail, where appropriate treatment simply does not exist. They serve their sentences or are paroled, but find themselves right back in the system after committing further crimes—often more serious—only a short time later.

The Justice Department has found that over 75 percent of mentally ill inmates are repeat offenders. In some States, the problem is even worse. California's Department of Corrections, for example, recently reported that 94 percent of mentally ill parolees returned to prison within two years, versus 57 percent of the parolee population at large.

Throughout this destructive cycle, law enforcement and corrections spend time and money trying to cope with the unique problems posed by these individuals. Certainly, some mentally ill offenders must be incarcerated because of the severity of their crimes. Many others who commit very minor offenses could receive appropriate care early on, reducing recidivism and unnecessary burdens on our police and corrections officials, as well as many mentally ill offenders, themselves.

That's why, Mr. President, I am introducing America's Law Enforcement and Mental Health Project (LAMP), to begin to identify—early—those who are mentally ill within our justice system and to use the power of the court to assist them in obtaining the treatment they need. This will be a step toward making some of the changes necessary to effectively address the issues surrounding the mentally ill in our justice system.

This bill would establish a federal grant program to help states and localities develop ''Mental Health Courts'' in their jurisdictions. These courts would be specialized courts with separate dockets. They would hear cases exclusively involving nonviolent of-

fenses committed by mentally ill or retarded individuals. Fundamentally, Mental Health Courts would enable state and local courts to offer alternative sentences or alternatives to prosecution for those offenders who could be served best by mental health services.

To deal with the separate needs of mentally ill offenders, these Mental Health Courts would be staffed by a core group of specialized professionals, including a dedicated judge, prosecutor, public defender and court liaison to the mental health service community. The courts would promote efficiency and consistency by centrally managing all outstanding cases involving a mentally ill defendant admitted to the Mental Health Court.

The Mental Health Court judge ultimately would decide whether or not to hear each case referred to the court. The Mental Health Court would not deal with defendants unless they are deemed mentally ill by a qualified mental professional or the mental health court judge. Similarly, participation in the court by the mentally ill would be completely voluntary. Once the defendant volunteers for the Mental Health Court, however, he or she would be expected to follow the decision of the court. For instance, in any given case, the Mental Health Court judge, attorneys, and health services liaison may all agree on a plan of treatment as an alternative sentence or in lieu of prosecution. The defendant must adhere strictly to this court-imposed treatment plan. The court must then provide supervision with periodic review. This way, the court could quickly deal with any failure of the defendant to fulfill the treatment plan obligations. In this sense, the Mental Heath Court would function similar to drug courts.

Mr. President, the idea of Mental Health Courts is innovative, but not untested. Broward County, Florida, established the nation's first Mental Health Court almost two years ago. This court hears an average of 69 cases per month. Remarkably, Broward's Mental Health Court has been able to link over one-third of all its defendants with community health care providers or private psychiatric help. Notably, less than ten percent of all defendants were deemed inappropriate for mental health court and only eight percent refused community health services.

Although a voluntary system, Broward has found that many mentally ill persons do choose to have their cases heard in the Mental Health Court. These defendants don't always know what treatment options are available to them before they fall into the hands of the criminal justice system. A judicial program offering the possibility of effective treatment—rather than jail time—gives a measure of hope and a chance for rehabilitation to defendants.

Other jurisdictions across America have studied the Broward County model and have established their own Mental Health Courts or seek to do so, such as Butler County in my state of Ohio. King County, Washington, also has developed a more expansive Mental Health Court this past year. Our nation's communities are trying desperately to find the best way to cope with the problems associated with mental illness. Law enforcement agencies and correctional facilities simply do not have the means, nor the expertise, to properly treat mentally ill inmates in general. Mental Health Courts offer an alternative.

Mr. President, I urge my colleagues to join in support of this legislation.●

ADDITIONAL COSPONSORS

S. 115

At the request of Ms. SNOWE, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 115, a bill to require that health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations.

S. 345

At the request of Mr. ALLARD, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 345, a bill to amend the Animal Welfare Act to remove the limitation that permits interstate movement of live birds, for the purpose of fighting, to States in which animal fighting is lawful.

S. 405

At the request of Mr. HOLLINGS, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 405, a bill to prohibit the operation of civil supersonic transport aircraft to or from airports in the United States under certain circumstances.

S. 486

At the request of Mr. GRAMS, his name was added as a cosponsor of S. 486, a bill to provide for the punishment of methoamphetamine laboratory operators, provide additional resources to combat methamphetamine production, trafficking, and abuse in the United States, and for other purposes.

S. 514

At the request of Mr. COCHRAN, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 514, a bill to improve the National Writing Project.

S. 791

At the request of Mr. ROBB, his name was added as a cosponsor of S. 791, a bill to amend the Small Business Act with respect to the women's business center program.

S. 1075

At the request of Mrs. BOXER, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 1075, a bill to promote research to identify and evaluate the health effects of silicone breast implants, and to insure that women and their doctors receive accurate information about such implants.

S. 1187

At the request of Mr. DORGAN, the names of the Senator from Texas (Mr. GRAMM) and the Senator from Illinois (Mr. FITZGERALD) were added as cosponsors of S. 1187, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the Lewis and Clark Expedition, and for other purposes.

S. 1264

At the request of Mr. KENNEDY, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1264, a bill to amend the Elementary and Secondary Education Act of 1965 and the National Education Statistics Act of 1994 to ensure that elementary and secondary schools prepare girls to compete in the 21st century, and for other purposes.

S. 1384

At the request of Mr. ABRAHAM, the names of the Senator from Virginia (Mr. WARNER), the Senator from Pennsylvania (Mr. SANTORUM), and the Senator from South Dakota (Mr. DASCHLE) were added as cosponsors of S. 1384, a bill to amend the Public Health Service Act to provide for a national folic acid education program to prevent birth defects, and for other purposes.

S. 1394

At the request of Mr. TORRICELLI, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1394, a bill to require the Secretary of the Treasury to mint coins in commemoration of the U.S.S. *New Jersey*, and for other purposes.

S. 1436

At the request of Mr. CONRAD, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1436, a bill to amend the Agricultural Marketing Transition Act to provide support for United States agricultural producers that is equal to the support provided agricultural producers by the European Union, and for other purposes.

S. 1516

At the request of Mr. THOMPSON, the names of the Senator from Hawaii (Mr. AKAKA), the Senator from Maine (Ms. COLLINS), the Senator from Georgia (Mr. CLELAND), the Senator from Illinois (Mr. DURBIN), the Senator from New Jersey (Mr. TORRICELLI), the Senator from Ohio (Mr. VOINOVICH), and the Senator from North Carolina (Mr. EDWARDS) were added as cosponsors of S. 1516, a bill to amend title III of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11331 et seq.) to reauthorize the Federal Emergency Management Food and Shelter Program, and for other purposes.

S. 1539

At the request of Mr. DODD, the names of the Senator from Maine (Ms. SNOWE) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 1539, a bill to provide for

the acquisition, construction, and improvement of child care facilities or equipment, and for other purposes.

S. 1608

At the request of Mr. CRAIG, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 1608, a bill to provide annual payments to the States and counties from National Forest System lands managed by the Forest Service, and the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands managed predominately by the Bureau of Land Management, for use by the counties in which the lands are situated for the benefit of the public schools, roads, emergency and other public purposes; to encourage and provide new mechanism for cooperation between counties and the Forest Service and the Bureau of Land Management to make necessary investments in federal lands, and reaffirm the positive connection between Federal Lands counties and Federal Lands; and for other purposes.

S. 1710

At the request of Mr. HARKIN, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1710, a bill to require the Secretary of the Treasury to mint coins in conjunction with the minting of coins by the Republic of Iceland in commemoration of the millennium of the discovery of the New World by Leif Ericson.

S. 1776

At the request of Mr. CRAIG, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 1776, a bill to amend the Energy Policy Act of 1992 to revise the energy policies of the United States in order to reduce greenhouse gas emissions, advance global climate science, promote technology development, and increase citizen awareness, and for other purposes.

S. 1777

At the request of Mr. CRAIG, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 1777, a bill to amend the Internal Revenue Code of 1986 to provide incentives for the voluntary reduction of greenhouse gas emissions and to advance global climate science and technology development.

S. 1795

At the request of Mr. CRAPO, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 1795, a bill to require that before issuing an order, the President shall cite the authority for the order, conduct a cost benefit analysis, provide for public comment, and for other purposes.

S. 1796

At the request of Mr. MACK, the names of the Senator from Idaho (Mr. CRAIG) and the Senator from Louisiana (Mr. BREAUX) were added as cosponsors of S. 1796, a bill to modify the enforcement of certain anti-terrorism judgements, and for other purposes.

S. 1825

At the request of Mr. ROCKEFELLER, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 1825, a bill to empower telephone consumers, and for other purposes.

SENATE CONCURRENT RESOLUTION 60

At the request of Mr. FEINGOLD, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of Senate Concurrent Resolution 60, a concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued in honor of the U.S.S. Wisconsin and all those who served aboard her.

SENATE RESOLUTION 118

At the request of Mr. REID, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of Senate Resolution 118, a resolution designating December 12, 1999, as ''National Children's Memorial Day.''

SENATE RESOLUTION 128

At the request of Mr. COCHRAN, the names of the Senator from Delaware (Mr. BIDEN) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of Senate Resolution 128, a resolution designating March 2000, as ''Arts Education Month.''

SENATE RESOLUTION 204

At the request of Mr. HATCH, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of Senate Resolution 204, a resolution designating the week beginning November 21, 1999, and the week beginning on November 19, 2000, as ''National Family Week'', and for other purposes.

SENATE RESOLUTION 217

At the request of Mr. HUTCHINSON, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of Senate Resolution 217, a resolution relating to the freedom of belief, expression, and association in the People's Republic of China.

SENATE RESOLUTION 220—EXPRESSING THE SENSE OF THE SENATE REGARDING THE FEBRUARY 2000 DEPLOYMENT OF THE U.S.S. EISENHOWER BATTLE GROUP AND THE 24TH MARINE EXPEDITIONARY UNIT TO AN AREA OF POTENTIAL HOSTILITIES AND THE ESSENTIAL REQUIREMENTS THAT THE BATTLE GROUP AND EXPEDITIONARY UNIT HAVE RECEIVED THE ESSENTIAL TRAINING NEEDED TO CERTIFY THE WARFIGHTING PROFICIENCY OF THE FORCES COMPRISING THE BATTLE GROUP AND EXPEDITIONARY UNIT

Mr. INHOFE (for himself, Mr. WARNER, Mr. ROBERTS, and Mr. LOTT) submitted the following resolution; which was referred to the Committee on Armed Services:

S. RES. 220

Whereas the President, as Commander-in-Chief of all of the Armed Forces of the United States, makes the final decision to order a deployment of those forces into harm's way;

Whereas the President, in making that decision, relies upon the recommendations of the civilian and military leaders tasked by law with the responsibility of training those forces, including the Commander of the Second Fleet of the Navy and the Commander of the Marine Forces in the Atlantic;

Whereas the Atlantic Fleet Weapons Training Facility has been since World War II, and continues to be, an essential part of the training infrastructure that is necessary to ensure that maritime forces deploying from the east coast of the United States are prepared and ready to execute their assigned missions;

Whereas, according to the testimony of the Chairman of the Joint Chiefs of Staff, the Chief of Naval Operations, and the Commandant of the Marine Corps, the Island of Vieques is a vital part of the Atlantic Fleet Weapons Training Facility and makes an essential contribution to the national security of the United States by providing integrated live-fire combined arms training opportunities to Navy and Marine Corps forces deploying from the east coast of the United States;

Whereas, according to testimony before the Committee on Armed Services of the Senate and the report of the Special Panel on Military Operations on Vieques, a suitable alternative to Vieques cannot now be identified;

Whereas, during the course of its hearings on September 22 and October 19, 1999, the Committee on Armed Services of the Senate acknowledged and expressed its sympathy for the tragic death and injuries that resulted from the training accident that occurred at Vieques in April 1999;

Whereas the Navy has failed to take those actions necessary to develop sound relations with the people of Puerto Rico;

Whereas the Navy should implement fully the terms of the 1983 Memorandum of Understanding between the Navy and the Commonwealth of Puerto Rico regarding Vieques and work to increase its efforts to improve the economic conditions for and the safety of the people on Vieques;

Whereas in February 2000, the U.S.S. Eisenhower Battle Group and the 24th Marine Expeditionary Unit are scheduled to deploy to the Mediterranean Sea and the Persian Gulf where the battle group and expeditionary unit will face the possibility of combat, as experienced by predecessor deploying units, during operations over Iraq and during other unexpected contingencies;

Whereas in a September 22, 1999, letter to the Committee on Armed Services of the Senate, the President stated that the rigorous, realistic training undergone by military forces ''is essential for success in combat and for protecting our national security'';

Whereas in that letter the President also stated that he would not permit Navy or Marine Corps forces to deploy ''unless they are at a satisfactory level of combat readiness'';

Whereas Richard Danzig, the Secretary of the Navy, recently testified before the Committee on Armed Services of the Senate that ''only by providing this preparation can we fairly ask our service members to put their lives at risk'';

Whereas according to the testimony of the Chairman of the Joint Chiefs of Staff, the Chief of Naval Operations, and the Commandant of the Marine Corps, Vieques provides integrated live-fire training ''critical to our readiness'', and the failure to provide for adequate live-fire training for our naval forces before deployment will place those forces at unacceptably high risk during deployment;

Whereas Admiral Johnson, the Chief of Naval Operations, and General Jones, the Commandant of the Marine Corps, recently testified before the Committee on Armed Services of the Senate that without the ability to train on Vieques, the U.S.S. Eisenhower Battle Group and the 24th Marine Expeditionary Unit scheduled for deployment in February 2000 would not be ready for such deployment ''without greatly increasing the risk to those men and women who we ask to go in harm's way'';

Whereas Vice Admiral Murphy, Commander of the Sixth Fleet of the Navy, recently testified before the Committee on Armed Services of the Senate that the loss of training on Vieques would ''cost American lives'';

Whereas the Navy is currently prevented as a consequence of unrestrained civil disobedience from using the training facilities on Vieques which are required to accomplish the training necessary to achieve a satisfactory level of combat readiness; and

Whereas while the Department of Defense is trying to work with the Government of Puerto Rico on a permanent solution to resolve the current training crisis, the Department of the Navy has an immediate requirement to gain access to these facilities for 13 days in December to accomplish the critical integrated training necessary to achieve a satisfactory level of combat readiness for the U.S.S. Eisenhower Battle Group and the 24th Marine Expeditionary Unit: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Secretary of the Navy should conduct the 13 days of pre-deployment training which is required to be performed on the Island of Vieques to ensure the U.S.S. Eisenhower Battle Group and the 24th Marine Expeditionary Unit are free of serious deficiencies in major warfare areas, thereby reducing the risk to those men and women who we ask to go in harm's way; and

(2) the President should not deploy the U.S.S. Eisenhower Battle Group or the 24th Marine Expeditionary Unit until—

(A) the President, in consultation with the Secretary of Defense, the Secretary of the Navy, the Chief of Naval Operations, and the Commandant of the Marine Corps, reviews the certifications regarding the readiness of the battle group and the expeditionary unit made by the Commander of the Second Fleet of the Navy and the Commander of the Marine Forces in the Atlantic, as the case may be; and

(B) the President determines and so notifies Congress that the battle group and the expeditionary unit are free of serious deficiencies in major warfare areas.

AMENDMENTS SUBMITTED

DENYING SAFE HAVENS TO INTERNATIONAL AND WAR CRIMINALS ACT OF 1999

LEAHY (AND HATCH) AMENDMENT NO. 2510

Mr. GRASSLEY (for Mr. LEAHY (for himself and Mr. HATCH)) proposed an amendment to the bill (S. 1754) entitled the ''Denying Safe Havens to Internatinoal and War Criminals Act of 1999''; as follows:

On page 30, lines 20 and 21, strike ''WITH RESPECT TO IMMIGRATION LAWS''.

On page 30, lines 24 and 25, strike ''or proceedings under the immigration laws.'' and insert a period, quotation marks, and a second period.

On page 31, strike lines 1 through 8.

On page 33, line 13, insert ''and'' after the semicolon.

On page 33, line 15, strike ''; and'' and insert a period, quotation marks, and a second period.

On page 33, strike lines 16 through 20.

Beginning on page 38, line 22, strike ''or require'' and all that follows through ''transferred'' on line 2 of page 39.

On page 39, line 13, after the period, insert ending quotation marks and a final period.

Beginning on page 39, strike line 14 and all that follows through line 20 on page 40.

On page 42, line 5, after ''denaturalize'', insert ''(as otherwise authorized by law)''.

NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION AMENDMENTS OF 1999

INOUYE AMENDMENT NO. 2511

Mr. GRASSLEY (for Mr. INOUYE) proposed an amendment to the bill (S. 225) to provide housing assistance to Native Hawaiians; as follows:

On page 98, strike line 23 and all that follows through page 99, line 8.

On page 118, line 20, strike ''1999'' and insert ''2000''.

On page 118, line 23, strike ''October 1, 1999'' and insert ''the date of enactment of the Native American Housing Assistance and Self-Determination Amendments of 1999''.

CHIPPEWA CREE TRIBE OF THE ROCKY BOY'S RESERVATION INDIAN RESERVED WATER RIGHTS SETTLEMENT ACT OF 1999

BURNS (AND BAUCUS) AMENDMENT NO. 2512

Mr. GRASSLEY (for Mr. BURNS and Mr. BAUCUS) proposed an amendment to the bill (S. 438) to provide for the settlement of the water rights claims of the Chippewa Cree Tribe of the Rocky Boy's Reservation, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION. 1. SHORT TITLE.

This Act may be cited as the ''Chippewa Cree Tribe of The Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999''.

SEC. 2. FINDINGS.

Congress finds that—

(1) in fulfillment of its trust responsibility to Indian tribes and to promote tribal sovereignty and economic self-sufficiency, it is the policy of the United States to settle the water rights claims of the tribes without lengthy and costly litigation;

(2) the Rocky Boy's Reservation was established as a homeland for the Chippewa Cree Tribe;

(3) adequate water for the Chippewa Cree Tribe of the Rocky Boy's Reservation is important to a permanent, sustainable, and sovereign homeland for the Tribe and its members;

(4) the sovereignty of the Chippewa Cree Tribe and the economy of the Reservation depend on the development of the water resources of the Reservation;

(5) the planning, design, and construction of the facilities needed to utilize water supplies effectively are necessary to the development of a viable Reservation economy and to implementation of the Chippewa Cree-Montana Water Rights Compact;

(6) the Rocky Boy's Reservation is located in a water-short area of Montana and it is appropriate that the Act provide funding for the development of additional water supplies, including domestic water, to meet the needs of the Chippewa Cree Tribe;

(7) proceedings to determine the full extent of the water rights of the Chippewa Cree Tribe are currently pending before the Montana Water Court as a part of *In the Matter of the Adjudication of All Rights to the Use of Water, Both Surface and Underground, within the State of Montana*;

(8) recognizing that final resolution of the general stream adjudication will take many years and entail great expense to all parties, prolong uncertainty as to the availability of water supplies, and seriously impair the long-term economic planning and development of all parties, the Chippewa Cree Tribe and the State of Montana entered into the Compact on April 14, 1997; and

(9) the allocation of water resources from the Tiber Reservoir to the Chippewa Cree Tribe under this Act is uniquely suited to the geographic, social, and economic characteristics of the area and situation involved.

SEC. 3. PURPOSES.

The purposes of this Act are as follows:

(1) To achieve a fair, equitable, and final settlement of all claims to water rights in the State of Montana for—

(A) the Chippewa Cree Tribe; and

(B) the United States for the benefit of the Chippewa Cree Tribe.

(2) To approve, ratify, and confirm, as modified in this Act, the Chippewa Cree-Montana Water Rights Compact entered into by the Chippewa Cree Tribe of the Rocky Boy's Reservation and the State of Montana on April 14, 1997, and to provide funding and other authorization necessary for the implementation of the Compact.

(3) To authorize the Secretary of the Interior to execute and implement the Compact referred to in paragraph (2) and to take such other actions as are necessary to implement the Compact in a manner consistent with this Act.

(4) To authorize Federal feasibility studies designed to identify and analyze potential mechanisms to enhance, through conservation or otherwise, water supplies in North Central Montana, including mechanisms to import domestic water supplies for the future growth of the Rocky Boy's Indian Reservation.

(5) To authorize certain projects on the Rocky Boy's Indian Reservation, Montana, in order to implement the Compact.

(6) To authorize certain modifications to the purposes and operation of the Bureau of Reclamation's Tiber Dam and Lake Elwell on the Marias River in Montana in order to provide the Tribe with an allocation of water from Tiber Reservoir.

(7) To authorize the appropriation of funds necessary for the implementation of the Compact.

SEC. 4. DEFINITIONS.

In this Act:

(1) ACT.—The term ''Act'' means the ''Chippewa Cree Tribe of The Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999''.

(2) COMPACT.—The term ''Compact'' means the water rights compact between the Chippewa Cree Tribe of the Rocky Boy's Reservation and the State of Montana contained in section 85–20–601 of the Montana Code Annotated (1997).

(3) FINAL.—The term ''final'' with reference to approval of the decree in section

101(b) means completion of any direct appeal to the Montana Supreme Court of a final decree by the Water Court pursuant to section 85–2–235 of the Montana Code Annotated (1997), or to the Federal Court of Appeals, including the expiration of the time in which a petition for certiorari may be filed in the United States Supreme Court, denial of such a petition, or the issuance of the Supreme Court's mandate, whichever occurs last.

(4) FUND.—The term ''Fund'' means the Chippewa Cree Indian Reserved Water Rights Settlement Fund established under section 104.

(5) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given that term in section 101(2) of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a(2)).

(6) MR&I FEASIBILITY STUDY.—The term ''MR&I feasibility study'' means a municipal, rural, and industrial, domestic, and incidental drought relief feasibility study described in section 202.

(7) MISSOURI RIVER SYSTEM.—The term ''Missouri River System'' means the mainstem of the Missouri River and its tributaries, including the Marias River.

(8) RECLAMATION LAW.—The term ''Reclamation Law'' has the meaning given the term ''reclamation law'' in section 4 of the Act of December 5, 1924 (43 Stat. 701, chapter 4; 43 U.S.C. 371).

(9) ROCKY BOY'S RESERVATION; RESERVATION.—The term ''Rocky Boy's Reservation'' or ''Reservation'' means the Rocky Boy's Reservation of the Chippewa Cree Tribe in Montana.

(10) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, or his or her duly authorized representative.

(11) TOWE PONDS.—The term ''Towe Ponds'' means the reservoir or reservoirs referred to as ''Stoneman Reservoir'' in the Compact.

(12) TRIBAL COMPACT ADMINISTRATION.—The term ''Tribal Compact Administration'' means the activities assumed by the Tribe for implementation of the Compact as set forth in Article IV of the Compact.

(13) TRIBAL WATER CODE.—The term ''tribal water code'' means a water code adopted by the Tribe, as provided in the Compact.

(14) TRIBAL WATER RIGHT.—

(A) IN GENERAL.—The term ''Tribal Water Right'' means the water right set forth in section 85–20–601 of the Montana Code Annotated (1997) and includes the water allocation set forth in Title II of this Act.

(B) RULE OF CONSTRUCTION.—The definition of the term ''Tribal Water Right'' under this paragraph and the treatment of that right under this Act shall not be construed or interpreted as a precedent for the litigation of reserved water rights or the interpretation or administration of future compacts between the United States and the State of Montana or any other State.

(15) TRIBE.—The term ''Tribe'' means the Chippewa Cree Tribe of the Rocky Boy's Reservation and all officers, agents, and departments thereof.

(16) WATER DEVELOPMENT.—The term ''water development'' includes all activities that involve the use of water or modification of water courses or water bodies in any way.

SEC. 5. MISCELLANEOUS PROVISIONS.

(a) NONEXERCISE OF TRIBE'S RIGHTS.—Pursuant to Tribal Resolution No. 40–98, and in exchange for benefits under this Act, the Tribe shall not exercise the rights set forth in Article VII.A.3 of the Compact, except that in the event that the approval, ratification, and confirmation of the Compact by the United States becomes null and void under section 101(b), the Tribe shall have the right to exercise the rights set forth in Article VII.A.3 of the Compact.

(b) WAIVER OF SOVEREIGN IMMUNITY.—Except to the extent provided in subsections (a), (b), and (c) of section 208 of the Department of Justice Appropriation Act, 1953 (43 U.S.C. 666), nothing in this Act may be construed to waive the sovereign immunity of the United States.

(c) TRIBAL RELEASE OF CLAIMS AGAINST THE UNITED STATES.—

(1) IN GENERAL.—Pursuant to Tribal Resolution No. 40–98, and in exchange for benefits under this Act, the Tribe shall, on the date of enactment of this Act, execute a waiver and release of the claims described in paragraph (2) against the United States, the validity of which are not recognized by the United States, except that—

(A) the waiver and release of claims shall not become effective until the appropriation of the funds authorized in section 105, the water allocation in section 201, and the appropriation of funds for the MR&I feasibility study authorized in section 204 have been completed and the decree has become final in accordance with the requirements of section 101(b); and

(B) in the event that the approval, ratification, and confirmation of the Compact by the United States becomes null and void under section 101(b), the waiver and release of claims shall become null and void.

(2) CLAIMS DESCRIBED.—The claims referred to in paragraph (1) are as follows:

(A) Any and all claims to water rights (including water rights in surface water, ground water, and effluent), claims for injuries to water rights, claims for loss or deprivation of use of water rights, and claims for failure to acquire or develop water rights for lands of the Tribe from time immemorial to the date of ratification of the Compact by Congress.

(B) Any and all claims arising out of the negotiation of the Compact and the settlement authorized by this Act.

(3) SETOFFS.—In the event the waiver and release do not become effective as set forth in paragraph (1)—

(A) the United States shall be entitled to setoff against any claim for damages asserted by the Tribe against the United States, any funds transferred to the Tribe pursuant to section 104, and any interest accrued thereon up to the date of setoff; and

(B) the United States shall retain any other claims or defenses not waived in this Act or in the Compact as modified by this Act.

(d) OTHER TRIBES NOT ADVERSELY AFFECTED.—Nothing in this Act shall be construed to quantify or otherwise adversely affect the land and water rights, or claims or entitlements to land or water of an Indian tribe other than the Chippewa Cree Tribe.

(e) ENVIRONMENTAL COMPLIANCE.—In implementing the Compact, the Secretary shall comply with all aspects of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and all other applicable environmental Acts and regulations.

(f) EXECUTION OF COMPACT.—The execution of the Compact by the Secretary as provided for in this Act shall not constitute a major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.). The Secretary is directed to carry out all necessary environmental compliance required by Federal law in implementing the Compact.

(g) CONGRESSIONAL INTENT.—Nothing in this Act shall be construed to prohibit the Tribe from seeking additional authorization or appropriation of funds for tribal programs or purposes.

(h) ACT NOT PRECEDENTIAL.—Nothing in this Act shall be construed or interpreted as a precedent for the litigation of reserved water rights or the interpretation or administration of future water settlement Acts.

TITLE I—CHIPPEWA CREE TRIBE OF THE ROCKY BOY'S RESERVATION INDIAN RESERVED WATER RIGHTS SETTLEMENT

SEC. 101. RATIFICATION OF COMPACT AND ENTRY OF DECREE.

(a) WATER RIGHTS COMPACT APPROVED.—Except as modified by this Act, and to the extent the Compact does not conflict with this Act—

(1) the Compact, entered into by the Chippewa Cree Tribe of the Rocky Boy's Reservation and the State of Montana on April 14, 1997, is hereby approved, ratified, and confirmed; and

(2) the Secretary shall—

(A) execute and implement the Compact together with any amendments agreed to by the parties or necessary to bring the Compact into conformity with this Act; and

(B) take such other actions as are necessary to implement the Compact.

(b) APPROVAL OF DECREE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the United States, the Tribe, or the State of Montana shall petition the Montana Water Court, individually or jointly, to enter and approve the decree agreed to by the United States, the Tribe, and the State of Montana attached as Appendix 1 to the Compact, or any amended version thereof agreed to by the United States, the Tribe, and the State of Montana.

(2) RESORT TO THE FEDERAL DISTRICT COURT.—Under the circumstances set forth in Article VII.B.4 of the Compact, 1 or more parties may file an appropriate motion (as provided in that article) in the United States district court of appropriate jurisdiction.

(3) EFFECT OF FAILURE OF APPROVAL TO BECOME FINAL.—In the event the approval by the appropriate court, including any direct appeal, does not become final within 3 years after the filing of the decree, or the decree is approved but is subsequently set aside by the appropriate court—

(A) the approval, ratification, and confirmation of the Compact by the United States shall be null and void; and

(B) except as provided in subsections (a) and (c)(3) of section 5 and section 105(e)(1), this Act shall be of no further force and effect.

SEC. 102. USE AND TRANSFER OF THE TRIBAL WATER RIGHT.

(a) ADMINISTRATION AND ENFORCEMENT.—As provided in the Compact, until the adoption and approval of a tribal water code by the Tribe, the Secretary shall administer and enforce the Tribal Water Right.

(b) TRIBAL MEMBER ENTITLEMENT.—

(1) IN GENERAL.—Any entitlement to Federal Indian reserved water of any tribal member shall be satisfied solely from the water secured to the Tribe by the Compact and shall be governed by the terms and conditions of the Compact.

(2) ADMINISTRATION.—An entitlement described in paragraph (1) shall be administered by the Tribe pursuant to a tribal water code developed and adopted pursuant to Article IV.A.2 of the Compact, or by the Secretary pending the adoption and approval of the tribal water code.

(c) TEMPORARY TRANSFER OF TRIBAL WATER RIGHT.—The Tribe may, with the approval of the Secretary and the approval of the State of Montana pursuant to Article IV.A.4 of the Compact, transfer any portion of the Tribal water right for use off the Reservation by service contract, lease, exchange, or other agreement. No service contract, lease, exchange, or other agreement entered into under this subsection may permanently alienate any portion of the Tribal water right. The enactment of this subsection shall constitute a plenary exercise of the powers set

forth in Article I, section 8(3) of the United States Constitution and is statutory law of the United States within the meaning of Article IV.A.4.b.(3) of the Compact.

SEC. 103. ON-RESERVATION WATER RESOURCES DEVELOPMENT.

(a) WATER DEVELOPMENT PROJECTS.—The Secretary, acting through the Bureau of Reclamation, is authorized and directed to plan, design, and construct, or to provide, pursuant to subsection (b), for the planning, design, and construction of the following water development projects on the Rocky Boy's Reservation:

(1) Bonneau Dam and Reservoir Enlargement.

(2) East Fork of Beaver Creek Dam Repair and Enlargement.

(3) Brown's Dam Enlargement.

(4) Towe Ponds' Enlargement.

(5) Such other water development projects as the Tribe shall from time to time consider appropriate.

(b) IMPLEMENTATION AGREEMENT.—The Secretary, at the request of the Tribe, shall enter into an agreement, or, if appropriate, renegotiate an existing agreement, with the Tribe to implement the provisions of this Act through the Tribe's annual funding agreement entered into under the self-governance program under title IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aa et seq.) by which the Tribe shall plan, design, and construct any or all of the projects authorized by this section.

(c) BUREAU OF RECLAMATION PROJECT ADMINISTRATION.—

(1) IN GENERAL.—Congress finds that the Secretary, through the Bureau of Reclamation, has entered into an agreement with the Tribe, pursuant to title IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aa et seq.)—

(A) defining and limiting the role of the Bureau of Reclamation in its administration of the projects authorized in subsection (a);

(B) establishing the standards upon which the projects will be constructed; and

(C) for other purposes necessary to implement this section.

(2) AGREEMENT.—The agreement referred to in paragraph (1) shall become effective when the Tribe exercises its right under subsection (b).

SEC. 104. CHIPPEWA CREE INDIAN RESERVED WATER RIGHTS SETTLEMENT TRUST FUND.

(a) ESTABLISHMENT OF TRUST FUND.—

(1) IN GENERAL.—

(A) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a trust fund for the Chippewa Cree Tribe of the Rocky Boy's Reservation to be known as the ''Chippewa Cree Indian Reserved Water Rights Settlement Trust Fund''.

(B) AVAILABILITY OF AMOUNTS IN FUND.—

(i) IN GENERAL.—Amounts in the Fund shall be available to the Secretary for management and investment on behalf of the Tribe and distribution to the Tribe in accordance with this Act.

(ii) AVAILABILITY.—Funds made available from the Fund under this section shall be available without fiscal year limitation.

(2) MANAGEMENT OF FUND.—The Secretary shall deposit and manage the principal and interest in the Fund in a manner consistent with subsection (b) and other applicable provisions of this Act.

(3) CONTENTS OF FUND.—The Fund shall consist of the amounts authorized to be appropriated to the Fund under section 105(a) and such other amounts as may be transferred or credited to the Fund.

(4) WITHDRAWAL.—The Tribe, with the approval of the Secretary, may withdraw the Fund and deposit it in a mutually agreed upon private financial institution. That withdrawal shall be made pursuant to the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(5) ACCOUNTS.—The Secretary of the Interior shall establish the following accounts in the Fund and shall allocate appropriations to the various accounts as required in this Act:

(A) The Tribal Compact Administration Account.

(B) The Economic Development Account.

(C) The Future Water Supply Facilities Account.

(b) FUND MANAGEMENT.—

(1) IN GENERAL.—

(A) AMOUNTS IN FUND.—The Fund shall consist of such amounts as are appropriated to the Fund and allocated to the accounts of the Fund by the Secretary as provided for in this Act and in accordance with the authorizations for appropriations in paragraphs (1), (2), and (3) of section 105(a), together with all interest that accrues in the Fund.

(B) MANAGEMENT BY SECRETARY.—The Secretary shall manage the Fund, make investments from the Fund, and make available funds from the Fund for distribution to the Tribe in a manner consistent with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(2) TRIBAL MANAGEMENT.—

(A) IN GENERAL.—If the Tribe exercises its right pursuant to subsection (a)(4) to withdraw the Fund and deposit it in a private financial institution, except as provided in the withdrawal plan, neither the Secretary nor the Secretary of the Treasury shall retain any oversight over or liability for the accounting, disbursement, or investment of the funds.

(B) WITHDRAWAL PLAN.—The withdrawal plan referred to in subparagraph (A) shall provide for—

(i) the creation of accounts and allocation to accounts in a fund established under the plan in a manner consistent with subsection (a); and

(ii) the appropriate terms and conditions, if any, on expenditures from the fund (in addition to the requirements of the plans set forth in paragraphs (2) and (3) of subsection (c)).

(c) USE OF FUND.—The Tribe shall use the Fund to fulfill the purposes of this Act, subject to the following restrictions on expenditures:

(1) Except for $400,000 necessary for capital expenditures in connection with Tribal Compact Administration, only interest accrued on the Tribal Compact Administration Account referred to in subsection (a)(5)(A) shall be available to satisfy the Tribe's obligations for Tribal Compact Administration under the provisions of the Compact.

(2) Both principal and accrued interest on the Economic Development Account referred to in subsection (a)(5)(B) shall be available to the Tribe for expenditure pursuant to an economic development plan approved by the Secretary.

(3) Both principal and accrued interest on the Future Water Supply Facilities Account referred to in subsection (a)(5)(C) shall be available to the Tribe for expenditure pursuant to a water supply plan approved by the Secretary.

(d) INVESTMENT OF FUND.—

(1) IN GENERAL.—

(A) APPLICABLE LAWS.—The Secretary shall invest amounts in the Fund in accordance with—

(i) the Act of April 1, 1880 (21 Stat. 70, chapter 41; 25 U.S.C. 161);

(ii) the first section of the Act entitled ''An Act to authorize the payment of interest of certain funds held in trust by the United States for Indian tribes'', approved February 12, 1929 (25 U.S.C. 161a); and

(iii) the first section of the Act entitled ''An Act to authorize the deposit and investment of Indian funds'', approved June 24, 1938 (25 U.S.C.162a).

(B) CREDITING OF AMOUNTS TO THE FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations of the United States held in the Fund shall be credited to and form part of the Fund. The Secretary of the Treasury shall credit to each of the accounts contained in the Fund a proportionate amount of that interest and proceeds.

(2) CERTAIN WITHDRAWN FUNDS.—

(A) IN GENERAL.—Amounts withdrawn from the Fund and deposited in a private financial institution pursuant to a withdrawal plan approved by the Secretary under the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.) shall be invested by an appropriate official under that plan.

(B) DEPOSIT OF INTEREST AND PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held under this paragraph shall be deposited in the private financial institution referred to in subparagraph (A) in the fund established pursuant to the withdrawal plan referred to in that subparagraph. The appropriate official shall credit to each of the accounts contained in that fund a proportionate amount of that interest and proceeds.

(e) AGREEMENT REGARDING FUND EXPENDITURES.—If the Tribe does not exercise its right under subsection (a)(4) to withdraw the funds in the Fund and transfer those funds to a private financial institution, the Secretary shall enter into an agreement with the Tribe providing for appropriate terms and conditions, if any, on expenditures from the Fund in addition to the plans set forth in paragraphs (2) and (3) of subsection (c).

(f) PER CAPITA DISTRIBUTIONS PROHIBITED.—No part of the Fund shall be distributed on a per capita basis to members of the Tribe.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

(a) CHIPPEWA CREE FUND.—There is authorized to be appropriated for the Fund, $21,000,000 to be allocated by the Secretary as follows:

(1) TRIBAL COMPACT ADMINISTRATION ACCOUNT.—For Tribal Compact Administration assumed by the Tribe under the Compact and this Act, $3,000,000 is authorized to be appropriated for fiscal year 2000.

(2) ECONOMIC DEVELOPMENT ACCOUNT.—For tribal economic development, $3,000,000 is authorized to be appropriated for fiscal year 2000.

(3) FUTURE WATER SUPPLY FACILITIES ACCOUNT.—For the total Federal contribution to the planning, design, construction, operation, maintenance, and rehabilitation of a future water supply system for the Reservation, there are authorized to be appropriated—

(A) $2,000,000 for fiscal year 2000;

(B) $8,000,000 for fiscal year 2001; and

(C) $5,000,000 for fiscal year 2002.

(b) ON-RESERVATION WATER DEVELOPMENT.—

(1) IN GENERAL.—There are authorized to be appropriated to the Department of the Interior, for the Bureau of Reclamation, for the construction of the on-Reservation water development projects authorized by section 103—

(A) $13,000,000 for fiscal year 2000, for the planning, design, and construction of the Bonneau Dam Enlargement, for the development of additional capacity in Bonneau Reservoir for storage of water secured to the Tribe under the Compact;

(B) $8,000,000 for fiscal year 2001, for the planning, design, and construction of the East Fork Dam and Reservoir enlargement, of the Brown's Dam and Reservoir enlargement, and of the Towe Ponds enlargement of which—

(i) $4,000,000 shall be used for the East Fork Dam and Reservoir enlargement;

(ii) $2,000,000 shall be used for the Brown's Dam and Reservoir enlargement; and

(iii) $2,000,000 shall be used for the Towe Ponds enlargement; and

(C) $3,000,000 for fiscal year 2002, for the planning, design, and construction of such other water resource developments as the Tribe, with the approval of the Secretary, from time to time may consider appropriate or for the completion of the 4 projects enumerated in subparagraphs (A) and (B) of paragraph (1).

(2) UNEXPENDED BALANCES.—Any unexpended balance in the funds authorized to be appropriated under subparagraph (A) or (B) of paragraph (1), after substantial completion of all of the projects enumerated in paragraphs (1) through (4) of section 103(a)—

(A) shall be available to the Tribe first for completion of the enumerated projects; and

(B) then for other water resource development projects on the Reservation.

(c) ADMINISTRATION COSTS.—There is authorized to be appropriated to the Department of the Interior, for the Bureau of Reclamation, $1,000,000 for fiscal year 2000, for the costs of administration of the Bureau of Reclamation under this Act, except that—

(1) if those costs exceed $1,000,000, the Bureau of Reclamation may use funds authorized for appropriation under subsection (b) for costs; and

(2) the Bureau of Reclamation shall exercise its best efforts to minimize those costs to avoid expenditures for the costs of administration under this Act that exceed a total of $1,000,000.

(d) AVAILABILITY OF FUNDS.—

(1) IN GENERAL.—The amounts authorized to be appropriated to the Fund and allocated to its accounts pursuant to subsection (a) shall be deposited into the Fund and allocated immediately on appropriation.

(2) INVESTMENTS.—Investments may be made from the Fund pursuant to section 104(d).

(3) AVAILABILITY OF CERTAIN MONEYS.—The amounts authorized to be appropriated in subsection (a)(1) shall be available for use immediately upon appropriation in accordance with subsection 104(c)(1).

(4) LIMITATION.—Those moneys allocated by the Secretary to accounts in the Fund or in a fund established under section 104(a)(4) shall draw interest consistent with section 104(d), but the moneys authorized to be appropriated under subsection (b) and paragraphs (2) and (3) of subsection (a) shall not be available for expenditure until the requirements of section 101(b) have been met so that the decree has become final and the Tribe has executed the waiver and release required under section 5(c).

(e) RETURN OF FUNDS TO THE TREASURY.—

(1) IN GENERAL.—In the event that the approval, ratification, and confirmation of the Compact by the United States becomes null and void under section 101(b), all unexpended funds appropriated under the authority of this Act together with all interest earned on such funds, notwithstanding whether the funds are held by the Tribe, a private institution, or the Secretary, shall revert to the general fund of the Treasury 12 months after the expiration of the deadline established in section 101(b).

(2) INCLUSION IN AGREEMENTS AND PLAN.—The requirements in paragraph (1) shall be included in all annual funding agreements entered into under the self-governance program under title IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aa et seq.), withdrawal plans, withdrawal agreements, or any other agreements for withdrawal or transfer of the funds to the Tribe or a private financial institution under this Act.

(f) WITHOUT FISCAL YEAR LIMITATION.—All money appropriated pursuant to authorizations under this title shall be available without fiscal year limitation.

SEC. 106. STATE CONTRIBUTIONS TO SETTLEMENT.

Consistent with Articles VI.C.2 and C.3 of the Compact, the State contribution to settlement shall be as follows:

(1) The contribution of $150,000 appropriated by Montana House Bill 6 of the 55th Legislative Session (1997) shall be used for the following purposes:

(A) Water quality discharge monitoring wells and monitoring program.

(B) A diversion structure on Big Sandy Creek.

(C) A conveyance structure on Box Elder Creek.

(D) The purchase of contract water from Lower Beaver Creek Reservoir.

(2) Subject to the availability of funds, the State shall provide services valued at $400,000 for administration required by the Compact and for water quality sampling required by the Compact.

TITLE II—TIBER RESERVOIR ALLOCATION AND FEASIBILITY STUDIES AUTHORIZATION.

SEC. 201. TIBER RESERVOIR.

(a) ALLOCATION OF WATER TO THE TRIBE.—

(1) IN GENERAL.—The Secretary shall permanently allocate to the Tribe, without cost to the Tribe, 10,000 acre-feet per year of stored water from the water right of the Bureau of Reclamation in Lake Elwell, Lower Marias Unit, Upper Missouri Division, Pick-Sloan Missouri Basin Program, Montana, measured at the outlet works of the dam or at the diversion point from the reservoir. The allocation shall become effective when the decree referred to in section 101(b) has become final in accordance with that section. The allocation shall be part of the Tribal Water Right and subject to the terms of this Act.

(2) AGREEMENT.—The Secretary shall enter into an agreement with the Tribe setting forth the terms of the allocation and providing for the Tribe's use or temporary transfer of water stored in Lake Elwell, subject to the terms and conditions of the Compact and this Act.

(3) PRIOR RESERVED WATER RIGHTS.—The allocation provided in this section shall be subject to the prior reserved water rights, if any, of any Indian tribe, or person claiming water through any Indian tribe.

(b) USE AND TEMPORARY TRANSFER OF ALLOCATION.—

(1) IN GENERAL.—Subject to the limitations and conditions set forth in the Compact and this Act, the Tribe shall have the right to devote the water allocated by this section to any use, including agricultural, municipal, commercial, industrial, mining, or recreational uses, within or outside the Rocky Boy's Reservation.

(2) CONTRACTS AND AGREEMENTS.—Notwithstanding any other provision of statutory or common law, the Tribe may, with the approval of the Secretary and subject to the limitations and conditions set forth in the Compact, enter into a service contract, lease, exchange, or other agreement providing for the temporary delivery, use, or transfer of the water allocated by this section, except that no such service contract, lease, exchange, or other agreement may permanently alienate any portion of the tribal allocation.

(c) REMAINING STORAGE.—The United States shall retain the right to use for any authorized purpose, any and all storage remaining in Lake Elwell after the allocation made to the Tribe in subsection (a).

(d) WATER TRANSPORT OBLIGATION; DEVELOPMENT AND DELIVERY COSTS.—The United States shall have no responsibility or obligation to provide any facility for the transport of the water allocated by this section to the Rocky Boy's Reservation or to any other location. Except for the contribution set forth in section 105(a)(3), the cost of developing and delivering the water allocated by this title or any other supplemental water to the Rocky Boy's Reservation shall not be borne by the United States.

(e) SECTION NOT PRECEDENTIAL.—The provisions of this section regarding the allocation of water resources from the Tiber Reservoir to the Tribe shall not be construed as precedent in the litigation or settlement of any other Indian water right claims.

SEC. 202. MUNICIPAL, RURAL, AND INDUSTRIAL FEASIBILITY STUDY.

(a) AUTHORIZATION.—

(1) IN GENERAL.—

(A) STUDY.—The Secretary, acting through the Bureau of Reclamation, shall perform an MR&I feasibility study of water and related resources in North Central Montana to evaluate alternatives for a municipal, rural, and industrial supply for the Rocky Boy's Reservation.

(B) USE OF FUNDS MADE AVAILABLE FOR FISCAL YEAR 1999.—The authority under subparagraph (A) shall be deemed to apply to MR&I feasibility study activities for which funds were made available by appropriations for fiscal year 1999.

(2) CONTENTS OF STUDY.—The MR&I feasibility study shall include the feasibility of releasing the Tribe's Tiber allocation as provided for in section 201 into the Missouri River System for later diversion to a treatment and delivery system for the Rocky Boy's Reservation.

(3) UTILIZATION OF EXISTING STUDIES.—The MR&I feasibility study shall include utilization of existing Federal and non-Federal studies and shall be planned and conducted in consultation with other Federal agencies, the State of Montana, and the Chippewa Cree Tribe.

(b) ACCEPTANCE OR PARTICIPATION IN IDENTIFIED OFF-RESERVATION SYSTEM.—The United States, the Chippewa Cree Tribe of the Rocky Boy's Reservation, and the State of Montana shall not be obligated to accept or participate in any potential off-Reservation water supply system identified in the MR&I feasibility study authorized in subsection (a).

SEC. 203. REGIONAL FEASIBILITY STUDY—

(a) IN GENERAL.—

(1) STUDY.—The Secretary, acting through the Bureau of Reclamation, shall conduct, pursuant to Reclamation Law, a regional feasibility study (referred to in this subsection as the ''regional feasibility study'') to evaluate water and related resources in North-Central Montana in order to determine the limitations of those resources and how those resources can best be managed and developed to serve the needs of the citizens of Montana.

(2) USE OF FUNDS MADE AVAILABLE FOR FISCAL YEAR 1999.—The authority under paragraph (1) shall be deemed to apply to regional feasibility study activities for which funds were made available by appropriations for fiscal year 1999.

(b) CONTENTS OF STUDY.—The regional feasibility study shall—

(1) evaluate existing and potential water supplies, uses, and management;

(2) identify major water-related issues, including environmental, water supply, and economic issues;

(3) evaluate opportunities to resolve the issues referred to in paragraph (2); and

(4) evaluate options for implementation of resolutions to the issues.

(c) REQUIREMENTS.—Because of the regional and international impact of the regional feasibility study, the study may not be segmented. The regional study shall—

(1) utilize, to the maximum extent possible, existing information; and

(2) be planned and conducted in consultation with all affected interests, including interests in Canada.

SEC. 204. AUTHORIZATION OF APPROPRIATIONS FOR FEASIBILITY STUDIES.

(a) FISCAL YEAR 1999 APPROPRIATIONS.—Of the amounts made available by appropriations for fiscal year 1999 for the Bureau of Reclamation, $1,000,000 shall be used for the purpose of commencing the MR&I feasibility study under section 202 and the regional study under section 203, of which—

(1) $500,000 shall be used for the MR&I study under section 202; and

(2) $500,000 shall be used for the regional study under section 203.

(b) FEASIBILITY STUDIES.—There is authorized to be appropriated to the Department of the Interior, for the Bureau of Reclamation, for the purpose of conducting the MR&I feasibility study under section 202 and the regional study under section 203, $3,000,000 for fiscal year 2000, of which—

(1) $500,000 shall be used for the MR&I feasibility study under section 202; and

(2) $2,500,000 shall be used for the regional study under section 203.

(c) WITHOUT FISCAL YEAR LIMITATION.—All money appropriated pursuant to authorizations under this title shall be available without fiscal year limitation.

(d) AVAILABILITY OF CERTAIN MONEYS.—The amounts made available for use under subsection (a) shall be deemed to have been available for use as of the date on which those funds were appropriated. The amounts authorized to be appropriated in subsection (b) shall be available for use immediately upon appropriation.

FREEDOM TO E-FILE ACT

FITZGERALD AMENDMENT NO. 2513

Mr. GRASSLEY (for Mr. FITZGERALD) proposed an amendment to the bill (S. 777) to require the Department of Agriculture to establish an electronic filing and retrieval system to enable the public to file all required paperwork electronically with the Department and to have access to public information on farm programs, quarterly trade, economic, and production reports, and other similar information; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Freedom to E-File Act''.

SEC. 2. ELECTRONIC FILING AND RETRIEVAL.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, in accordance with subsection (c), the Secretary of Agriculture (referred to in this Act as the ''Secretary'') shall, to the maximum extent practicable, establish an Internet-based system that enables agricultural producers to access all forms of the agencies of the Department of Agriculture specified in subsection (b).

(b) APPLICABILITY.—The agencies referred to in subsection (a) are—

(1) the Farm Service Agency;

(2) the Rural Utilities Service;

(3) the Rural Housing Service;

(4) the Rural Business-Cooperative Service; and

(5) the Natural Resources Conservation Service.

(c) IMPLEMENTATION.—In carrying out subsection (a), the Secretary shall—

(1) provide a method by which agricultural producers may—

(A) download forms from the Internet; and

(B) submit completed forms via electronic facsimile, mail, or similar means;

(2) redesign forms of the agencies of the Department of Agriculture by incorporating into the forms user-friendly formats and self-help guidance materials.

(d) PROGRESS REPORTS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the progress made toward implementing the Internet-based system required under this section.

SEC. 3. ACCESSING INFORMATION AND FILING OVER THE INTERNET.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, in accordance with subsection (b), the Secretary shall expand implementation of the Internet-based system established under section 2 by enabling agricultural producers to access and file all forms and, at the option of the Secretary, selected records and information of the agencies of the Department specified in section 2(b).

(b) IMPLEMENTATION.—In carrying out subsection (a), the Secretary shall ensure that an agricultural producer is able—

(1) to file electronically or in paper form, at the option of the agricultural producer, all forms required by agencies of the Department specified in section 2(b);

(2) to file electronically or in paper form, at the option of the agricultural producer, all documentation required by agencies of the Department specified in section 2(b) and determined appropriate by the Secretary; and

(3) to access information concerning farm programs, quarterly trade, economic, and production reports, and other similar production agriculture information that is readily available to the public in paper form.

SEC. 4. FEDERAL CROP INSURANCE CORPORATION AND RISK MANAGEMENT AGENCY.

(a) IN GENERAL.—Not later than December 1, 2000, the Federal Crop Insurance Corporation and the Risk Management Agency shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a plan, that is consistent with this Act, to allow agricultural producers to—

(1) obtain, over the Internet, from approved insurance providers all forms and other information concerning the program under the jurisdiction of the Corporation and Agency in which the agricultural producer is a participant; and

(2) file electronically all paperwork required for participation in the program.

(b) ADMINISTRATION.—The plan shall—

(1) conform to sections 2(c) and 3(b); and

(2) prescribe—

(A) the location and type of data to be made available to agricultural producers;

(B) the location where agricultural producers can electronically file their paperwork; and

(C) the responsibilities of the applicable parties, including agricultural producers, the Risk Management Agency, the Federal Crop Insurance Corporation, approved insurance providers, crop insurance agents, and brokers.

(c) IMPLEMENTATION.—Not later than December 1, 2001, the Federal Crop Insurance Corporation and the Risk Management Agency shall complete implementation of the plan submitted under subsection (a).

SEC. 5. CONFIDENTIALITY.

In carrying out this Act, the Secretary—

(1) may not make available any information over the Internet that would otherwise not be available for release under section 552 or 552a of title 5, United States Code; and

(2) shall ensure, to the maximum extent practicable, that the confidentiality of persons is maintained.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. GRAMM. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 9:30 a.m. on Thursday, November 4, 1999, in open session, to consider the nominations of Mr. Alphonso Maldon, Jr. to be assistant Secretary of Defense, Force Management Policy, and Mr. John Veroneau to be Assistant Secretary of Defense, Legislative Affairs.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GRAMM. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Thursday, November 4, 1999, at 9:30 a.m. on local competition in the voice and data marketplaces.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. GRAMM. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, November 4, 1999, at 10 a.m. and 2:30 p.m. to hold two hearings.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. GRAMM. Mr. President, I ask, unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate on Thursday, November 4, 1999, at 9:30 a.m. to conduct a joint hearing with the House Committee on Resources on S. 1586, the Indian Land Consolidation Act Amendments of 1999; and S. 1315, to permit the leasing of oil and gas rights on Navajo allotted lands.

The hearing will be held in room 106, Dirksen Senate Building.

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

COMMITTEE ON THE JUDICIARY

Mr. GRAMM. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, November 4, 1999, at 10 a.m., in Dirksen Room 226, to conduct a markup.

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

COMMITTEE ON THE JUDICIARY

Mr. GRAMM. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, November 4, 1999, at 11 a.m., in Dirsken Room 226, to conduct a hearing.

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

SPECIAL COMMITTEE ON AGING

Mr. GRAMM. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet on November 4, 1999, from 10 a.m. to 12 p.m., in Dirksen 562 for the purpose of conducting a hearing.

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

ADDITIONAL STATEMENTS

CONFERENCE REPORT FOR INTERIOR APPROPRIATIONS FOR FY 2000

● Mr. MCCAIN. Mr. President, the Senate passed the conference agreement for the Interior appropriations bill on October 21, 1999. Although this conference report was approved by unanimous consent, I wanted to express my objections to the amount of excessive pork-barrel spending and extraneous legislative riders included in this final agreement.

In late September, the Senate passed an Interior bill that included $217 million in wasteful and unnecessary spending. This new conference agreement has taken pork-barrel spending to higher proportions by adding an additional $140 million in earmarks that either were not included in the Senate or House bill, or increased funding levels for certain projects at levels far above the requested amounts.

I am constantly amazed by tactics used by my colleagues to attach earmarks for parochial projects that have not been authorized or that circumvent a fair and merit-review process. The conferees have even included report language that directs federal agencies to fund targeted earmarks included in the conference report prior to distributing general allocated funds to the rest of the country.

In my review of the final conference report, I have identified numerous earmarks and riders that are included in a list of objectionable provisions that is available on my Senate webpage. I remind my colleagues that I do not object to these projects based on their merit nor do I intend to belittle the importance of specific projects to local communities. My objections are based on issues of fairness and following established procedures to consider budgetary items as well as a undergoing a separate legislative process for policy and statutory changes to our federal laws. Unfortunately, the conferees have been able to side-step our established budget and legislative rules by utilizing deceptive wording and budget gimmickry.

For example, this conference report includes an extra $22 million in designated ''emergency'' funding for certain areas in the State of Alaska. This funding was not considered in either the Senate or House bills, but added during last-minute negotiations. Again, I certainly understand economic hardships facing rural Alaskans, but why is funding economic projects such as building a regional shipyard, a larger fishing dock, as well as converting a pulp mill to a Coca Cola bottling plant, of higher priority than addressing important land and resources management issues that are intended to be paid for through the Interior appropriations bill? This added ''emergency'' spending, despite that fact that it will purportedly not count against budget cap restrictions, will still be paid for by the taxpayers.

Also added in this conference report is an entirely new title that includes legislation, the ''Mississippi National Forest Improvement Act of 1999,'' which had not previously considered in the previous Senate or House bills. Furthermore, emergency funding of $68 million is provided for the ''United Mine Workers of America'' benefit fund, also not previously included in either the Senate or House versions of the Interior appropriations bills.

The conferees have targeted funding for projects that provide little detail as to their overall national priority or merit. For example, $300,000 that was originally dedicated for a Forest Service regional office is instead directed to be earmarked for heating, ventilation, and air conditioning systems at the Forest Products Labs in Wisconsin. Language is included to provide for specific acquisition of a high band radio system for the Monongahela National Forest in West Virginia. While these maintenance improvements may very well be necessary, is this the type of projects that deserve funding above other important land, forest and wildlife priorities?

Much of this wasteful spending could be directed toward other priorities and programs that allow states and local communities to prioritize their own needs at the local level, such as the State-side program of the Land and Water Conservation Fund. I, along with several of my colleagues, have supported prioritizing the State-side program of the Land and Water Conservation Fund as a program that provides federal resources for projects that are considered fairly and competitively. The conferees agreed to provide $20 million to the State-side program for the first time in many years, but this level is less than the $30 million approved by the Senate and far below what is necessary to address locally identified needs. Unfortunately, the State-side program, and many other programs that fund projects based on merit and national priority, are penalized due to other low-priority and special interest spending as part of this conference report.

Mr. President, each year the conferees utilize the appropriations process to tack on legislative riders that either were not considered through a legislative process or added with the intension to delay important policy and regulatory changes. Many environmental and land management laws cannot be updated or reviewed when legislative riders are included that prohibit any action by federal agencies to proceed with a fair and comprehensive review of impacts on our natural resources. A few of the these riders include:

A delay in promulgating rules to update oil valuation royalty assessments for oil drilled on federal lands;

A two-year exemption for certain mining companies who utilize public lands for purposes of storing mine waste;

A year-long delay for surface management regulations governing hardrock mining; and,

A continuing moratorium on Indian tribal P.L. 93–638 Indian Self-Determination Contracts that allow direct management and funding for tribally operated programs.

I support an open and fair review of our laws that govern public lands and resources, but we cannot fully evaluate the fairness and appropriateness of proposed changes when legislative riders such as these put a halt to our congressional review.

Mr. President, there is no doubt that important land, forest and Native American programs will continue to be supported through this annual funding bill. Unfortunately, many communities across this country will not receive the critical resources they need because of the continuing and unfair practice of pork-barrel spending. This year, our American taxpayers will pay the tab for $357 million in parochial and low-priority spending.●

RESPECT MONTH

● Mr. LEVIN. Mr. President, both the State of Michigan and the City of Detroit have proclaimed the month of October ''Respect Month'' for the past decade and October 30th ''Respect Your Neighborhood Day''. These designations give us the opportunity to recognize and celebrate the many daily acts of service, that sometimes go unnoticed, but are so vital to binding our communities and nation together with harmony and unity. Over the last month, organizations and schools in Michigan took the opportunity to give young people a greater acceptance of the similarities and differences of others.

The principle of respect is especially important in the aftermath of last school year's shootings. While our nation is focused on creating an atmosphere free from fear and violence, it is important to pause and reflect on our respect for one another. Respect is a valuable lesson for the schools who are struggling to repair the damage these

horrific acts of violence have caused. In fact, in the last few weeks I have reported several incidences of gun violence which have devastated families and school communities, leaving many people wondering what we, as a nation, can do to prevent these tragedies, and how we can reinforce the rule of respect.

I believe there are many things that we can do to make a difference. I have stated many times that one of the first things Congress can do is limit the easy access to firearms by our young people. I will continue to speak out about the need for strengthening our gun laws, but I also believe that there are other critical components of the complex puzzle of youth violence and one of them is respect. Devoting a month to respect provides an excellent avenue by which our young people can focus on the importance of honor, acceptance, and values.

While this is not expected to end all violence, it is my hope that by continuing to implement the lessons of respect in our daily lives, we can, in fact, make a positive impact in neighborhoods, not only across Michigan, but across the country as well.●

THE HONORABLE ELMER B. STAATS, COMPTROLLER GENERAL OF THE UNITED STATES, 1966–1981

● Mr. THOMPSON. Mr. President, today the American Society for Public Administration (ASPA) will be celebrating its 60th Anniversary by honoring Elmer B. Staats, who served as Comptroller General of the United States from 1966–1981. The Comptroller General of the United States has enormous responsibility as head of the U.S. General Accounting Office (GAO). Much of what we take for granted about GAO's successes in the area of government accountability results from the leadership of each Comptroller General. The commitment required to fulfill the responsibilities of this important position are equally balanced by the excellence we have seen in the occupants of the job.

That said, Elmer Staats occupies a special place not only in GAO's history, but for establishing the foundation of improved government accountability and fiscal responsibility so important to the sound functioning of our government. As Chairman of the Senate Committee on Governmental Affairs I can attest to the importance of Mr. Staats' contributions, because they have crucially shaped the effectiveness of GAO over the years and have been of enormous assistance to the Committee and to the Congress as a whole.

Elmer Staats increased GAO's visibility and services to the Congress dramatically. Elmer Staats expanded GAO's work beyond the mere consideration of the legality of expenditures and agency administrative activities, and began examining the effectiveness of government programs. What is important is that he did so by adapting rigorous accounting or ''Yellow Book'' Government Auditing Standards. In fact, when it comes to the Yellow Book, Elmer Staats literally wrote the book. Finally, Elmer Staats set the pace for GAO to be a leader in the fight against waste, fraud, and abuse. As Stephen Barr reported in The Washington Post on Thursday, October 28, 1999, ''For fiscal 1999, the GAO expects its recommendations to produce budget savings and financial benefits worth more than $20 billion. That follows several years in which the GAO's auditing and investigative work has led to annual savings of between $16 billion and $21 billion.''

I applaud ASPA's decision to honor Elmer Staats to highlight its own 60 years of service to our nation, and I extend my personal congratulations to Elmer Staats for receiving such a high honor. I ask unanimous consent that a congratulatory letter from the current Comptroller General, David M. Walker, be entered into the RECORD at this point.

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

GAO,
U.S. GENERAL ACCOUNTING OFFICE,
Washington, DC, October 28, 1999.

The Honorable Elmer B. Staats,
5011 Overlook Road, NW.,
Washington, DC 20016.

Dear Elmer: It is with enormous pride and privilege that I join your many colleagues and friends in honoring you on this 60th anniversary of the American Society of Public Administration. I regret that I cannot be there to share in the celebration due to a previous family commitment.

In the worlds of public accounting and public administration, we are the beneficiaries of your good name and myriad good works. It is both an honor and a responsibility to follow in your footsteps as Comptroller General of the United States. I would not begin to attempt to summarize the dollars saved, the federal programs strengthened, and the citizens' lives improved as a result of your many years of public service. I refer not only to your accomplishments as Comptroller General, but to your continued association with GAO and a multitude of public and private sector organizations since your so-called ''retirement'' from federal service.

I want to take this opportunity to highlight a few well-known parts of your celebrated record, which include: development of the ''Yellow Book'' of government auditing Standards, expansion of GAO's work in program evaluation, the effectiveness of your personal diplomacy on Capitol Hill, the reorganization of GAO into issue areas, establishment of GAO's job planning processes, the revitalization of the Joint Financial Management Improvement Program, and GAO's participation and leadership of the International Organization of Supreme Audit Institutions (INTOSAI). Your work made believers out of many in GAO, the Congress, andother accountability professionals throughout the world who continue to recognize today that GAO's core values of accountability, integrity, and reliability are the very foundation of public trust and confidence.

The changes you effected during your 15-year tenure as Comptroller General allowed GAO's institutional role in government to expand and improve. You demonstrated a unique mixture of energy, innovation, patience, and perseverance in being responsive to the Congress; ensuring the application of the standards of our profession; and preparing executives in all branches of government to understand, address, and resolve the problems that GAO uncovers.

Elmer, your legacy is with us in every new step and renewed effort at GAO. On behalf of the staff here at the General Accounting Office, and my fellow INTOSAL colleagues throughout the world, I extend the very best to you and your family on this joyous occasion.

Sincerely,

DAVID M. WALKER,

Comptroller General of the United States.●

LYNDON A. WADE

● Mr. CLELAND. Mr. President, I once heard Marian Wright Edelman, President of the Children's Defense Fund, say that ''Service is the rent each of us pays for living—the very purpose of life and not something you do in your spare time or after you have reached your personal goals.'' I can think of no greater example of that philosophy than Mr. Lyndon A. Wade.

Lyndon A. Wade has served as President of the Atlanta Urban League for over 30 years. Since 1968, under his leadership, this broad-based community and social service agency has affected major decisions and brought about changes in among other things, land and transportation planning, equal employment opportunities and minority employment in building and construction trades.

Currently, the League operates programs of service in the areas of employment, housing, education and youth services. The agency provides social services to over 3,000 people annually and is affiliated with the United Way Agency and also receives funding from city, county, state, and federal governments, foundations, and corporations.

Mr. Wade is a native Atlantan and a product of the Atlanta public schools. He received his BA form Morehouse College and his Masters degree in Social work from Atlanta University. He began his career as an assistant professor in Emory University's Department of Psychiatry, a position he occupied from 1963 to 1968.

Between 1971 and 1975, while serving as President of the Atlanta Urban League, Mr. Wade was appointed by Federal Judge Frank Hooper to chair the bi-racial Advisory Committee to the Atlanta Board of Education. This group was successful in forging the Atlanta Compromise which ended 15 years of protracted court struggle surrounding the desegregation of Atlanta's public schools.

From 1971 until 1985, Mr. Wade served on the Board of Directors of the Metropolitan Atlanta Rapid Transit Authority where he held the posts of Secretary, Chairman of the Development Committee and Vice-Chairman. He was one of the major architects of Marta's Affirmative Action Program which has

resulted in hundreds of jobs for minorities and females as well as producing approximately $3 billion in contracts for minority and female entrepreneurs since the beginning of the system.

During the early 1970's, the Atlanta Urban League, under Wade's leadership, paved the way for minorities and women to gain admission to the building trades elite crafts. Working with Arthur Fletcher and the U.S. Department of Labor a federal employment plan was developed for the construction industry in Metropolitan Atlanta. This plan served as a monitoring guide for hiring and utilization of minority and female workers.

Over his long and distinguished career, Mr. Wade has received numerous citations and honors including: Fulton County Medical Society's Distinguished Service Award; Social Worker of the Year 1971 by the North Georgia Chapter of the National Association of Social Workers; and the Distinguished Service Award by the Atlanta Morehouse Alumni Club.

He is a member of the Academy of Social Workers, the Atlanta Action Forum, the Atlanta Committee for Public Education, Organizing Committee for Gilda's Club, Channel 36's ''Quest'' Advisory Board, the Association of United Way executive committee, the Urban Insurance Task Force, and District Attorney Paul Howard's Transition Team as well as a 1970 Graduate of leadership Atlanta.

From September 1958 to July 1962, Mr. Wade served in the United States Military and received an honorable discharge with the rank of First Lieutenant. He is married and the father of four children. He is also a life-long member of the Central Methodist Church in Atlanta.

I thank Mr. Wade for the wonderful work he has done on behalf of Atlanta and its residents and I wish the very best for him and his family in his much deserved retirement.●

CONGRATULATING TWO OUTSTANDING ARKANSAS EMPLOYERS

● Mrs. LINCOLN. Mr. President, I rise today to recognize two outstanding companies in Arkansas that were named last month as two of America's 10 best manufacturing plants in North America by Industry Week magazine. This dual achievement is impressive and stands as a testament to the strong work ethic and pride in workmanship that exists among Arkansas workers.

Scroll Technologies of Arkadelphia and Eaton Corporation's Aeroquip Global Hose Division in Mountain Home were selected from over 400 plants that were considered for this award. Applicants were judged on productivity, workplace safety, community involvement, customer and supplier relations, product quality and innovation in technology.

Scroll Technologies, which manufactures air conditioning and refrigeration equipment, employs 575 workers and is one of the most advanced production plants of its kind. This company's success is founded upon management-employee partnerships, its highly skilled workforce and a strong commitment to workplace safety. Scroll Technologies can also be proud of its sound environmental record.

Eaton Corporation's Aeroquip Global Hose Division opened for business in 1975 and now employs 285 workers in Northwest Arkansas. Eaton-Aeroquip manufactures hydraulic hoses used in large trucks and tractors. This company has succeeded by abandoning the traditional, hierarchical manufacturing process and adopting an organizational structure based on 50 employee teams. Team members are encouraged to give candid feedback about all aspects of the plant's operations and are rewarded with performance based bonuses.

I have always said that Arkansas' greatest asset is its people. I am glad that Scroll Technologies and Eaton-Aeroquip have taken advantage of this resource and become valuable corporate-citizens in my state. I am proud to honor their achievements in the U.S. Senate today. I hope their well-earned success sends a signal to other companies in Arkansas and the nation that Arkansas is a good place for industry to do business.●

ST. JOSEPH'S MERCY OF MACOMB 100TH ANNIVERSARY

● Mr. ABRAHAM. Mr. President I rise today to honor and congratulate St. Joseph's Mercy of Macomb Hospital as they gather in celebration of their 100th Anniversary.

St. Joseph's Mercy of Macomb has set a pioneering tradition in health care since it was founded in 1899. One year after its beginning, the hospital opened a 50 bed facility for treatment of the acutely ill. With its healing waters and mineral baths it attracted patients world wide. St. Joseph's Mercy continued to take great strides in healthcare by establishing a disabled children's clinic, physical therapy department and the area's first alcoholism treatment center which was one of the first to recognize mental illness as a disease. Continuing to provide the best quality of healthcare for the people of Macomb County, in 1990 St. Joseph's became partners with Mercy Health systems and Henry Ford Health System.

What is truly remarkable about the people involved in St. Joseph's Mercy is the commitment they have to removing barriers to better health and making services available close to home for people of all ages. St. Joseph's Mercy has become a strong force in the community—working with parishes and schools to create healthcare teams and reaching out with HomeCare and neighborhood based healthcare centers. St. Joseph's Mercy is working hard to plan for the future of healthcare needs with critical, life saving initiatives and community outreach activities all designed to create a healthier Macomb County.

The accomplishments this group has made in the past 100 years are to be commended. St. Joseph's Mercy has made a hospital much more than four walls filled with medical equipment. They have taken their guiding spirit and reached out to the community delivering a century of caring and charity.

It is my hope that the St. Joseph's Mercy of Macomb will continue to provide excellent healthcare that knows no bounds.●

GEORGETOWN-RIDGE FARM HIGH SCHOOL WINS ODYSSEY WORLD TITLE

● Mr. DURBIN. Mr. President, I rise today to recognize six students at Georgetown-Ridge Farm High School who captured the Environmental Challenge division title at the Odyssey of the Mind's world competition in Knoxville, Tennessee. These Georgetown-Ridge Farm High School students, under the tutelage of their coach, Jeannine Patterson, beat out 54 teams representing other states and countries to win first place.

While this is the third consecutive year in which a Georgetown-Ridge Farm High School team has advanced a team to the world competition, students Ryan Frohock, Lynsey Hart, Manda Paige, Derek Galyen, Chelsey Spurlock, and James Chandler are the first to win the world competition, which consists of a long-term problem and a spontaneous problem.

Mr. President, we often heap praise upon athletes who demonstrate a special ability to throw a ball, catch a pass, or run extremely fast. Intellectual accomplishments, such as the one achieved by these six Georgetown-Ridge Farm students, however, are rarely acknowledged. But capturing a world title in a competition that involves both creativity and intellect clearly merits the highest commendation we can bestow upon these students. It is important that this achievement receive its due recognition, and I congratulate the six students at Georgetown-Ridge High School who won the Environmental Challenge world title at the Odyssey of the Mind's world competition, as well as their teachers, parents, and friends, all of whom played a role in their victory in Knoxville, Tennessee.●

TRIBUTE TO SERGEANT STEVE REEVES AND OFFICER STEPHEN GILNER

● Mr. CLELAND. Mr. President, it has been said that ''Poor is a nation which has no heroes. Poorer still is the nation which has them, but forgets them.'' I rise today before my colleagues to pay tribute to two fallen heroes, Sergeant Steve Reeves and Officer Stephen

Gilner. These policemen were two of Cobb County's, and indeed America's, finest. Unfortunately, in a tragic incident earlier this year, they were killed in the line of duty.

These men dutifully served and protected the great citizens of Georgia up until the last moments of their lives, when on July 23, 1999, these heroes were struck down by gunfire.

Colleagues described Stephen Gilner as a wonderful human being who had never been happier than when, after seven years in the Marine Corps, he was handed his police uniform and could make a career out of helping people. In 1999, Officer Gilner was nominated for the Officer of the Year award after saving a man from a burning van. He died last summer trying to save the life of a fellow officer. Officer Gilner leaves behind his wife Elisa and their daughter Nicole.

Sergeant Reeves had been with the Cobb County Police Department for fourteen years. Fellow officers remember Reeves for his sense of humor and his ability to remain calm under pressure. Just two months before the tragic shooting claimed his life, Steve Reeves had been promoted to Sergeant. The beloved hero was twice decorated—once for saving the life of a fellow officer during a struggle with an armed suspect and again for rescuing a family from their burning house while he was off-duty. Sergeant Reeves is survived by his wife, Beth, and two sons, Clint and Chris.

The selfless bravery and public service displayed by these heroes are in the finest tradition of the United States. I am sure my colleagues in the Senate will join me as I extend my thoughts and prayers to Elisa, Nicole, Beth, Clint and Chris. This tragic incident is the first of its kind in more than thirty five years where two police officers were killed in the same incident in the Atlanta Metro area. Our prayers are sent up to these men in heaven who made the ultimate sacrifice for their fellow citizens.●

TRIBUTE TO DANIEL JACOB MILLER

● Mr. ABRAHAM. Mr. President, I rise today to show appreciation and honor to Daniel Jacob Miller as he receives the Heroism Award presented by the Boy Scouts of America. Daniel is a true hero, good Samaritan and model citizen. On December 31, 1998, there was a tragic and massive automobile pile-up in Northern Michigan. The lone police officer on the scene needed help and that is when Dan stepped up. The officer asked if anyone had medical training and Dan, who had learned first aid training through the Boy Scouts, immediately offered his assistance. Dan's unselfish acts, putting his own life at risk helped save the lives of a mother and her children and enabled the police officer to tend to the many other seriously injured motorists.

What is most exceptional about Dan is that he genuinely cares about all people and their well being. After the devastating tornados which struck Oklahoma last May, Dan instigated and helped organize a trip to aid in the disaster clean-up. Dan's leadership was also apparent when he taught fellow Boy Scouts how to operate a Ham Radio and assisted them in getting certified in Ham Radio operations in case of a disaster.

Dan is described as a quiet and reserved person who enjoys doing his good deeds in secret and throughout his life he has continually put others' needs before his own. Daniel Miller is an exemplary person, Boy Scout and citizen. Time and time again his devotion and good will have blessed the lives of numerous people. It is my hope that many more people follow the path that Dan has set himself on and continue to make the state of Michigan and our nation a better place.

I would also like to take this opportunity to commend the Boy Scouts of America for their dedication to teaching young people the skills they need to assist in life-saving situations. The Boy Scout leaders who so unselfishly give of their time to help young men could never understand the far reaches of their work. Daniel Miller gives us one incredible example of the importance of the training young men get through the Boy Scouts of America.●

YOUTH DRUG AND MENTAL HEALTH SERVICES ACT

On November 3, 1999, the Senate passed S. 976, as follows:

S. 976

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 ''Youth Drug and Mental Health Services Act''.

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

Sec. 1. Short title; table of contents.

TITLE I—PROVISIONS RELATING TO SERVICES FOR CHILDREN AND ADOLESCENTS

Sec. 101. Children and violence.
Sec. 102. Emergency response.
Sec. 103. High risk youth reauthorization.
Sec. 104. Substance abuse treatment services for children and adolescents.
Sec. 105. Comprehensive community services for children with serious emotional disturbance.
Sec. 106. Services for children of substance abusers.
Sec. 107. Services for youth offenders.
Sec. 108. Grants for strengthening families through community partnerships.
Sec. 109. General provisions.

TITLE II—PROVISIONS RELATING TO MENTAL HEALTH

Sec. 201. Priority mental health needs of regional and national significance.
Sec. 202. Grants for the benefit of homeless individuals.
Sec. 203. Projects for assistance in transition from homelessness.
Sec. 204. Community mental health services performance partnership block grant.
Sec. 205. Determination of allotment.
Sec. 206. Protection and Advocacy for Mentally Ill Individuals Act of 1986.
Sec. 207. Requirement relating to the rights of residents of certain facilities.

TITLE III—PROVISIONS RELATING TO SUBSTANCE ABUSE

Sec. 301. Priority substance abuse treatment needs of regional and national significance.
Sec. 302. Priority substance abuse prevention needs of regional and national significance.
Sec. 303. Substance abuse prevention and treatment performance partnership block grant.
Sec. 304. Determination of allotments.
Sec. 305. Nondiscrimination and institutional safeguards for religious providers.
Sec. 306. Alcohol and drug prevention or treatment services for Indians and Native Alaskans.

TITLE IV—PROVISIONS RELATING TO FLEXIBILITY AND ACCOUNTABILITY

Sec. 401. General authorities and peer review.
Sec. 402. Advisory councils.
Sec. 403. General provisions for the performance partnership block grants.
Sec. 404. Data infrastructure projects.
Sec. 405. Repeal of obsolete addict referral provisions.
Sec. 406. Individuals with co-occurring disorders.
Sec. 407. Services for individuals with co-occurring disorders.

TITLE I—PROVISIONS RELATING TO SERVICES FOR CHILDREN AND ADOLESCENTS

SEC. 101. CHILDREN AND VIOLENCE.

Title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end the following:

''PART G—PROJECTS FOR CHILDREN AND VIOLENCE

''SEC. 581. CHILDREN AND VIOLENCE.

''(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Education and the Attorney General, shall carry out directly or through grants, contracts or cooperative agreements with public entities a program to assist local communities in developing ways to assist children in dealing with violence.

''(b) ACTIVITIES.—Under the program under subsection (a), the Secretary may—

''(1) provide financial support to enable local communities to implement programs to foster the health and development of children;

''(2) provide technical assistance to local communities with respect to the development of programs described in paragraph (1);

''(3) provide assistance to local communities in the development of policies to address violence when and if it occurs; and

''(4) assist in the creation of community partnerships among law enforcement, education systems and mental health and substance abuse service systems.

''(c) REQUIREMENTS.—An application for a grant, contract or cooperative agreement

under subsection (a) shall demonstrate that—

''(1) the applicant will use amounts received to create a partnership described in subsection (b)(4) to address issues of violence in schools;

''(2) the activities carried out by the applicant will provide a comprehensive method for addressing violence, that will include—

''(A) security;

''(B) educational reform;

''(C) the review and updating of school policies;

''(D) alcohol and drug abuse prevention and early intervention services;

''(E) mental health prevention and treatment services; and

''(F) early childhood development and psychosocial services; and

''(3) the applicant will use amounts received only for the services described in subparagraphs (D), (E), and (F) of paragraph (2).

''(d) GEOGRAPHICAL DISTRIBUTION.—The Secretary shall ensure that grants, contracts or cooperative agreements under subsection (a) will be distributed equitably among the regions of the country and among urban and rural areas.

''(e) DURATION OF AWARDS.—With respect to a grant, contract or cooperative agreement under subsection (a), the period during which payments under such an award will be made to the recipient may not exceed 5 years.

''(f) EVALUATION.—The Secretary shall conduct an evaluation of each project carried out under this section and shall disseminate the results of such evaluations to appropriate public and private entities.

''(g) INFORMATION AND EDUCATION.—The Secretary shall establish comprehensive information and education programs to disseminate the findings of the knowledge development and application under this section to the general public and to health care professionals.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $100,000,000 for fiscal year 2000, and such sums as may be necessary for each of fiscal years 2001 and 2002.

''SEC. 582. GRANTS TO ADDRESS THE PROBLEMS OF PERSONS WHO EXPERIENCE VIOLENCE RELATED STRESS.

''(a) IN GENERAL.—The Secretary shall award grants, contracts or cooperative agreements to public and nonprofit private entities, as well as to Indian tribes and tribal organizations, for the purpose of establishing a national and regional centers of excellence on psychological trauma response and for developing knowledge with regard to evidence-based practices for treating psychiatric disorders resulting from witnessing or experiencing such stress.

''(b) PRIORITIES.—In awarding grants, contracts or cooperative agreements under subsection (a) related to the development of knowledge on evidence-based practices for treating disorders associated with psychological trauma, the Secretary shall give priority to programs that work with children, adolescents, adults, and families who are survivors and witnesses of domestic, school and community violence and terrorism.

''(c) GEOGRAPHICAL DISTRIBUTION.—The Secretary shall ensure that grants, contracts or cooperative agreements under subsection (a) with respect to centers of excellence are distributed equitably among the regions of the country and among urban and rural areas.

''(d) EVALUATION.—The Secretary, as part of the application process, shall require that each applicant for a grant, contract or cooperative agreement under subsection (a) submit a plan for the rigorous evaluation of the activities funded under the grant, contract or agreement, including both process and outcomes evaluation, and the submission of an evaluation at the end of the project period.

''(e) DURATION OF AWARDS.—With respect to a grant, contract or cooperative agreement under subsection (a), the period during which payments under such an award will be made to the recipient may not exceed 5 years. Such grants, contracts or agreements may be renewed.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $50,000,000 for fiscal year 2000, and such sums as may be necessary for each of fiscal years 2001 and 2002.''.

SEC. 102. EMERGENCY RESPONSE.

Section 501 of the Public Health Service Act (42 U.S.C. 290aa) is amended—

(1) by redesignating subsection (m) as subsection (o);

(2) by inserting after subsection (l) the following:

''(m) EMERGENCY RESPONSE.—

''(1) IN GENERAL.—Notwithstanding section 504 and except as provided in paragraph (2), the Secretary may use not to exceed 3 percent of all amounts appropriated under this title for a fiscal year to make noncompetitive grants, contracts or cooperative agreements to public entities to enable such entities to address emergency substance abuse or mental health needs in local communities.

''(2) EXCEPTIONS.—Amounts appropriated under part C shall not be subject to paragraph (1).

''(3) EMERGENCIES.—The Secretary shall establish criteria for determining that a substance abuse or mental health emergency exists and publish such criteria in the Federal Register prior to providing funds under this subsection.

''(n) LIMITATION ON THE USE OF CERTAIN INFORMATION.—No information, if an establishment or person supplying the information or described in it is identifiable, obtained in the course of activities undertaken or supported under this title may be used for any purpose other than the purpose for which it was supplied unless such establishment or person has consented (as determined under regulations of the Secretary) to its use for such other purpose. Such information may not be published or released in other form if the person who supplied the information or who is described in it is identifiable unless such person has consented (as determined under regulations of the Secretary) to its publication or release in other form.''; and

(3) in subsection (o) (as so redesignated), by striking ''1993'' and all that follows through the period and inserting ''2000, and such sums as may be necessary for each of the fiscal years 2001 and 2002.''.

SEC. 103. HIGH RISK YOUTH REAUTHORIZATION.

Section 517(h) of the Public Health Service Act (42 U.S.C. 290bb–23(h)) is amended by striking ''$70,000,000'' and all that follows through ''1994'' and inserting ''such sums as may be necessary for each of the fiscal years 2000 through 2002''.

SEC. 104. SUBSTANCE ABUSE TREATMENT SERVICES FOR CHILDREN AND ADOLESCENTS.

Subpart 1 of part B of title V of the Public Health Service Act (42 U.S.C. 290bb et seq.) is amended by adding at the end the following:

''SEC. 514. SUBSTANCE ABUSE TREATMENT SERVICES FOR CHILDREN AND ADOLESCENTS.

''(a) IN GENERAL.—The Secretary shall award grants, contracts, or cooperative agreements to public and private nonprofit entities, including Native Alaskan entities and Indian tribes and tribal organizations, for the purpose of providing substance abuse treatment services for children and adolescents.

''(b) PRIORITY.—In awarding grants, contracts, or cooperative agreements under subsection (a), the Secretary shall give priority to applicants who propose to—

''(1) apply evidenced-based and cost effective methods for the treatment of substance abuse among children and adolescents;

''(2) coordinate the provision of treatment services with other social service agencies in the community, including educational, juvenile justice, child welfare, and mental health agencies;

''(3) provide a continuum of integrated treatment services, including case management, for children and adolescents with substance abuse disorders and their families;

''(4) provide treatment that is gender-specific and culturally appropriate;

''(5) involve and work with families of children and adolescents receiving treatment;

''(6) provide aftercare services for children and adolescents and their families after completion of substance abuse treatment; and

''(7) address the relationship between substance abuse and violence.

''(c) DURATION OF GRANTS.—The Secretary shall award grants, contracts, or cooperative agreements under subsection (a) for periods not to exceed 5 fiscal years.

''(d) APPLICATION.—An entity desiring a grant, contract, or cooperative agreement under subsection (a) shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

''(e) EVALUATION.—An entity that receives a grant, contract, or cooperative agreement under subsection (a) shall submit, in the application for such grant, contract, or cooperative agreement, a plan for the evaluation of any project undertaken with funds provided under this section. Such entity shall provide the Secretary with periodic evaluations of the progress of such project and such evaluation at the completion of such project as the Secretary determines to be appropriate.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $40,000,000 for fiscal year 2000, and such sums as may be necessary for fiscal years 2001 and 2002.

''SEC. 514A. EARLY INTERVENTION SERVICES FOR CHILDREN AND ADOLESCENTS.

''(a) IN GENERAL.—The Secretary shall award grants, contracts, or cooperative agreements to public and private nonprofit entities, including local educational agencies (as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)), for the purpose of providing early intervention substance abuse services for children and adolescents.

''(b) PRIORITY.—In awarding grants, contracts, or cooperative agreements under subsection (a), the Secretary shall give priority to applicants who demonstrate an ability to—

''(1) screen for and assess substance use and abuse by children and adolescents;

''(2) make appropriate referrals for children and adolescents who are in need of treatment for substance abuse;

''(3) provide early intervention services, including counseling and ancillary services, that are designed to meet the developmental needs of children and adolescents who are at risk for substance abuse; and

''(4) develop networks with the educational, juvenile justice, social services, and other agencies and organizations in the State or local community involved that will work to identify children and adolescents who are in need of substance abuse treatment services.

''(c) CONDITION.—In awarding grants, contracts, or cooperative agreements under subsection (a), the Secretary shall ensure that

such grants, contracts, or cooperative agreements are allocated, subject to the availability of qualified applicants, among the principal geographic regions of the United States, to Indian tribes and tribal organizations, and to urban and rural areas.

''(d) DURATION OF GRANTS.—The Secretary shall award grants, contracts, or cooperative agreements under subsection (a) for periods not to exceed 5 fiscal years.

''(e) APPLICATION.—An entity desiring a grant, contract, or cooperative agreement under subsection (a) shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

''(f) EVALUATION.—An entity that receives a grant, contract, or cooperative agreement under subsection (a) shall submit, in the application for such grant, contract, or cooperative agreement, a plan for the evaluation of any project undertaken with funds provided under this section. Such entity shall provide the Secretary with periodic evaluations of the progress of such project and such evaluation at the completion of such project as the Secretary determines to be appropriate.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $20,000,000 for fiscal year 2000, and such sums as may be necessary for fiscal years 2001 and 2002.

''SEC. 514B. YOUTH INTERAGENCY RESEARCH, TRAINING, AND TECHNICAL ASSISTANCE CENTERS.

''(a) PROGRAM AUTHORIZED.—The Secretary, acting through the Administrator of the Substance Abuse and Mental Health Services Administration, and in consultation with the Administrator of the Office of Juvenile Justice and Delinquency Prevention, the Director of the Bureau of Justice Assistance and the Director of the National Institutes of Health, shall award grants or contracts to public or nonprofit private entities to establish not more than 4 research, training, and technical assistance centers to carry out the activities described in subsection (c).

''(b) APPLICATION.—A public or private nonprofit entity desiring a grant or contract under subsection (a) shall prepare and submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(c) AUTHORIZED ACTIVITIES.—A center established under a grant or contract under subsection (a) shall—

''(1) provide training with respect to state-of-the-art mental health and justice-related services and successful mental health and substance abuse-justice collaborations that focus on children and adolescents, to public policymakers, law enforcement administrators, public defenders, police, probation officers, judges, parole officials, jail administrators and mental health and substance abuse providers and administrators;

''(2) engage in research and evaluations concerning State and local justice and mental health systems, including system redesign initiatives, and disseminate information concerning the results of such evaluations;

''(3) provide direct technical assistance, including assistance provided through toll-free telephone numbers, concerning issues such as how to accommodate individuals who are being processed through the courts under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), what types of mental health or substance abuse service approaches are effective within the judicial system, and how community-based mental health or substance abuse services can be more effective, including relevant regional, ethnic, and gender-related considerations; and

''(4) provide information, training, and technical assistance to State and local governmental officials to enhance the capacity of such officials to provide appropriate services relating to mental health or substance abuse.

''(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $4,000,000 for fiscal year 2000, and such sums as may be necessary for fiscal years 2001 and 2002.

''SEC. 514C. PREVENTION OF METHAMPHETAMINE AND INHALANT ABUSE AND ADDICTION.

''(a) GRANTS.—The Director of the Center for Substance Abuse Prevention (referred to in this section as the 'Director') may make grants to and enter into contracts and cooperative agreements with public and nonprofit private entities to enable such entities—

''(1) to carry out school-based programs concerning the dangers of methamphetamine or inhalant abuse and addiction, using methods that are effective and evidence-based, including initiatives that give students the responsibility to create their own anti-drug abuse education programs for their schools; and

''(2) to carry out community-based methamphetamine or inhalant abuse and addiction prevention programs that are effective and evidence-based.

''(b) USE OF FUNDS.—Amounts made available under a grant, contract or cooperative agreement under subsection (a) shall be used for planning, establishing, or administering methamphetamine or inhalant prevention programs in accordance with subsection (c).

''(c) PREVENTION PROGRAMS AND ACTIVITIES.—

''(1) IN GENERAL.—Amounts provided under this section may be used—

''(A) to carry out school-based programs that are focused on those districts with high or increasing rates of methamphetamine or inhalant abuse and addiction and targeted at populations which are most at risk to start methamphetamine or inhalant abuse;

''(B) to carry out community-based prevention programs that are focused on those populations within the community that are most at-risk for methamphetamine or inhalant abuse and addiction;

''(C) to assist local government entities to conduct appropriate methamphetamine or inhalant prevention activities;

''(D) to train and educate State and local law enforcement officials, prevention and education officials, members of community anti-drug coalitions and parents on the signs of methamphetamine or inhalant abuse and addiction and the options for treatment and prevention;

''(E) for planning, administration, and educational activities related to the prevention of methamphetamine or inhalant abuse and addiction;

''(F) for the monitoring and evaluation of methamphetamine or inhalant prevention activities, and reporting and disseminating resulting information to the public; and

''(G) for targeted pilot programs with evaluation components to encourage innovation and experimentation with new methodologies.

''(2) PRIORITY.—The Director shall give priority in making grants under this section to rural and urban areas that are experiencing a high rate or rapid increases in methamphetamine or inhalant abuse and addiction.

''(d) ANALYSES AND EVALUATION.—

''(1) IN GENERAL.—Up to $500,000 of the amount available in each fiscal year to carry out this section shall be made available to the Director, acting in consultation with other Federal agencies, to support and conduct periodic analyses and evaluations of effective prevention programs for methamphetamine or inhalant abuse and addiction and the development of appropriate strategies for disseminating information about and implementing these programs.

''(2) ANNUAL REPORTS.—The Director shall submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate and the Committee on Commerce and Committee on Appropriations of the House of Representatives, an annual report with the results of the analyses and evaluation under paragraph (1).

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out subsection (a), $10,000,000 for fiscal year 2000, and such sums as may be necessary for each of fiscal years 2001 and 2002.''.

SEC. 105. COMPREHENSIVE COMMUNITY SERVICES FOR CHILDREN WITH SERIOUS EMOTIONAL DISTURBANCE.

(a) MATCHING FUNDS.—Section 561(c)(1)(D) of the Public Health Service Act (42 U.S.C. 290ff(c)(1)(D)) is amended by striking ''fifth'' and inserting ''fifth and sixth''.

(b) FLEXIBILITY FOR INDIAN TRIBES AND TERRITORIES.—Section 562 of the Public Health Service Act (42 U.S.C. 290ff–1) is amended by adding at the end the following:

''(g) WAIVERS.—The Secretary may waive 1 or more of the requirements of subsection (c) for a public entity that is an Indian Tribe or tribal organization, or American Samoa, Guam, the Marshall Islands, the Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, or the United States Virgin Islands if the Secretary determines, after peer review, that the system of care is family-centered and uses the least restrictive environment that is clinically appropriate.''.

(c) DURATION OF GRANTS.—Section 565(a) of the Public Health Service Act (42 U.S.C. 290ff–4(a)) is amended by striking ''5 fiscal'' and inserting ''6 fiscal''.

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 565(f)(1) of the Public Health Service Act (42 U.S.C. 290ff–4(f)(1)) is amended by striking ''1993'' and all that follows and inserting ''2000, and such sums as may be necessary for each of the fiscal years 2001 and 2002.''.

(e) CURRENT GRANTEES.—

(1) IN GENERAL.—Entities with active grants under section 561 of the Public Health Service Act (42 U.S.C. 290ff) on the date of enactment of this Act shall be eligible to receive a 6th year of funding under the grant in an amount not to exceed the amount that such grantee received in the 5th year of funding under such grant. Such 6th year may be funded without requiring peer and Advisory Council review as required under section 504 of such Act (42 U.S.C. 290aa–3).

(2) LIMITATION.—Paragraph (1) shall apply with respect to a grantee only if the grantee agrees to comply with the provisions of section 561 as amended by subsection (a).

SEC. 106. SERVICES FOR CHILDREN OF SUBSTANCE ABUSERS.

(a) ADMINISTRATION AND ACTIVITIES.—

(1) ADMINISTRATION.—Section 399D(a) of the Public Health Service Act (42 U.S.C. 280d(a)(1)) is amended—

(A) in paragraph (1), by striking ''Administrator'' and all that follows through ''Administration'' and insert ''Administrator of the Substance Abuse and Mental Health Services Administration''; and

(B) in paragraph (2), by striking ''Administrator of the Substance Abuse and Mental Health Services Administration'' and inserting ''Administrator of the Health Resources and Services Administration''.

(2) ACTIVITIES.—Section 399D(a)(1) of the Public Health Service Act (42 U.S.C. 280d(a)(1)) is amended—

(A) in subparagraph (B), by striking ''and'' at the end;

(B) in subparagraph (C), by striking the period and inserting the following: ''through youth service agencies, family social services, child care providers, Head Start, schools and after-school programs, early childhood development programs, community-based family resource and support centers, the criminal justice system, health, substance abuse and mental health providers through screenings conducted during regular childhood examinations and other examinations, self and family member referrals, substance abuse treatment services, and other providers of services to children and families; and''; and

(C) by adding at the end the following:

''(D) to provide education and training to health, substance abuse and mental health professionals, and other providers of services to children and families through youth service agencies, family social services, child care, Head Start, schools and after-school programs, early childhood development programs, community-based family resource and support centers, the criminal justice system, and other providers of services to children and families.''.

(3) IDENTIFICATION OF CERTAIN CHILDREN.—Section 399D(a)(3)(A) of the Public Health Service Act (42 U.S.C. 280d(a)(3)(A)) is amended—

(A) in clause (i), by striking ''(i) the entity'' and inserting ''(i)(I) the entity'';

(B) in clause (ii)—

(i) by striking ''(ii) the entity'' and inserting ''(II) the entity''; and

(ii) by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(ii) the entity will identify children who may be eligible for medical assistance under a State program under title XIX or XXI of the Social Security Act.''.

(b) SERVICES FOR CHILDREN.—Section 399D(b) of the Public Health Service Act (42 U.S.C. 280d(b)) is amended—

(1) in paragraph (1), by inserting ''alcohol and drug,'' after ''psychological,'';

(2) by striking paragraph (5) and inserting the following:

''(5) Developmentally and age-appropriate drug and alcohol early intervention, treatment and prevention services.''; and

(3) by inserting after paragraph (8), the following:

''Services shall be provided under paragraphs (2) through (8) by a public health nurse, social worker, or similar professional, or by a trained worker from the community who is supervised by a professional, or by an entity, where the professional or entity provides assurances that the professional or entity is licensed or certified by the State if required and is complying with applicable licensure or certification requirements.''.

(c) SERVICES FOR AFFECTED FAMILIES.—Section 399D(c) of the Public Health Service Act (42 U.S.C. 280d(c)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by inserting before the colon the following: '', or by an entity, where the professional or entity provides assurances that the professional or entity is licensed or certified by the State if required and is complying with applicable licensure or certification requirements''; and

(B) by adding at the end the following:

''(D) Aggressive outreach to family members with substance abuse problems.

''(E) Inclusion of consumer in the development, implementation, and monitoring of Family Services Plan.'';

(2) in paragraph (2)—

(A) by striking subparagraph (A) and inserting the following:

''(A) Alcohol and drug treatment services, including screening and assessment, diagnosis, detoxification, individual, group and family counseling, relapse prevention, pharmacotherapy treatment, after-care services, and case management.'';

(B) in subparagraph (C), by striking '', including educational and career planning'' and inserting ''and counseling on the human immunodeficiency virus and acquired immune deficiency syndrome'';

(C) in subparagraph (D), by striking ''conflict and''; and

(D) in subparagraph (E), by striking ''Remedial'' and inserting ''Career planning and''; and

(3) in paragraph (3)(D), by inserting ''which include child abuse and neglect prevention techniques'' before the period.

(d) ELIGIBLE ENTITIES.—Section 399D(d) of the Public Health Service Act (42 U.S.C. 280d(d)) is amended—

(1) by striking the matter preceding paragraph (1) and inserting:

''(d) ELIGIBLE ENTITIES.—The Secretary shall distribute the grants through the following types of entities:'';

(2) in paragraph (1), by striking ''drug treatment'' and inserting ''drug early intervention, prevention or treatment; and

(3) in paragraph (2)—

(A) in subparagraph (A), by striking ''; and'' and inserting ''; or''; and

(B) in subparagraph (B), by inserting ''or pediatric health or mental health providers and family mental health providers'' before the period.

(e) SUBMISSION OF INFORMATION.—Section 399D(h) of the Public Health Service Act (42 U.S.C. 280d(h)) is amended—

(1) in paragraph (2)—

(A) by inserting ''including maternal and child health'' before ''mental'';

(B) by striking ''treatment programs''; and

(C) by striking ''and the State agency responsible for administering public maternal and child health services'' and inserting '', the State agency responsible for administering alcohol and drug programs, the State lead agency, and the State Interagency Coordinating Council under part H of the Individuals with Disabilities Education Act; and''; and

(2) by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(f) REPORTS TO THE SECRETARY.—Section 399D(i)(6) of the Public Health Service Act (42 U.S.C. 280d(i)(6)) is amended—

(1) in subparagraph (B), by adding ''and'' at the end; and

(2) by striking subparagraphs (C), (D), and (E) and inserting the following:

''(C) the number of case workers or other professionals trained to identify and address substance abuse issues.''.

(g) EVALUATIONS.—Section 399D(l) of the Public Health Service Act (42 U.S.C. 280d(l)) is amended—

(1) in paragraph (3), by adding ''and'' at the end;

(2) in paragraph (4), by striking the semicolon and inserting the following: '', including increased participation in work or employment-related activities and decreased participation in welfare programs.''; and

(3) by striking paragraphs (5) and (6).

(h) REPORT TO CONGRESS.—Section 399D(m) of the Public Health Service Act (42 U.S.C. 280d(m)) is amended—

(1) in paragraph (2), by adding ''and'' at the end;

(2) in paragraph (3)—

(A) in subparagraph (A), by adding ''and'' at the end;

(B) in subparagraph (B), by striking the semicolon and inserting a period; and

(C) by striking subparagraphs (C), (D), and (E); and

(3) by striking paragraphs (4) and (5).

(i) DATA COLLECTION.—Section 399D(n) of the Public Health Service Act (42 U.S.C. 280d(n)) is amended by adding at the end the following: ''The periodic report shall include a quantitative estimate of the prevalence of alcohol and drug problems in families involved in the child welfare system, the barriers to treatment and prevention services facing these families, and policy recommendations for removing the identified barriers, including training for child welfare workers.''.

(j) DEFINITION.—Section 399D(o)(2)(B) of the Public Health Service Act (42 U.S.C. 280d(o)(2)(B)) is amended by striking ''dangerous''.

(k) AUTHORIZATION OF APPROPRIATIONS.—Section 399D(p) of the Public Health Service Act (42 U.S.C. 280d(p)) is amended to read as follows:

''(p) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $50,000,000 for fiscal year 2000, and such sums as may be necessary for each of fiscal years 2001 and 2002.''.

(l) GRANTS FOR TRAINING AND CONFORMING AMENDMENTS.—Section 399D of the Public Health Service Act (42 U.S.C. 280d) is amended—

(1) by striking subsection (f);

(2) by striking subsection (k);

(3) by redesignating subsections (d), (e), (g), (h), (i), (j), (l), (m), (n), (o), and (p) as subsections (e) through (o), respectively;

(4) by inserting after subsection (c), the following:

''(d) TRAINING FOR PROVIDERS OF SERVICES TO CHILDREN AND FAMILIES.—The Secretary may make a grant under subsection (a) for the training of health, substance abuse and mental health professionals and other providers of services to children and families through youth service agencies, family social services, child care providers, Head Start, schools and after-school programs, early childhood development programs, community-based family resource centers, the criminal justice system, and other providers of services to children and families. Such training shall be to assist professionals in recognizing the drug and alcohol problems of their clients and to enhance their skills in identifying and understanding the nature of substance abuse, and obtaining substance abuse early intervention, prevention and treatment resources.'';

(5) in subsection (k)(2) (as so redesignated), by striking ''(h)'' and inserting ''(i)''; and

(6) in paragraphs (3)(E) and (5) of subsection (m) (as so redesignated), by striking ''(d)'' and inserting ''(e)''.

(m) TRANSFER AND REDESIGNATION.—Section 399D of the Public Health Service Act (42 U.S.C. 280d), as amended by this section—

(1) is transferred to title V;

(2) is redesignated as section 519; and

(3) is inserted after section 518.

(n) CONFORMING AMENDMENT.—Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by striking the heading of part L.

SEC. 107. SERVICES FOR YOUTH OFFENDERS.

Subpart 3 of part B of title V of the Public Health Service Act (42 U.S.C. 290bb–31 et seq.) is amended by adding at the end the following:

''SEC. 520C. SERVICES FOR YOUTH OFFENDERS.

''(a) IN GENERAL.—The Secretary, acting through the Director of the Center for Mental Health Services, and in consultation with the Director of the Center for Substance Abuse Treatment, the Administrator of the Office of Juvenile Justice and Delinquency Prevention, and the Director of the Special Education Programs, shall award grants on a competitive basis to State or local juvenile justice agencies to enable such agencies to provide aftercare services for youth offenders who have been discharged from facilities

in the juvenile or criminal justice system and have serious emotional disturbances or are at risk of developing such disturbances.

''(b) USE OF FUNDS.—A State or local juvenile justice agency receiving a grant under subsection (a) shall use the amounts provided under the grant—

''(1) to develop a plan describing the manner in which the agency will provide services for each youth offender who has a serious emotional disturbance and has been detained or incarcerated in facilities within the juvenile or criminal justice system;

''(2) to provide a network of core or aftercare services or access to such services for each youth offender, including diagnostic and evaluation services, substance abuse treatment services, outpatient mental health care services, medication management services, intensive home-based therapy, intensive day treatment services, respite care, and therapeutic foster care;

''(3) to establish a program that coordinates with other State and local agencies providing recreational, social, educational, vocational, or operational services for youth, to enable the agency receiving a grant under this section to provide community-based system of care services for each youth offender that addresses the special needs of the youth and helps the youth access all of the aforementioned services; and

''(4) using not more than 20 percent of funds received, to provide planning and transition services as described in paragraph (3) for youth offenders while such youth are incarcerated or detained.

''(c) APPLICATION.—A State or local juvenile justice agency that desires a grant under subsection (a) shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

''(d) REPORT.—Not later than 3 years after the date of enactment of this section and annually thereafter, the Secretary shall prepare and submit, to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Commerce of the House of Representatives, a report that describes the services provided pursuant to this section.

''(e) DEFINITIONS.—In this section:

''(1) SERIOUS EMOTIONAL DISTURBANCE.—The term 'serious emotional disturbance' with respect to a youth offender means an offender who currently, or at any time within the 1-year period ending on the day on which services are sought under this section, has a diagnosable mental, behavioral, or emotional disorder that functionally impairs the offender's life by substantially limiting the offender's role in family, school, or community activities, and interfering with the offender's ability to achieve or maintain 1 or more developmentally-appropriate social, behavior, cognitive, communicative, or adaptive skills.

''(2) COMMUNITY-BASED SYSTEM OF CARE.—The term 'community-based system of care' means the provision of services for the youth offender by various State or local agencies that in an interagency fashion or operating as a network addresses the recreational, social, educational, vocational, mental health, substance abuse, and operational needs of the youth offender.

''(3) YOUTH OFFENDER.—The term 'youth offender' means an individual who is 21 years of age or younger who has been discharged from a State or local juvenile or criminal justice system, except that if the individual is between the ages of 18 and 21 years, such individual has had contact with the State or local juvenile or criminal justice system prior to attaining 18 years of age and is under the jurisdiction of such a system at the time services are sought.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $40,000,000 for fiscal year 2000, and such sums as may be necessary for each of fiscal years 2001 and 2002.''.

SEC. 108. GRANTS FOR STRENGTHENING FAMILIES THROUGH COMMUNITY PARTNERSHIPS.

Subpart 2 of part B of Title V of the Public Health Service Act (42 U.S.C. 290bb-21 et seq) is amended by adding at the end the following:

''SEC. 519A. GRANTS FOR STRENGTHENING FAMILIES.

''(a) PROGRAM AUTHORIZED.—The Secretary, acting through the Director of the Prevention Center, may make grants to public and nonprofit private entities to develop and implement model substance abuse prevention programs to provide early intervention and substance abuse prevention services for individuals of high-risk families and the communities in which such individuals reside.

''(b) PRIORITY.—In awarding grants under subsection (a), the Secretary shall give priority to applicants that—

''(1) have proven experience in preventing substance abuse by individuals of high-risk families and reducing substance abuse in communities of such individuals;

''(2) have demonstrated the capacity to implement community-based partnership initiatives that are sensitive to the diverse backgrounds of individuals of high-risk families and the communities of such individuals;

''(3) have experience in providing technical assistance to support substance abuse prevention programs that are community-based;

''(4) have demonstrated the capacity to implement research-based substance abuse prevention strategies; and

''(5) have implemented programs that involve families, residents, community agencies, and institutions in the implementation and design of such programs.

''(c) DURATION OF GRANTS.—The Secretary shall award grants under subsection (a) for a period not to exceed 5 years.

''(d) USE OF FUNDS.—An applicant that is awarded a grant under subsection (a) shall—

''(1) in the first fiscal year that such funds are received under the grant, use such funds to develop a model substance abuse prevention program; and

''(2) in the fiscal year following the first fiscal year that such funds are received, use such funds to implement the program developed under paragraph (1) to provide early intervention and substance abuse prevention services to—

''(A) strengthen the environment of children of high risk families by targeting interventions at the families of such children and the communities in which such children reside;

''(B) strengthen protective factors, such as—

''(i) positive adult role models;

''(ii) messages that oppose substance abuse;

''(iii) community actions designed to reduce accessibility to and use of illegal substances; and

''(iv) willingness of individuals of families in which substance abuse occurs to seek treatment for substance abuse;

''(C) reduce family and community risks, such as family violence, alcohol or drug abuse, crime, and other behaviors that may effect healthy child development and increase the likelihood of substance abuse; and

''(D) build collaborative and formal partnerships between community agencies, institutions, and businesses to ensure that comprehensive high quality services are provided, such as early childhood education, health care, family support programs, parent education programs, and home visits for infants.

''(e) APPLICATION.—To be eligible to receive a grant under subsection (a), an applicant shall prepare and submit to the Secretary an application that—

''(1) describes a model substance abuse prevention program that such applicant will establish;

''(2) describes the manner in which the services described in subsection (d)(2) will be provided; and

''(3) describe in as much detail as possible the results that the entity expects to achieve in implementing such a program.

''(f) MATCHING FUNDING.—The Secretary may not make a grant to a entity under subsection (a) unless that entity agrees that, with respect to the costs to be incurred by the entity in carrying out the program for which the grant was awarded, the entity will make available non-Federal contributions in an amount that is not less than 40 percent of the amount provided under the grant.

''(g) REPORT TO SECRETARY.—An applicant that is awarded a grant under subsection (a) shall prepare and submit to the Secretary a report in such form and containing such information as the Secretary may require, including an assessment of the efficacy of the model substance abuse prevention program implemented by the applicant and the short, intermediate, and long term results of such program.

''(h) EVALUATIONS.—The Secretary shall conduct evaluations, based in part on the reports submitted under subsection (g), to determine the effectiveness of the programs funded under subsection (a) in reducing substance use in high-risk families and in making communities in which such families reside in stronger. The Secretary shall submit such evaluations to the appropriate committees of Congress.

''(i) HIGH-RISK FAMILIES.—In this section, the term 'high-risk family' means a family in which the individuals of such family are at a significant risk of using or abusing alcohol or any illegal substance.

''(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $3,000,000 for fiscal year 2000, and such sums as may be necessary for each of the fiscal years 2001 and 2002.''.

SEC. 109. GENERAL PROVISIONS.

(a) DUTIES OF THE CENTER FOR SUBSTANCE ABUSE TREATMENT.—Section 507(b) of the Public Health Service Act (42 U.S.C. 290bb(b)) is amended—

(1) by redesignating paragraphs (2) through (12) as paragraphs (4) through (14), respectively;

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

''(2) ensure that emphasis is placed on children and adolescents in the development of treatment programs;

''(3) collaborate with the Attorney General to develop programs to provide substance abuse treatment services to individuals who have had contact with the Justice system, especially adolescents;''; and

(3) in paragraph 14 (as so redesignated), by striking ''paragraph (11)'' and inserting ''paragraph (13)''.

(b) OFFICE FOR SUBSTANCE ABUSE PREVENTION.—Section 515(b) of the Public Health Service Act (42 U.S.C. 290bb-21(b)) is amended—

(1) by redesignating paragraphs (9) and (10) as (10) and (11);

(2) by inserting after paragraph (8), the following:

''(9) collaborate with the Attorney General of the Department of Justice to develop programs to prevent drug abuse among high risk youth;''; and

(3) in paragraph (10) (as so redesignated), by striking ''public concerning'' and inserting ''public, especially adolescent audiences, concerning''.

(c) DUTIES OF THE CENTER FOR MENTAL HEALTH SERVICES.—Section 520(b) of the Public Health Service Act (42 U.S.C. 290bb–3(b)) is amended—

(1) by redesignating paragraphs (3) through (14) as paragraphs (4) through (15), respectively; and

(2) by inserting after paragraph (2), the following:

''(3) collaborate with the Department of Education and the Department of Justice to develop programs to assist local communities in addressing violence among children and adolescents;''.

TITLE II—PROVISIONS RELATING TO MENTAL HEALTH

SEC. 201. PRIORITY MENTAL HEALTH NEEDS OF REGIONAL AND NATIONAL SIGNIFICANCE.

(a) IN GENERAL.—Section 520A of the Public Health Service Act (42 U.S.C. 290bb–32) is amended to read as follows:

''SEC. 520A. PRIORITY MENTAL HEALTH NEEDS OF REGIONAL AND NATIONAL SIGNIFICANCE.

''(a) PROJECTS.—The Secretary shall address priority mental health needs of regional and national significance (as determined under subsection (b)) through the provision of or through assistance for—

''(1) knowledge development and application projects for prevention, treatment, and rehabilitation, and the conduct or support of evaluations of such projects;

''(2) training and technical assistance programs;

''(3) targeted capacity response programs; and

''(4) systems change grants including statewide family network grants and client-oriented and consumer run self-help activities.

The Secretary may carry out the activities described in this subsection directly or through grants, contracts, or cooperative agreements with States, political subdivisions of States, Indian tribes and tribal organizations, other public or private nonprofit entities.

''(b) PRIORITY MENTAL HEALTH NEEDS.—

''(1) DETERMINATION OF NEEDS.—Priority mental health needs of regional and national significance shall be determined by the Secretary in consultation with States and other interested groups. The Secretary shall meet with the States and interested groups on an annual basis to discuss program priorities.

''(2) SPECIAL CONSIDERATION.—In developing program priorities described in paragraph (1), the Secretary, in conjunction with the Director of the Center for Mental Health Services, the Director of the Center for Substance Abuse Treatment, and the Administrator of the Health Resources and Services Administration, shall give special consideration to promoting the integration of mental health services into primary health care systems.

''(c) REQUIREMENTS.—

''(1) IN GENERAL.—Recipients of grants, contracts, and cooperative agreements under this section shall comply with information and application requirements determined appropriate by the Secretary.

''(2) DURATION OF AWARD.—With respect to a grant, contract, or cooperative agreement awarded under this section, the period during which payments under such award are made to the recipient may not exceed 5 years.

''(3) MATCHING FUNDS.—The Secretary may, for projects carried out under subsection (a), require that entities that apply for grants, contracts, or cooperative agreements under this section provide non-Federal matching funds, as determined appropriate by the Secretary, to ensure the institutional commitment of the entity to the projects funded under the grant, contract, or cooperative agreement. Such non-Federal matching funds may be provided directly or through donations from public or private entities and may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

''(4) MAINTENANCE OF EFFORT.—With respect to activities for which a grant, contract or cooperative agreement is awarded under this section, the Secretary may require that recipients for specific projects under subsection (a) agree to maintain expenditures of non-Federal amounts for such activities at a level that is not less than the level of such expenditures maintained by the entity for the fiscal year preceding the fiscal year for which the entity receives such a grant, contract, or cooperative agreement.

''(d) EVALUATION.—The Secretary shall evaluate each project carried out under subsection (a)(1) and shall disseminate the findings with respect to each such evaluation to appropriate public and private entities.

''(e) INFORMATION AND EDUCATION.—The Secretary shall establish information and education programs to disseminate and apply the findings of the knowledge development and application, training, and technical assistance programs, and targeted capacity response programs, under this section to the general public, to health care professionals, and to interested groups. The Secretary shall make every effort to provide linkages between the findings of supported projects and State agencies responsible for carrying out mental health services.

''(f) AUTHORIZATION OF APPROPRIATION.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this section, $300,000,000 for fiscal year 2000, and such sums as may be necessary for each of the fiscal years 2001 and 2002.

''(2) DATA INFRASTRUCTURE.—If amounts are not appropriated for a fiscal year to carry out section 1971 with respect to mental health, then the Secretary shall make available, from the amounts appropriated for such fiscal year under paragraph (1), an amount equal to the sum of $6,000,000 and 10 percent of all amounts appropriated for such fiscal year under such paragraph in excess of $100,000,000, to carry out such section 1971.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 303 of the Public Health Service Act (42 U.S.C. 242a) is repealed.

(2) Section 520B of the Public Health Service Act (42 U.S.C. 290bb–33) is repealed.

(3) Section 612 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 290aa–3 note) is repealed.

SEC. 202. GRANTS FOR THE BENEFIT OF HOMELESS INDIVIDUALS.

Section 506 of the Public Health Service Act (42 U.S.C. 290aa–5) is amended to read as follows:

''SEC. 506. GRANTS FOR THE BENEFIT OF HOMELESS INDIVIDUALS.

''(a) IN GENERAL.—The Secretary shall award grants, contracts and cooperative agreements to community-based public and private nonprofit entities for the purposes of providing mental health and substance abuse services for homeless individuals. In carrying out this section, the Secretary shall consult with the Interagency Council on the Homeless, established under section 201 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11311).

''(b) PREFERENCES.—In awarding grants, contracts, and cooperative agreements under subsection (a), the Secretary shall give a preference to—

''(1) entities that provide integrated primary health, substance abuse, and mental health services to homeless individuals;

''(2) entities that demonstrate effectiveness in serving runaway, homeless, and street youth;

''(3) entities that have experience in providing substance abuse and mental health services to homeless individuals;

''(4) entities that demonstrate experience in providing housing for individuals in treatment for or in recovery from mental illness or substance abuse; and

''(5) entities that demonstrate effectiveness in serving homeless veterans.

''(c) SERVICES FOR CERTAIN INDIVIDUALS.—In awarding grants, contracts, and cooperative agreements under subsection (a), the Secretary shall not—

''(1) prohibit the provision of services under such subsection to homeless individuals who are suffering from a substance abuse disorder and are not suffering from a mental health disorder; and

''(2) make payments under subsection (a) to any entity that has a policy of—

''(A) excluding individuals from mental health services due to the existence or suspicion of substance abuse; or

''(B) has a policy of excluding individuals from substance abuse services due to the existence or suspicion of mental illness.

''(d) TERM OF THE AWARDS.—No entity may receive a grant, contract, or cooperative agreement under subsection (a) for more than 5 years.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $50,000,000 for fiscal year 2000, and such sums as may be necessary for each of the fiscal years 2001 and 2002.''.

SEC. 203. PROJECTS FOR ASSISTANCE IN TRANSITION FROM HOMELESSNESS.

(a) WAIVERS FOR TERRITORIES.—Section 522 of the Public Health Service Act (42 U.S.C. 290cc–22) is amended by adding at the end the following:

''(i) WAIVER FOR TERRITORIES.—With respect to the United States Virgin Islands, Guam, American Samoa, Palau, the Marshall Islands, and the Commonwealth of the Northern Mariana Islands, the Secretary may waive the provisions of this part that the Secretary determines to be appropriate.''.

(b) AUTHORIZATION OF APPROPRIATION.—Section 535(a) of the Public Health Service Act (42 U.S.C. 290cc–35(a)) is amended by striking ''1991 through 1994'' and inserting ''2000 through 2002''.

SEC. 204. COMMUNITY MENTAL HEALTH SERVICES PERFORMANCE PARTNERSHIP BLOCK GRANT.

(a) CRITERIA FOR PLAN.—Section 1912(b) of the Public Health Service Act (42 U.S.C. 300x–2(b)) is amended by striking paragraphs (1) through (12) and inserting the following:

''(1) COMPREHENSIVE COMMUNITY-BASED MENTAL HEALTH SYSTEMS.—The plan provides for an organized community-based system of care for individuals with mental illness and describes available services and resources in a comprehensive system of care, including services for dually diagnosed individuals. The description of the system of care shall include health and mental health services, rehabilitation services, employment services, housing services, educational services, substance abuse services, medical and dental care, and other support services to be provided to individuals with Federal, State and local public and private resources to enable such individuals to function outside of inpatient or residential institutions to the maximum extent of their capabilities, including services to be provided by local school systems under the Individuals with Disabilities Education Act. The plan shall include a separate description of case management services and provide for activities leading to reduction of hospitalization.

''(2) MENTAL HEALTH SYSTEM DATA AND EPIDEMIOLOGY.—The plan contains an estimate of the incidence and prevalence in the State of serious mental illness among adults and serious emotional disturbance among children and presents quantitative targets to be achieved in the implementation of the system described in paragraph (1).

''(3) CHILDREN'S SERVICES.—In the case of children with serious emotional disturbance, the plan—

''(A) subject to subparagraph (B), provides for a system of integrated social services, educational services, juvenile services, and substance abuse services that, together with health and mental health services, will be provided in order for such children to receive care appropriate for their multiple needs (such system to include services provided under the Individuals with Disabilities Education Act);

''(B) provides that the grant under section 1911 for the fiscal year involved will not be expended to provide any service under such system other than comprehensive community mental health services; and

''(C) provides for the establishment of a defined geographic area for the provision of the services of such system.

''(4) TARGETED SERVICES TO RURAL AND HOMELESS POPULATIONS.—The plan describes the State's outreach to and services for individuals who are homeless and how community-based services will be provided to individuals residing in rural areas.

''(5) MANAGEMENT SYSTEMS.—The plan describes the financial resources, staffing and training for mental health providers that is necessary to implement the plan, and provides for the training of providers of emergency health services regarding mental health. The plan further describes the manner in which the State intends to expend the grant under section 1911 for the fiscal year involved.

Except as provided for in paragraph (3), the State plan shall contain the information required under this subsection with respect to both adults with serious mental illness and children with serious emotional disturbance.''.

(b) REVIEW OF PLANNING COUNCIL OF STATE'S REPORT.—Section 1915(a) of the Public Health Service Act (42 U.S.C. 300x–4(a)) is amended—

(1) in paragraph (1), by inserting ''and the report of the State under section 1942(a) concerning the preceding fiscal year'' after ''to the grant''; and

(2) in paragraph (2), by inserting before the period ''and any comments concerning the annual report''.

(c) MAINTENANCE OF EFFORT.—Section 1915(b) of the Public Health Service Act (42 U.S.C. 300x–4(b)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

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

''(2) EXCLUSION OF CERTAIN FUNDS.—The Secretary may exclude from the aggregate State expenditures under subsection (a), funds appropriated to the principle agency for authorized activities which are of a nonrecurring nature and for a specific purpose.''.

(d) APPLICATION FOR GRANTS.—Section 1917(a)(1) of the Public Health Service Act (42 U.S.C. 300x–6(a)(1)) is amended to read as follows:

''(1) the plan is received by the Secretary not later than September 1 of the fiscal year prior to the fiscal year for which a State is seeking funds, and the report from the previous fiscal year as required under section 1941 is received by December 1 of the fiscal year of the grant;''.

(e) WAIVERS FOR TERRITORIES.—Section 1917(b) of the Public Health Service Act (42 U.S.C. 300x–6(b)) is amended by striking ''whose allotment under section 1911 for the fiscal year is the amount specified in section 1918(c)(2)(B)'' and inserting in its place ''except Puerto Rico''.

(f) AUTHORIZATION OF APPROPRIATION.—Section 1920 of the Public Health Service Act (42 U.S.C. 300x–9) is amended—

(1) in subsection (a), by striking ''$450,000,000'' and all that follows through the end and inserting ''$450,000,000 for fiscal year 2000, and such sums as may be necessary for each of the fiscal years 2001 and 2002.''; and

(2) in subsection (b)(2), by striking ''section 505'' and inserting ''sections 505 and 1971''.

SEC. 205. DETERMINATION OF ALLOTMENT.

Section 1918(b) of the Public Health Service Act (42 U.S.C. 300x–7(b)) is amended to read as follows:

''(b) MINIMUM ALLOTMENTS FOR STATES.—With respect to fiscal year 2000, and subsequent fiscal years, the amount of the allotment of a State under section 1911 shall not be less than the amount the State received under such section for fiscal year 1998.''.

SEC. 206. PROTECTION AND ADVOCACY FOR MENTALLY ILL INDIVIDUALS ACT OF 1986.

(a) SHORT TITLE.—The first section of the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (Public Law 99–319) is amended to read as follows:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Protection and Advocacy for Individuals with Mental Illness Act'.''.

(b) DEFINITIONS.—Section 102 of the Protection and Advocacy for Individuals with Mental Illness Act (as amended by subsection (a)) (42 U.S.C. 10802) is amended—

(1) in paragraph (4)—

(A) in the matter preceding subparagraph (A), by inserting '', except as provided in section 104(d),'' after ''means'';

(B) in subparagraph (B)—

(i) by striking ''(i)'' who'' and inserting ''(i)(I) who'';

(ii) by redesignating clauses (ii) and (iii) as subclauses (II) and (III);

(iii) in subclause (III) (as so redesignated), by striking the period and inserting ''; or''; and

(iv) by adding at the end the following:

''(ii) who satisfies the requirements of subparagraph (A) and lives in a community setting, including their own home.''; and

(2) by adding at the end the following:

''(8) The term 'American Indian consortium' means a consortium established under part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6042 et seq.).''.

(c) USE OF ALLOTMENTS.—Section 104 of the Protection and Advocacy for Individuals with Mental Illness Act (as amended by subsection (a)) (42 U.S.C. 10804) is amended by adding at the end the following:

''(d) The definition of 'individual with a mental illness' contained in section 102(4)(B)(iii) shall apply, and thus an eligible system may use its allotment under this title to provide representation to such individuals, only if the total allotment under this title for any fiscal year is $30,000,000 or more, and in such case, an eligible system must give priority to representing persons with mental illness as defined in subparagraphs (A) and (B)(i) of section 102(4).''.

(d) MINIMUM AMOUNT.—Paragraph (2) of section 112(a) of the Protection and Advocacy for Individuals with Mental Illness Act (as amended by subsection (a)) (42 U.S.C. 10822(a)(2)) is amended to read as follows:

''(2)(A) The minimum amount of the allotment of an eligible system shall be the product (rounded to the nearest $100) of the appropriate base amount determined under subparagraph (B) and the factor specified in subparagraph (C).

''(B) For purposes of subparagraph (A), the appropriate base amount—

''(i) for American Samoa, Guam, the Marshall Islands, the Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, and the Virgin Islands, is $139,300; and

''(ii) for any other State, is $260,000.

''(C) The factor specified in this subparagraph is the ratio of the amount appropriated under section 117 for the fiscal year for which the allotment is being made to the amount appropriated under such section for fiscal year 1995.

''(D) If the total amount appropriated for a fiscal year is at least $25,000,000, the Secretary shall make an allotment in accordance with subparagraph (A) to the eligible system serving the American Indian consortium.''.

(e) TECHNICAL AMENDMENTS.—Section 112(a) of the Protection and Advocacy for Individuals with Mental Illness Act (as amended by subsection (a)) (42 U.S.C. 10822(a)) is amended—

(1) in paragraph (1)(B), by striking ''Trust Territory of the Pacific Islands'' and inserting ''Marshall Islands, the Federated States of Micronesia, the Republic of Palau''; and

(2) by striking paragraph (3).

(f) REAUTHORIZATION.—Section 117 of the Protection and Advocacy for Individuals with Mental Illness Act (as amended by subsection (a)) (42 U.S.C. 10827) is amended by striking ''1995'' and inserting ''2002''.

SEC. 207. REQUIREMENT RELATING TO THE RIGHTS OF RESIDENTS OF CERTAIN FACILITIES.

Title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end the following:

''PART H—REQUIREMENT RELATING TO THE RIGHTS OF RESIDENTS OF CERTAIN FACILITIES

''SEC. 591. REQUIREMENT RELATING TO THE RIGHTS OF RESIDENTS OF CERTAIN FACILITIES.

''(a) IN GENERAL.—A public or private general hospital, nursing facility, intermediate care facility, residential treatment center, or other health care facility, that receives support in any form from any program supported in whole or in part with funds appropriated to any Federal department or agency shall protect and promote the rights of each resident of the facility, including the right to be free from physical or mental abuse, corporal punishment, and any restraints or involuntary seclusions imposed for purposes of discipline or convenience.

''(b) REQUIREMENTS.—Restraints and seclusion may only be imposed on a resident of a facility described in subsection (a) if—

''(1) the restraints or seclusion are imposed to ensure the physical safety of the resident, a staff member, or others; and

''(2) the restraints or seclusion are imposed only upon the written order of a physician, or other licensed independent practitioner permitted by the State and the facility to order such restraint or seclusion, that specifies the duration and circumstances under which the restraints are to be used (except in emergency circumstances specified by the Secretary until such an order could reasonably be obtained).

''(c) DEFINITIONS.—In this section:

''(1) RESTRAINTS.—The term 'restraints' means—

''(A) any physical restraint that is a mechanical or personal restriction that immobilizes or reduces the ability of an individual to move his or her arms, legs, or head freely, not including devices, such as orthopedically

prescribed devices, surgical dressings or bandages, protective helmets, or any other methods that involves the physical holding of a resident for the purpose of conducting routine physical examinations or tests or to protect the resident from falling out of bed or to permit the resident to participate in activities without the risk of physical harm to the resident; and

''(B) a drug or medication that is used as a restraint to control behavior or restrict the resident's freedom of movement that is not a standard treatment for the resident's medical or psychiatric condition.

''(2) SECLUSION.—The term 'seclusion' means any separation of the resident from the general population of the facility that prevents the resident from returning to such population if he or she desires.

''SEC. 592. REPORTING REQUIREMENT.

''(a) IN GENERAL.— Each facility to which the Protection and Advocacy for Mentally Ill Individuals Act of 1986 applies shall notify the appropriate agency, as determined by the Secretary, of each death that occurs at each such facility while a patient is restrained or in seclusion, of each death occurring within 24 hours after the patient has been removed from restraints and seclusion, or where it is reasonable to assume that a patient's death is a result of such seclusion or restraint. A notification under this section shall include the name of the resident and shall be provided not later than 7 days after the date of the death of the individual involved.

''(b) FACILITY.—In this section, the term 'facility' has the meaning given the term 'facilities' in section 102(3) of the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10802(3)).''.

''SEC. 593. REGULATIONS AND ENFORCEMENT.

''(a) TRAINING.—Not later than 1 year after the date of enactment of this part, the Secretary, after consultation with appropriate State and local protection and advocacy organizations, physicians, facilities, and other health care professionals and patients, shall promulgate regulations that require facilities to which the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.) applies, to meet the requirements of subsection (b).

''(b) REQUIREMENTS.—The regulations promulgated under subsection (a) shall require that—

''(1) facilities described in subsection (a) ensure that there is an adequate number of qualified professional and supportive staff to evaluate patients, formulate written individualized, comprehensive treatment plans, and to provide active treatment measures;

''(2) appropriate training be provided for the staff of such facilities in the use of restraints and any alternatives to the use of restraints; and

''(3) such facilities provide complete and accurate notification of deaths, as required under section 592(a).

''(c) ENFORCEMENT.—A facility to which this part applies that fails to comply with any requirement of this part, including a failure to provide appropriate training, shall not be eligible for participation in any program supported in whole or in part by funds appropriated to any Federal department or agency.''.

TITLE III—PROVISIONS RELATING TO SUBSTANCE ABUSE

SEC. 301. PRIORITY SUBSTANCE ABUSE TREATMENT NEEDS OF REGIONAL AND NATIONAL SIGNIFICANCE.

(a) RESIDENTIAL TREATMENT PROGRAMS FOR PREGNANT AND POSTPARTUM WOMEN.—Section 508(r) of the Public Health Service Act (42 U.S.C. 290bb-1(r)) is amended to read as follows:

''(r) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary to fiscal years 2000 through 2002.''.

(b) PRIORITY SUBSTANCE ABUSE TREATMENT.—Section 509 of the Public Health Service Act (42 U.S.C. 290bb–1) is amended to read as follows:

''SEC. 509. PRIORITY SUBSTANCE ABUSE TREATMENT NEEDS OF REGIONAL AND NATIONAL SIGNIFICANCE.

''(a) PROJECTS.—The Secretary shall address priority substance abuse treatment needs of regional and national significance (as determined under subsection (b)) through the provision of or through assistance for—

''(1) knowledge development and application projects for treatment and rehabilitation and the conduct or support of evaluations of such projects;

''(2) training and technical assistance; and

''(3) targeted capacity response programs.

The Secretary may carry out the activities described in this section directly or through grants, contracts, or cooperative agreements with States, political subdivisions of States, Indian tribes and tribal organizations, other public or nonprofit private entities.

''(b) PRIORITY SUBSTANCE ABUSE TREATMENT NEEDS.—

''(1) IN GENERAL.—Priority substance abuse treatment needs of regional and national significance shall be determined by the Secretary after consultation with States and other interested groups. The Secretary shall meet with the States and interested groups on an annual basis to discuss program priorities.

''(2) SPECIAL CONSIDERATION.—In developing program priorities under paragraph (1), the Secretary, in conjunction with the Director of the Center for Substance Abuse Treatment, the Director of the Center for Mental Health Services, and the Administrator of the Health Resources and Services Administration, shall give special consideration to promoting the integration of substance abuse treatment services into primary health care systems.

''(c) REQUIREMENTS.—

''(1) IN GENERAL.—Recipients of grants, contracts, or cooperative agreements under this section shall comply with information and application requirements determined appropriate by the Secretary.

''(2) DURATION OF AWARD.—With respect to a grant, contract, or cooperative agreement awarded under this section, the period during which payments under such award are made to the recipient may not exceed 5 years.

''(3) MATCHING FUNDS.—The Secretary may, for projects carried out under subsection (a), require that entities that apply for grants, contracts, or cooperative agreements under that project provide non-Federal matching funds, as determined appropriate by the Secretary, to ensure the institutional commitment of the entity to the projects funded under the grant, contract, or cooperative agreement. Such non-Federal matching funds may be provided directly or through donations from public or private entities and may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

''(4) MAINTENANCE OF EFFORT.—With respect to activities for which a grant, contract, or cooperative agreement is awarded under this section, the Secretary may require that recipients for specific projects under subsection (a) agree to maintain expenditures of non-Federal amounts for such activities at a level that is not less than the level of such expenditures maintained by the entity for the fiscal year preceding the fiscal year for which the entity receives such a grant, contract, or cooperative agreement.

''(d) EVALUATION.—The Secretary shall evaluate each project carried out under subsection (a)(1) and shall disseminate the findings with respect to each such evaluation to appropriate public and private entities.

''(e) INFORMATION AND EDUCATION.—The Secretary shall establish comprehensive information and education programs to disseminate and apply the findings of the knowledge development and application, training and technical assistance programs, and targeted capacity response programs under this section to the general public, to health professionals and other interested groups. The Secretary shall make every effort to provide linkages between the findings of supported projects and State agencies responsible for carrying out substance abuse prevention and treatment programs.

''(f) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated to carry out this section, $300,000,000 for fiscal year 2000 and such sums as may be necessary for each of the fiscal years 2001 and 2002.''.

(c) CONFORMING AMENDMENTS.—The following sections of the Public Health Service Act are repealed:

(1) Section 510 (42 U.S.C. 290bb–3).

(2) Section 511 (42 U.S.C. 290bb–4).

(3) Section 512 (42 U.S.C. 290bb–5).

(4) Section 571 (42 U.S.C. 290gg).

SEC. 302. PRIORITY SUBSTANCE ABUSE PREVENTION NEEDS OF REGIONAL AND NATIONAL SIGNIFICANCE.

(a) IN GENERAL.—Section 516 of the Public Health Service Act (42 U.S.C. 290bb–1) is amended to read as follows:

''SEC. 516. PRIORITY SUBSTANCE ABUSE PREVENTION NEEDS OF REGIONAL AND NATIONAL SIGNIFICANCE.

''(a) PROJECTS.—The Secretary shall address priority substance abuse prevention needs of regional and national significance (as determined under subsection (b)) through the provision of or through assistance for—

''(1) knowledge development and application projects for prevention and the conduct or support of evaluations of such projects;

''(2) training and technical assistance; and

''(3) targeted capacity response programs.

The Secretary may carry out the activities described in this section directly or through grants, contracts, or cooperative agreements with States, political subdivisions of States, Indian tribes and tribal organizations, or other public or nonprofit private entities.

''(b) PRIORITY SUBSTANCE ABUSE PREVENTION NEEDS.—

''(1) IN GENERAL.—Priority substance abuse prevention needs of regional and national significance shall be determined by the Secretary in consultation with the States and other interested groups. The Secretary shall meet with the States and interested groups on an annual basis to discuss program priorities.

''(2) SPECIAL CONSIDERATION.—In developing program priorities under paragraph (1), the Secretary shall give special consideration to—

''(A) applying the most promising strategies and research-based primary prevention approaches; and

''(B) promoting the integration of substance abuse prevention information and activities into primary health care systems.

''(c) REQUIREMENTS.—

''(1) IN GENERAL.—Recipients of grants, contracts, and cooperative agreements under this section shall comply with information and application requirements determined appropriate by the Secretary.

''(2) DURATION OF AWARD.—With respect to a grant, contract, or cooperative agreement awarded under this section, the period during which payments under such award are made to the recipient may not exceed 5 years.

''(3) MATCHING FUNDS.—The Secretary may, for projects carried out under subsection (a),

require that entities that apply for grants, contracts, or cooperative agreements under that project provide non-Federal matching funds, as determined appropriate by the Secretary, to ensure the institutional commitment of the entity to the projects funded under the grant, contract, or cooperative agreement. Such non-Federal matching funds may be provided directly or through donations from public or private entities and may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

''(4) MAINTENANCE OF EFFORT.—With respect to activities for which a grant, contract, or cooperative agreement is awarded under this section, the Secretary may require that recipients for specific projects under subsection (a) agree to maintain expenditures of non-Federal amounts for such activities at a level that is not less than the level of such expenditures maintained by the entity for the fiscal year preceding the fiscal year for which the entity receives such a grant, contract, or cooperative agreement.

''(d) EVALUATION.—The Secretary shall evaluate each project carried out under subsection (a)(1) and shall disseminate the findings with respect to each such evaluation to appropriate public and private entities.

''(e) INFORMATION AND EDUCATION.—The Secretary shall establish comprehensive information and education programs to disseminate the findings of the knowledge development and application, training and technical assistance programs, and targeted capacity response programs under this section to the general public and to health professionals. The Secretary shall make every effort to provide linkages between the findings of supported projects and State agencies responsible for carrying out substance abuse prevention and treatment programs.

''(f) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated to carry out this section, $300,000,000 for fiscal year 2000, and such sums as may be necessary for each of the fiscal years 2001 and 2002.''.

(b) CONFORMING AMENDMENTS.—Section 518 of the Public Health Service Act (42 U.S.C. 290bb–24) is repealed.

SEC. 303. SUBSTANCE ABUSE PREVENTION AND TREATMENT PERFORMANCE PARTNERSHIP BLOCK GRANT.

(a) ALLOCATION REGARDING ALCOHOL AND OTHER DRUGS.—Section 1922 of the Public Health Service Act (42 U.S.C. 300x–22) is amended by—

(1) striking subsection (a); and

(2) redesignating subsections (b) and (c) as subsections (a) and (b).

(b) GROUP HOMES FOR RECOVERING SUBSTANCE ABUSERS.—Section 1925(a) of the Public Health Service Act (42 U.S.C. 300x–25(a)) is amended by striking ''For fiscal year 1993'' and all that follows through the colon and inserting the following: ''A State, using funds available under section 1921, may establish and maintain the ongoing operation of a revolving fund in accordance with this section to support group homes for recovering substance abusers as follows:''.

(c) MAINTENANCE OF EFFORT.—Section 1930 of the Public Health Service Act (42 U.S.C. 300x–30) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d) respectively; and

(2) by inserting after subsection (a), the following:

''(b) EXCLUSION OF CERTAIN FUNDS.—The Secretary may exclude from the aggregate State expenditures under subsection (a), funds appropriated to the principle agency for authorized activities which are of a nonrecurring nature and for a specific purpose.''.

(d) APPLICATIONS FOR GRANTS.—Section 1932(a)(1) of the Public Health Service Act (42 U.S.C. 300x–32(a)(1)) is amended to read as follows:

''(1) the application is received by the Secretary not later than October 1 of the fiscal year for which the State is seeking funds;''.

(e) WAIVER FOR TERRITORIES.—Section 1932(c) of the Public Health Service Act (42 U.S.C. 300x–32(c)) is amended by striking ''whose allotment under section 1921 for the fiscal year is the amount specified in section 1933(c)(2)(B)'' and inserting ''except Puerto Rico''.

(f) WAIVER AUTHORITY FOR CERTAIN REQUIREMENTS.—

(1) IN GENERAL.—Section 1932 of the Public Health Service Act (42 U.S.C. 300x–32) is amended by adding at the end the following:

''(e) WAIVER AUTHORITY FOR CERTAIN REQUIREMENTS.—

''(1) IN GENERAL.—Upon the request of a State, the Secretary may waive the requirements of all or part of the sections described in paragraph (2) using objective criteria established by the Secretary by regulation after consultation with the States and other interested parties including consumers and providers.

''(2) SECTIONS.—The sections described in paragraph (1) are sections 1922(c), 1923, 1924 and 1928.

''(3) DATE CERTAIN FOR ACTING UPON REQUEST.—The Secretary shall approve or deny a request for a waiver under paragraph (1) and inform the State of that decision not later than 120 days after the date on which the request and all the information needed to support the request are submitted.

''(4) ANNUAL REPORTING REQUIREMENT.—The Secretary shall annually report to the general public on the States that receive a waiver under this subsection.''.

(2) CONFORMING AMENDMENTS.—Effective upon the publication of the regulations developed in accordance with section 1932(e)(1) of the Public Health Service Act (42 U.S.C. 300x–32(d))—

(A) section 1922(c) of the Public Health Service Act (42 U.S.C. 300x–22(c)) is amended by—

(i) striking paragraph (2); and

(ii) redesignating paragraph (3) as paragraph (2); and

(B) section 1928(d) of the Public Health Service Act (42 U.S.C. 300x–28(d)) is repealed.

(g) AUTHORIZATION OF APPROPRIATION.—Section 1935 of the Public Health Service Act (42 U.S.C. 300x–35) is amended—

(1) in subsection (a), by striking ''$1,500,000,000'' and all that follows through the end and inserting ''$2,000,000,000 for fiscal year 2000, and such sums as may be necessary for each of the fiscal years 2001 and 2002.'';

(2) in subsection (b)(1), by striking ''section 505'' and inserting ''sections 505 and 1971'';

(3) in subsection (b)(2), by striking ''1949(a)'' and inserting ''1948(a)''; and

(4) in subsection (b), by adding at the end the following:

''(3) CORE DATA SET.—A State that receives a new grant, contract, or cooperative agreement from amounts available to the Secretary under paragraph (1), for the purposes of improving the data collection, analysis and reporting capabilities of the State, shall be required, as a condition of receipt of funds, to collect, analyze, and report to the Secretary for each fiscal year subsequent to receiving such funds a core data set to be determined by the Secretary in conjunction with the States.''.

SEC. 304. DETERMINATION OF ALLOTMENTS.

Section 1933(b) of the Public Health Service Act (42 U.S.C. 300x–33(b)) is amended to read as follows:

''(b) MINIMUM ALLOTMENTS FOR STATES.—

''(1) IN GENERAL.—With respect to fiscal year 2000, and each subsequent fiscal year, the amount of the allotment of a State under section 1921 shall not be less than the amount the State received under such section for the previous fiscal year increased by an amount equal to 30.65 percent of the percentage by which the aggregate amount allotted to all States for such fiscal year exceeds the aggregate amount allotted to all States for the previous fiscal year.

''(2) LIMITATIONS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a State shall not receive an allotment under section 1921 for a fiscal year in an amount that is less than an amount equal to 0.375 percent of the amount appropriated under section 1935(a) for such fiscal year.

''(B) EXCEPTION.—In applying subparagraph (A), the Secretary shall ensure that no State receives an increase in its allotment under section 1921 for a fiscal year (as compared to the amount allotted to the State in the prior fiscal year) that is in excess of an amount equal to 300 percent of the percentage by which the amount appropriated under section 1935(a) for such fiscal year exceeds the amount appropriated for the prior fiscal year.

''(3) DECREASE IN OR EQUAL APPROPRIATIONS.—If the amount appropriated under section 1935(a) for a fiscal year is equal to or less than the amount appropriated under such section for the prior fiscal year, the amount of the State allotment under section 1921 shall be equal to the amount that the State received under section 1921 in the prior fiscal year decreased by the percentage by which the amount appropriated for such fiscal year is less than the amount appropriated or such section for the prior fiscal year.''.

SEC. 305. NONDISCRIMINATION AND INSTITUTIONAL SAFEGUARDS FOR RELIGIOUS PROVIDERS.

Subpart III of part B of title XIX of the Public Health Service Act (42 U.S.C. 300x–51 et seq.) is amended by adding at the end the following:

''SEC. 1955. SERVICES PROVIDED BY NONGOVERNMENTAL ORGANIZATIONS.

''(a) PURPOSES.—The purposes of this section are—

''(1) to prohibit discrimination against nongovernmental organizations and certain individuals on the basis of religion in the distribution of government funds to provide substance abuse services under this title and title V, and the receipt of services under such titles; and

''(2) to allow the organizations to accept the funds to provide the services to the individuals without impairing the religious character of the organizations or the religious freedom of the individuals.

''(b) RELIGIOUS ORGANIZATIONS INCLUDED AS NONGOVERNMENTAL PROVIDERS.—

''(1) IN GENERAL.—A State may administer and provide substance abuse services under any program under this title or title V through grants, contracts, or cooperative agreements to provide assistance to beneficiaries under such titles with nongovernmental organizations.

''(2) REQUIREMENT.—A State that elects to utilize nongovernmental organizations as provided for under paragraph (1) shall consider, on the same basis as other nongovernmental organizations, religious organizations to provide services under substance abuse programs under this title or title V, so long as the programs under such titles are implemented in a manner consistent with the Establishment Clause of the first amendment to the Constitution. Neither the Federal Government nor a State or local government receiving funds under such programs shall discriminate against an organization that provides services under, or applies to provide services under, such programs, on

the basis that the organization has a religious character.

''(c) RELIGIOUS CHARACTER AND INDEPENDENCE.—

''(1) IN GENERAL.—A religious organization that provides services under any substance abuse program under this title or title V shall retain its independence from Federal, State, and local governments, including such organization's control over the definition, development, practice, and expression of its religious beliefs.

''(2) ADDITIONAL SAFEGUARDS.—Neither the Federal Government nor a State or local government shall require a religious organization—

''(A) to alter its form of internal governance; or

''(B) to remove religious art, icons, scripture, or other symbols;

in order to be eligible to provide services under any substance abuse program under this title or title V.

''(d) EMPLOYMENT PRACTICES.—

''(1) SUBSTANCE ABUSE.—A religious organization that provides services under any substance abuse program under this title or title V may require that its employees providing services under such program adhere to rules forbidding the use of drugs or alcohol.

''(2) TITLE VII EXEMPTION.—The exemption of a religious organization provided under section 702 or 703(e)(2) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–1, 2000e–2(e)(2)) regarding employment practices shall not be affected by the religious organization's provision of services under, or receipt of funds from, any substance abuse program under this title or title V.

''(e) RIGHTS OF BENEFICIARIES OF ASSISTANCE.—

''(1) IN GENERAL.—If an individual described in paragraph (3) has an objection to the religious character of the organization from which the individual receives, or would receive, services funded under any substance abuse program under this title or title V, the appropriate Federal, State, or local governmental entity shall provide to such individual (if otherwise eligible for such services) within a reasonable period of time after the date of such objection, services that—

''(A) are from an alternative provider that is accessible to the individual; and

''(B) have a value that is not less than the value of the services that the individual would have received from such organization.

''(2) NOTICE.—The appropriate Federal, State, or local governmental entity shall ensure that notice is provided to individuals described in paragraph (3) of the rights of such individuals under this section.

''(3) INDIVIDUAL DESCRIBED.—An individual described in this paragraph is an individual who receives or applies for services under any substance abuse program under this title or title V.

''(f) NONDISCRIMINATION AGAINST BENEFICIARIES.—A religious organization providing services through a grant, contract, or cooperative agreement under any substance abuse program under this title or title V shall not discriminate, in carrying out such program, against an individual described in subsection (e)(3) on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to actively participate in a religious practice.

''(g) FISCAL ACCOUNTABILITY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), any religious organization providing services under any substance abuse program under this title or title V shall be subject to the same regulations as other nongovernmental organizations to account in accord with generally accepted accounting principles for the use of such funds provided under such program.

''(2) LIMITED AUDIT.—Such organization shall segregate government funds provided under such substance abuse program into a separate account. Only the government funds shall be subject to audit by the government.

''(h) COMPLIANCE.—Any party that seeks to enforce such party's rights under this section may assert a civil action for injunctive relief exclusively in an appropriate Federal or State court against the entity, agency or official that allegedly commits such violation.

''(i) LIMITATIONS ON USE OF FUNDS FOR CERTAIN PURPOSES.—No funds provided through a grant or contract to a religious organization to provide services under any substance abuse program under this title or title V shall be expended for sectarian worship, instruction, or proselytization.

''(j) EFFECT ON STATE AND LOCAL FUNDS.—If a State or local government contributes State or local funds to carry out any substance abuse program under this title or title V, the State or local government may segregate the State or local funds from the Federal funds provided to carry out the program or may commingle the State or local funds with the Federal funds. If the State or local government commingles the State or local funds, the provisions of this section shall apply to the commingled funds in the same manner, and to the same extent, as the provisions apply to the Federal funds.

''(k) TREATMENT OF INTERMEDIATE CONTRACTORS.—If a nongovernmental organization (referred to in this subsection as an 'intermediate organization'), acting under a contract or other agreement with the Federal Government or a State or local government, is given the authority under the contract or agreement to select nongovernmental organizations to provide services under any substance abuse program under this title or title V, the intermediate organization shall have the same duties under this section as the government but shall retain all other rights of a nongovernmental organization under this section.''.

SEC. 306. ALCOHOL AND DRUG PREVENTION OR TREATMENT SERVICES FOR INDIANS AND NATIVE ALASKANS.

Part D of title V of the Public Health Service Act (42 U.S.C. 290dd et seq.) is amended by adding at the end the following:

''SEC. 544. ALCOHOL AND DRUG PREVENTION OR TREATMENT SERVICES FOR INDIANS AND NATIVE ALASKANS.

''(a) IN GENERAL.—The Secretary shall award grants, contracts, or cooperative agreements to public and private nonprofit entities, including Native Alaskan entities and Indian tribes and tribal organizations, for the purpose of providing alcohol and drug prevention or treatment services for Indians and Native Alaskans.

''(b) PRIORITY.—In awarding grants, contracts, or cooperative agreements under subsection (a), the Secretary shall give priority to applicants that—

''(1) propose to provide alcohol and drug prevention or treatment services on reservations;

''(2) propose to employ culturally-appropriate approaches, as determined by the Secretary, in providing such services; and

''(3) have provided prevention or treatment services to Native Alaskan entities and Indian tribes and tribal organizations for at least 1 year prior to applying for a grant under this section.

''(c) DURATION.—The Secretary shall award grants, contracts, or cooperative agreements under subsection (a) for a period not to exceed 5 years.

''(d) APPLICATION.—An entity desiring a grant, contract, or cooperative agreement under subsection (a) shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

''(e) EVALUATION.—An entity that receives a grant, contract, or cooperative agreement under subsection (a) shall submit, in the application for such grant, a plan for the evaluation of any project undertaken with funds provided under this section. Such entity shall provide the Secretary with periodic evaluations of the progress of such project and such evaluation at the completion of such project as the Secretary determines to be appropriate. The final evaluation submitted by such entity shall include a recommendation as to whether such project shall continue.

''(f) REPORT.—Not later than 3 years after the date of enactment of this section and annually thereafter, the Secretary shall prepare and submit, to the Committee on Health, Education, Labor, and Pensions of the Senate, a report describing the services provided pursuant to this section.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $15,000,000 for fiscal year 2000, and such sums as may be necessary for fiscal years 2001 and 2002.

''SEC. 545. ESTABLISHMENT OF COMMISSION.

''(a) IN GENERAL.—There is established a commission to be known as the Commission on Indian and Native Alaskan Health Care that shall examine the health concerns of Indians and Native Alaskans who reside on reservations and tribal lands (hereafter in this section referred to as the 'Commission').

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—The Commission established under subsection (a) shall consist of—

''(A) the Secretary;

''(B) 15 members who are experts in the health care field and issues that the Commission is established to examine; and

''(C) the Director of the Indian Health Service and the Commissioner of Indian Affairs, who shall be nonvoting members.

''(2) APPOINTING AUTHORITY.—Of the 15 members of the Commission described in paragraph (1)(B)—

''(A) 2 shall be appointed by the Speaker of the House of Representatives;

''(B) 2 shall be appointed by the Minority Leader of the House of Representatives;

''(C) 2 shall be appointed by the Majority Leader of the Senate;

''(D) 2 shall be appointed by the Minority Leader of the Senate; and

''(E) 7 shall be appointed by the Secretary.

''(3) LIMITATION.—Not fewer than 10 of the members appointed to the Commission shall be Indians or Native Alaskans.

''(4) CHAIRPERSON.—The Secretary shall serve as the Chairperson of the Commission.

''(5) EXPERTS.—The Commission may seek the expertise of any expert in the health care field to carry out its duties.

''(c) PERIOD OF APPOINTMENT.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filed in the same manner as the original appointment.

''(d) DUTIES OF THE COMMISSION.—The Commission shall—

''(1) study the health concerns of Indians and Native Alaskans; and

''(2) prepare the reports described in subsection (i).

''(e) POWERS OF THE COMMISSION.—

''(1) HEARINGS.—The Commission may hold such hearings, including hearings on reservations, sit and act at such times and places, take such testimony, and receive such information as the Commission considers advisable to carry out the purpose for which the Commission was established.

''(2) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the purpose for which the Commission was established. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

''(f) COMPENSATION OF MEMBERS.—

''(1) IN GENERAL.—Except as provided in subparagraph (B), each member of the Commission may be compensated at a rate not to exceed the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time), during which that member is engaged in the actual performance of the duties of the Commission.

''(2) LIMITATION.—Members of the Commission who are officers or employees of the United States shall receive no additional pay on account of their service on the Commission.

''(g) TRAVEL EXPENSES OF MEMBERS.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under section 5703 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

''(h) COMMISSION PERSONNEL MATTERS.—

''(1) IN GENERAL.—The Secretary, in accordance with rules established by the Commission, may select and appoint a staff director and other personnel necessary to enable the Commission to carry out its duties.

''(2) COMPENSATION OF PERSONNEL.—The Secretary, in accordance with rules established by the Commission, may set the amount of compensation to be paid to the staff director and any other personnel that serve the Commission.

''(3) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and the detail shall be without interruption or loss of civil service status or privilege.

''(4) CONSULTANT SERVICES.—The Chairperson of the Commission is authorized to procure the temporary and intermittent services of experts and consultants in accordance with section 3109 of title 5, United States Code, at rates not to exceed the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of such title.

''(i) REPORT.—

''(1) IN GENERAL.—Not later than 3 years after the date of enactment of the Youth Drug and Mental Health Services Act, the Secretary shall prepare and submit, to the Committee on Health, Education, Labor, and Pensions of the Senate, a report that shall—

''(A) detail the health problems faced by Indians and Native Alaskans who reside on reservations;

''(B) examine and explain the causes of such problems;

''(C) describe the health care services available to Indians and Native Alaskans who reside on reservations and the adequacy of such services;

''(D) identify the reasons for the provision of inadequate health care services for Indians and Native Alaskans who reside on reservations, including the availability of resources;

''(E) develop measures for tracking the health status of Indians and Native Americans who reside on reservations; and

''(F) make recommendations for improvements in the health care services provided for Indians and Native Alaskans who reside on reservations, including recommendations for legislative change.

''(2) EXCEPTION.—In addition to the report required under paragraph (1), not later than 2 years after the date of enactment of the Youth Drug and Mental Health Services Act, the Secretary shall prepare and submit, to the Committee on Health, Education, Labor, and Pensions of the Senate, a report that describes any alcohol and drug abuse among Indians and Native Alaskans who reside on reservations.

''(j) PERMANENT COMMISSION.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

''(k) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for fiscal year 2000, and such sums as may be necessary for fiscal years 2001 and 2002.''.

TITLE IV—PROVISIONS RELATING TO FLEXIBILITY AND ACCOUNTABILITY

SEC. 401. GENERAL AUTHORITIES AND PEER REVIEW.

(a) GENERAL AUTHORITIES.—Paragraph (1) of section 501(e) of the Public Health Service Act (42 U.S.C. 290aa(e)) is amended to read as follows:

''(1) IN GENERAL.—There may be in the Administration an Associate Administrator for Alcohol Prevention and Treatment Policy to whom the Administrator may delegate the functions of promoting, monitoring, and evaluating service programs for the prevention and treatment of alcoholism and alcohol abuse within the Center for Substance Abuse Prevention, the Center for Substance Abuse Treatment and the Center for Mental Health Services, and coordinating such programs among the Centers, and among the Centers and other public and private entities. The Associate Administrator also may ensure that alcohol prevention, education, and policy strategies are integrated into all programs of the Centers that address substance abuse prevention, education, and policy, and that the Center for Substance Abuse Prevention addresses the Healthy People 2010 goals and the National Dietary Guidelines of the Department of Health and Human Services and the Department of Agriculture related to alcohol consumption.''.

(b) PEER REVIEW.—Section 504 of the Public Health Service (42 U.S.C. 290aa–3) is amended as follows:

''SEC. 504. PEER REVIEW.

''(a) IN GENERAL.—The Secretary, after consultation with the Administrator, shall require appropriate peer review of grants, cooperative agreements, and contracts to be administered through the agency which exceed the simple acquisition threshold as defined in section 4(11) of the Office of Federal Procurement Policy Act.

''(b) MEMBERS.—The members of any peer review group established under subsection (a) shall be individuals who by virtue of their training or experience are eminently qualified to perform the review functions of the group. Not more than ¼ of the members of any such peer review group shall be officers or employees of the United States.

''(c) ADVISORY COUNCIL REVIEW.—If the direct cost of a grant or cooperative agreement (described in subsection (a)) exceeds the simple acquisition threshold as defined by section 4(11) of the Office of Federal Procurement Policy Act, the Secretary may make such a grant or cooperative agreement only if such grant or cooperative agreement is recommended—

''(1) after peer review required under subsection (a); and

''(2) by the appropriate advisory council.

''(d) CONDITIONS.—The Secretary may establish limited exceptions to the limitations contained in this section regarding participation of Federal employees and advisory council approval. The circumstances under which the Secretary may make such an exception shall be made public.''.

SEC. 402. ADVISORY COUNCILS.

Section 502(e) of the Public Health Service Act (42 U.S.C. 290aa–1(e)) is amended in the first sentence by striking ''3 times'' and inserting ''2 times''.

SEC. 403. GENERAL PROVISIONS FOR THE PERFORMANCE PARTNERSHIP BLOCK GRANTS.

(a) PLANS FOR PERFORMANCE PARTNERSHIPS.—Section 1949 of the Public Health Service Act (42 U.S.C. 300x–59) is amended as follows:

''SEC. 1949. PLANS FOR PERFORMANCE PARTNERSHIPS.

''(a) DEVELOPMENT.—The Secretary in conjunction with States and other interested groups shall develop separate plans for the programs authorized under subparts I and II for creating more flexibility for States and accountability based on outcome and other performance measures. The plans shall each include—

''(1) a description of the flexibility that would be given to the States under the plan;

''(2) the common set of performance measures that would be used for accountability, including measures that would be used for the program under subpart II for pregnant addicts, HIV transmission, tuberculosis, and those with a co-occurring substance abuse and mental disorders, and for programs under subpart I for children with serious emotional disturbance and adults with serious mental illness and for individuals with co-occurring mental health and substance abuse disorders;

''(3) the definitions for the data elements to be used under the plan;

''(4) the obstacles to implementation of the plan and the manner in which such obstacles would be resolved;

''(5) the resources needed to implement the performance partnerships under the plan; and

''(6) an implementation strategy complete with recommendations for any necessary legislation.

''(b) SUBMISSION.—Not later than 2 years after the date of enactment of this Act, the plans developed under subsection (a) shall be submitted to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Commerce of the House of Representatives.

''(c) INFORMATION.—As the elements of the plans described in subsection (a) are developed, States are encouraged to provide information to the Secretary on a voluntary basis.

''(d) PARTICIPANTS.—The Secretary shall include among those interested groups that participate in the development of the plan consumers of mental health or substance abuse services, providers, representatives of political divisions of States, and representatives of racial and ethnic groups including Native Americans.''.

(b) AVAILABILITY TO STATES OF GRANT PROGRAMS.—Section 1952 of the Public Health Service Act (42 U.S.C. 300x–62) is amended as follows:

''SEC. 1952. AVAILABILITY TO STATES OF GRANT PAYMENTS.

''Any amounts paid to a State for a fiscal year under section 1911 or 1921 shall be available for obligation and expenditure until the end of the fiscal year following the fiscal year for which the amounts were paid.''.

SEC. 404. DATA INFRASTRUCTURE PROJECTS.

Part C of title XIX of the Public Health Service Act (42 U.S.C. 300y et seq.) is amended—

(1) by striking the headings for part C and subpart I and inserting the following:

"PART C—CERTAIN PROGRAMS REGARDING MENTAL HEALTH AND SUBSTANCE ABUSE

"Subpart I—Data Infrastructure Development";

(2) by striking section 1971 (42 U.S.C. 300y) and inserting the following:

"SEC. 1971. DATA INFRASTRUCTURE DEVELOPMENT.

''(a) IN GENERAL.—The Secretary may make grants to, and enter into contracts or cooperative agreements with States for the purpose of developing and operating mental health or substance abuse data collection, analysis, and reporting systems with regard to performance measures including capacity, process, and outcomes measures.

''(b) PROJECTS.—The Secretary shall establish criteria to ensure that services will be available under this section to States that have a fundamental basis for the collection, analysis, and reporting of mental health and substance abuse performance measures and States that do not have such basis. The Secretary will establish criteria for determining whether a State has a fundamental basis for the collection, analysis, and reporting of data.

''(c) CONDITION OF RECEIPT OF FUNDS.—As a condition of the receipt of an award under this section a State shall agree to collect, analyze, and report to the Secretary within 2 years of the date of the award on a core set of performance measures to be determined by the Secretary in conjunction with the States.

''(d) DURATION OF SUPPORT.—The period during which payments may be made for a project under subsection (a) may be not less than 3 years nor more than 5 years.

''(e) AUTHORIZATION OF APPROPRIATION.—

''(1) IN GENERAL.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2000, 2001 and 2002.

''(2) ALLOCATION.—Of the amounts appropriated under paragraph (1) for a fiscal year, 50 percent shall be expended to support data infrastructure development for mental health and 50 percent shall be expended to support data infrastructure development for substance abuse.''.

SEC. 405. REPEAL OF OBSOLETE ADDICT REFERRAL PROVISIONS.

(a) REPEAL OF OBSOLETE PUBLIC HEALTH SERVICE ACT AUTHORITIES.—Part E of title III (42 U.S.C. 257 et seq.) is repealed.

(b) REPEAL OF OBSOLETE NARA AUTHORITIES.—Titles III and IV of the Narcotic Addict Rehabilitation Act of 1966 (Public Law 89–793) are repealed.

(c) REPEAL OF OBSOLETE TITLE 28 AUTHORITIES.—

(1) IN GENERAL.—Chapter 175 of title 28, United States Code, is repealed.

(2) TABLE OF CONTENTS.—The table of contents to part VI of title 28, United States Code, is amended by striking the items relating to chapter 175.

SEC. 406. INDIVIDUALS WITH CO-OCCURRING DISORDERS.

The Public Health Service Act is amended by inserting after section 503 (42 U.S.C. 290aa–2) the following:

"SEC. 503A. REPORT ON INDIVIDUALS WITH CO-OCCURRING MENTAL ILLNESS AND SUBSTANCE ABUSE DISORDERS.

''(a) IN GENERAL.—Not later than 2 years after the date of enactment of this section, the Secretary shall, after consultation with organizations representing States, mental health and substance abuse treatment providers, prevention specialists, individuals receiving treatment services, and family members of such individuals, prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Commerce of the House of Representatives, a report on prevention and treatment services for individuals who have co-occurring mental illness and substance abuse disorders.

''(b) REPORT CONTENT.—The report under subsection (a) shall be based on data collected from existing Federal and State surveys regarding the treatment of co-occurring mental illness and substance abuse disorders and shall include—

''(1) a summary of the manner in which individuals with co-occurring disorders are receiving treatment, including the most up-to-date information available regarding the number of children and adults with co-occurring mental illness and substance abuse disorders and the manner in which funds provided under sections 1911 and 1921 are being utilized, including the number of such children and adults served with such funds;

''(2) a summary of improvements necessary to ensure that individuals with co-occurring mental illness and substance abuse disorders receive the services they need;

''(3) a summary of practices for preventing substance abuse among individuals who have a mental illness and are at risk of having or acquiring a substance abuse disorder; and

''(4) a summary of evidenced-based practices for treating individuals with co-occurring mental illness and substance abuse disorders and recommendations for implementing such practices.

''(c) FUNDS FOR REPORT.—The Secretary may obligate funds to carry out this section with such appropriations as are available.''.

SEC. 407. SERVICES FOR INDIVIDUALS WITH CO-OCCURRING DISORDERS.

Subpart III of part B of title XIX of the Public Health Service Act (42 U.S.C. 300x–51 et seq.) (as amended by section 305) is further amended by adding at the end the following:

"SEC. 1956. SERVICES FOR INDIVIDUALS WITH CO-OCCURRING DISORDERS.

''States may use funds available for treatment under sections 1911 and 1921 to treat persons with co-occurring substance abuse and mental disorders as long as funds available under such sections are used for the purposes for which they were authorized by law and can be tracked for accounting purposes.''.

MEASURE READ THE FIRST TIME—S.J. RES. 37

Mr. GRASSLEY. There is a joint resolution at the desk which was introduced earlier by Senator SMITH of New Hampshire, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the joint resolution by title.

The legislative clerk read as follows:

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

Mr. GRASSLEY. I now ask for its second reading, and I object to my own request.

The PRESIDING OFFICER. Under the rule, the bill will receive its second reading on the next legislative day.

JOHN H. CHAFEE COASTAL BARRIER RESOURCES SYSTEM ACT

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of S. 1866, introduced earlier today by Senator SMITH of New Hampshire and others.

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

The legislative clerk read as follows:

A bill (S. 1866) to redesignate the Coastal Barrier Resources System as the ''John H. Chafee Coastal Barrier Resources System''.

There being no objection, the Senate proceeded to consider the bill.

Mr. SMITH of New Hampshire. Mr. President, this bill would redesignate the Coastal Barrier Resources System as the ''John H. Chafee Coastal Barrier Resources System.''

As you all know, my friend, the late Senator John Chafee, worked tirelessly to ensure that the natural resources of this nation are protected. I can think of no tribute that is more fitting than to rename the Coastal Resources System after him. Whenever we discussed the Coastal Barrier Resources Act it was not unusual for Senator Chafee to comment that ''There are times around here that we all do things right, and this is one of them.''

Senator Chafee is considered the father of the Coastal Barrier Resources Act, and it epitomizes the common sense approach he took in protecting our environment. When Senator Chafee introduced this legislation in 1990 he recognized that the federal government didn't have the financial resources to buy this land, as well as recognizing the need for Congress to find a unique and different way to protect our sensitive coastal barriers.

The Coastal Barrier Resources Act does just that. The act prohibits the Federal government from subsidizing flood insurance, and restricts other federal expenditures and financial assistance, such as beach replenishment, that encourage the development of our coastal barriers. All to often taxpayers are asked to subsidize the rebuilding of homes in these sensitive storm and flood prone areas not just once, but two, three, even four times. Restricting funding for Federal programs will minimize loss of human life, reduce wasteful expenditure of Federal funds, and protect the natural resources associated with coastal barriers.

As I said last week on the floor, this act is vintage Chafee: balanced, fiscally prudent, and environmentally protective.

The Coastal Barrier Resources System protects approximately 3 million acres and 2,500 shoreline miles from development subsidized by the federal government. Development of coastal barrier land decreases their ability to absorb the force of storms, buffer the mainland, and provide critical habitat to numerous plant and animal species. The devastating floods of Hurricane Floyd are yet another reminder of the susceptibility of coastal development to the power of nature.

Senator Chafee was instrumental in reauthorizing the legislation in 1990 and had recently introduced a new reauthorization measure. By renaming the Coastal Barrier Resources Act after Senator Chafee, this legislation honors the invaluable contributions the Senator made to the environment during his tenure in the Senate.

Mr. President, I ask unanimous consent that a statement in support of this legislation from the Coast Alliance, a network of more than 500 organizations working to protect America's coastal resources, be printed in the RECORD immediately after my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. SMITH of New Hampshire. In closing I would like to leave you with a quote from President Teddy Roosevelt that Senator Chafee used in 1990 when he introduced the bill:

> The prosperity of our people depends on the energy and intelligence with which our natural resources are used. It is equally clear that these resources are the final basis of national power and perpetuity.

I urge my colleagues to support this legislation.

EXHIBIT 1

STATEMENT OF JACQUELINE SAVITZ, EXECUTIVE DIRECTOR, COAST ALLIANCE, ON THE JOHN CHAFEE COASTAL BARRIER RESOURCES SYSTEM ACT

The Coast Alliance leads a network composed of over 500 organizations along America's coasts working to protect our priceless coastal resources. The Alliance worked with Senator John Chafee to help pass the Coastal Barrier Resources Act in 1982 and to expand it in 1990. The Alliance has continuously defended and built support for the Coastal Barrier Resources System since that time. Coast Alliance strongly supports this bill to rename the Coastal Barrier Resource System in Senator Chafee's honor.

Senator John Chafee's work to create and protect the CBRS was unequaled, leaving a precious legacy for this and hopefully future generations. The Coast Alliance commends the cosponsors of this bill for recognizing Senator Chafee's work by renaming the Act and the System. The John H. Chafee Coastal Barrier Resource Act should stand as a testament to the vision and perseverance of Senator Chafee in defense of barrier islands.

Prior to his death, Senator Chafee authored a bill to reauthorize the Act and included provisions that would allow for citizens to make voluntary additions to the System. Coast Alliance urges the Environment and Public Works Committee and the Senate to make quick work of Chafee's bill, passing it as he wrote it, and as soon as is feasible.

Finally, Coast Alliance wishes to recognize that Senator Chafee's appreciation of nature extended beyond barrier islands, and his work to protect our National Wildlife Refuges also should be recognized. Coast Alliance urges that the Committee consider adding to its memorial by naming a National Wildlife Refuge in Senator John Chafee's memory.

The Board of Directors and staff of the Coast Alliance wish to convey their sympathy to the Chafee family, and to the Senator's colleagues and staff. We thank Chairman Smith and the Environment and Public Work Committee for their leadership on this bill.

Mr. BAUCUS. Mr. President, this bill is a fitting tribute to our beloved former chairman of the Environment and Public Works Committee, the late Senator John Chafee. I commend our new Chairman, Senator SMITH, for conceiving of this tribute, and am pleased to join him and others in introducing the bill.

Over the past week or so, many of us have spoken of the sadness we feel at Senator Chafee's passing. We have spoken of his contributions to legislative debates, and in particular the work he did to improve our major environmental laws, such as the Clean Air Act, the Clean Water Act, and Endangered Species Act.

The bill we are introducing today shows another side of Senator Chafee's work. He wasn't just interested in issues that bring headlines and accolades. When he came to work each morning, he tried to make things better, however he could, in ways both large and small.

The Coastal Barriers Resources System was one of those relatively small, but significant, accomplishments. Very few people have heard about it. But it's made a difference.

Senator Chafee proposed the Coastal Barriers Resources Act in 1981. It was enacted into law in 1982 and reauthorized in 1990.

The act establishes the Coastal Barrier Resources System, which comprises about 3 million acres of fragile coastal habitat covering 2,500 shoreline miles. Within the system, certain types of federal assistance, such as flood insurance and funding to replenish beaches, is prohibited. If someone wants to build in one of these areas, such as along a beach that is highly edible and in the frequent path of hurricanes, fine.

But taxpayers will not help foot the bill.

In this way, the act promotes two simple, common-sense ideas: conservation and thrift.

It promotes conservation because coastal barriers are very important and fragile ecosystems. Senator Chafee put it this way, at the first hearing on his bill, in Providence in 1982. He said:

> These beaches and islands are places of incredible beauty that deserve to be protected so that they can be open for enjoyment by everybody, all the citizens of our country.

He continued:

> The grassy dunes, salt marshes, and tidal estuaries of the barrier islands [also] provide essential areas where healthy wildlife populations can find shelter, food and a tranquil place to raise their young.

By discouraging development in these areas, the Coastal Barrier Resources Act promotes conservation.

The act also promotes thrift. Simply put, it's a waste of taxpayers' money to subsidize development that not only harms the environment, but that also is likely, at some point, to be swept out to sea.

When he signed the act into law, President Reagan said that it ''will save American taxpayers millions of dollars.'' and that's turned out to be the case.

Conservation and thrift. Good Yankee virtues, characteristic of John Chafee.

One more thing. In his eulogy last Saturday, former Senator Danforth talked about how John Chafee tried to bring people together.

This is yet another example. When all the painstaking work was done, the Coastal Barrier Resources Act reflected a bipartisan consensus. It was supported by virtually everyone—from the National Taxpayers Union, to the Red Cross, to the major environmental groups. It was enacted with only four dissenting votes in the entire Congress.

It brought people together.

Mr. President, two weeks ago, Senator John Chafee introduced a bill to reauthorize the Coastal Barrier Resources Act. It turned out to be the very last bill that he introduced.

The bill that we are introducing today takes a further step. It names the system that he created, and nurtured, the John H. Chafee Coastal Barrier Resources System.

It is a modest, but fitting, tribute.

Mr. CRAPO. Mr. President, I applaud Senator SMITH, the new chairman of the Environment and Public Works Committee, for this effort on behalf of the Senate to honor our late friend, John Chafee.

Although not widely-known,the Coastal Barrier Resources Act (CBRA) statute is an important component of our national commitment to balancing the needs of our environment, minimizing risks to human life, and fiscal responsibility. Being such a careful balance, the act reflects John Chafee's approach to legislating—fair, deliberate, and environmentally conscious.

In 1982, the then-chairman of the Senate Environment and Public Works Subcommittee on Environmental Pollution, Senator Chafee, became the leading champion of efforts to address problems caused by development on highly erodible coastal areas. The CBRA concept took a unique approach to protecting these coastal areas, not by instituting a wide range of new federal regulations as some suggested, but by prohibiting certain federal spending that could promote development that would not otherwise take place.

Subsequent reauthorization of the act in 1990 significantly expanded the CBRA System and incorporated ''Otherwise Protected Areas'' into the protective umbrella. Today, the CBRA System includes 585 units and 274 OPAs, comprising over 3 million acres of coastal barriers.

CBRA does not prohibit development in coastal areas, nor deny private or non-federal funds from being spent even with the CBRA System. It does, however, protect taxpayer dollars—including flood insurance, loans, grants, and assisting infrastructure projects—from being spent on development projects in areas where the very instability of the terrain makes development a risky proposition. It also discourages development in areas where

human life is at increased risk from the full force of coastal weather events.

A General Accounting Office report from 1992 underscores the successes and challenges of the system. Although CBRA's restrictions have discouraged development in some units, saving taxpayer dollars, other units have seen development pressures result in new construction projects.

Senator Chafee's long leadership on this issue has demonstrated the vitality of the idea of protecting important environmental areas without putting restrictions on private actions. As Chairman of the successor subcommittee with jurisdiction over CBRA and a staunch defender of creative solutions to problems affecting our environment, I look forward to helping advance John Chafee's legacy by supporting this measure and working to enact his last introduced bill, S. 1752.

Mr. President, S. 1752, the Coastal Barrier Resources Reauthorization Act, was introduced by our late Chairman before his passing and would update the underlying law for the 21st Century by coupling current mapping technology with new advances in digital cartography and by establishing statutory clarity in describing which areas are covered by the CBRA System.

In closing, I commend Senator SMITH and Senator BAUCUS for their commitment to honoring John Chafee by naming the CBRA System for him. John Chafee was truly a man of vision with a gentle spirit that made the difficult tasks in Congress that much more easy. His presence had a calming influence when so often discussions became overheated in this Chamber or in the Environment and Public Works Committee. No one can replace him, but others should and will try to follow his example. He will be truly missed.

Mr. GRASSLEY. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to this bill be printed in the RECORD.

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

The bill (S. 1866) was read the third time and passed, as follows:

S. 1866

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 ''John H. Chafee Coastal Barrier Resources System Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) during the past 2 decades, Senator John H. Chafee was a leading voice for the protection of the environment and the conservation of the natural resources of the United States;

(2) Senator Chafee served on the Environment and Public Works Committee of the Senate for 22 years, influencing every major piece of environmental legislation enacted during that time;

(3) Senator Chafee led the fight for clean air, clean water, safe drinking water, and cleanup of toxic wastes, and for strengthening of the National Wildlife Refuge System and protections for endangered species and their habitats;

(4) millions of people of the United States breathe cleaner air, drink cleaner water, and enjoy more plentiful outdoor recreation opportunities because of the work of Senator Chafee;

(5) in 1982, Senator Chafee authored and succeeded in enacting into law the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.) to minimize loss of human life, wasteful expenditure of Federal revenues, and damage to fish, wildlife, and other natural resources associated with the coastal barriers along the Atlantic and Gulf Coasts; and

(6) to reflect the invaluable national contributions made by Senator Chafee during his service in the Senate, the Coastal Barrier Resources System should be named in his honor.

SEC. 3. REDESIGNATION OF COASTAL BARRIER RESOURCES SYSTEM IN HONOR OF JOHN H. CHAFEE.

(a) IN GENERAL.—The Coastal Barrier Resources System established by section 4(a) of the Coastal Barrier Resources Act (16 U.S.C. 3503(a)) is redesignated as the ''John H. Chafee Coastal Barrier Resources System''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Coastal Barrier Resources System shall be deemed to be a reference to the John H. Chafee Coastal Barrier Resources System.

(c) CONFORMING AMENDMENTS.—

(1) Section 2(b) of the Coastal Barrier Resources Act (16 U.S.C. 3501(b)) is amended by striking ''a Coastal Barrier Resources System'' and inserting ''the John H. Chafee Coastal Barrier Resources System''.

(2) Section 3 of the Coastal Barrier Resources Act (16 U.S.C. 3502) is amended by striking ''Coastal Barrier Resources System'' each place it appears and inserting ''John H. Chafee Coastal Barrier Resources System''.

(3) Section 4 of the Coastal Barrier Resources Act (16 U.S.C. 3503) is amended—

(A) in the section heading, by striking ''**COASTAL BARRIER RESOURCES SYSTEM**'' and inserting ''**JOHN H. CHAFEE COASTAL BARRIER RESOURCES SYSTEM**''; and

(B) in subsection (a), by striking ''the Coastal Barrier Resources System'' and inserting ''the John H. Chafee Coastal Barrier Resources System''.

(4) Section 10(c)(2) of the Coastal Barrier Resources Act (16 U.S.C. 3509(c)(2)) is amended by striking ''Coastal Barrier Resources System'' and inserting ''System''.

(5) Section 10(c)(2)(B)(i) of the Coastal Barrier Improvement Act of 1990 (12 U.S.C. 1441a–3(c)(2)(B)(i)) is amended by striking ''Coastal Barrier Resources System'' and inserting ''John H. Chafee Coastal Barrier Resources System''.

(6) Section 12(5) of the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3503 note; Public Law 101–591) is amended by striking ''Coastal Barrier Resources System'' and inserting ''John H. Chafee Coastal Barrier Resources System''.

(7) Section 1321 of the National Flood Insurance Act of 1968 (42 U.S.C. 4028) is amended—

(A) by striking the section heading and inserting the following:

''JOHN H. CHAFEE COASTAL BARRIER RESOURCES SYSTEM'';

and

(B) by striking ''Coastal Barrier Resources System'' each place it appears and inserting ''John H. Chafee Coastal Barrier Resources System''.

DENYING SAFE HAVENS TO INTERNATIONAL AND WAR CRIMINALS ACT OF 1999

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 344, S. 1754.

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

The legislative clerk read as follows:

A bill (S. 1754) to deny safe havens to international and war criminals, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Denying Safe Havens to International and War Criminals Act of 1999''.

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

Sec. 1. Short title; table of contents.

TITLE I—DENYING SAFE HAVENS TO INTERNATIONAL CRIMINALS

Sec. 101. Temporary transfer of persons in custody for prosecution.

Sec. 102. Prohibiting fugitives from benefiting from fugitive status.

Sec. 103. Transfer of foreign prisoners to serve sentences in country of origin.

Sec. 104. Transit of fugitives for prosecution in foreign countries.

TITLE II—PROMOTING GLOBAL COOPERATION IN THE FIGHT AGAINST INTERNATIONAL CRIME

Sec. 201. Streamlined procedures for execution of MLAT requests.

Sec. 202. Temporary transfer of incarcerated witnesses.

TITLE III—ANTI-ATROCITY ALIEN DEPORTATION

Sec. 301. Inadmissibility and removability of aliens who have committed acts of torture abroad.

Sec. 302. Establishment of the Office of Special Investigations.

TITLE I—DENYING SAFE HAVENS TO INTERNATIONAL CRIMINALS

SEC. 101. TEMPORARY TRANSFER OF PERSONS IN CUSTODY FOR PROSECUTION.

(a) IN GENERAL.—Chapter 306 of title 18, United States Code, is amended by adding at the end the following:

''§4116. Temporary transfer for prosecution

''(a) STATE DEFINED.—In this section, the term 'State' includes a State of the United States, the District of Columbia, and a commonwealth, territory, or possession of the United States.

''(b) AUTHORITY OF ATTORNEY GENERAL WITH RESPECT TO TEMPORARY TRANSFERS.—

''(1) IN GENERAL.—Subject to subsection (d), if a person is in pretrial detention or is otherwise being held in custody in a foreign country based upon a violation of the law in that foreign country, and that person is found extraditable to the United States by the competent authorities of that foreign country while still in the pretrial detention or custody, the Attorney General shall have the authority—

''(A) to request the temporary transfer of that person to the United States in order to face prosecution in a Federal or State criminal proceeding;

''(B) to maintain the custody of that person while the person is in the United States; and

''(C) to return that person to the foreign country at the conclusion of the criminal prosecution, including any imposition of sentence.

''(2) REQUIREMENTS FOR REQUESTS BY ATTORNEY GENERAL.—The Attorney General shall make a request under paragraph (1) only if the Attorney General determines, after consultation with the Secretary of State, that the return of that person to the foreign country in question would be consistent with international obligations of the United States.

''(c) AUTHORITY OF ATTORNEY GENERAL WITH RESPECT TO PRETRIAL DETENTIONS.—

''(1) IN GENERAL.—

''(A) AUTHORITY OF ATTORNEY GENERAL.—Subject to paragraph (2) and subsection (d), the Attorney General shall have the authority to carry out the actions described in subparagraph (B), if—

''(i) a person is in pretrial detention or is otherwise being held in custody in the United States based upon a violation of Federal or State law, and that person is found extraditable to a foreign country while still in the pretrial detention or custody pursuant to section 3184, 3197, or 3198; and

''(ii) a determination is made by the Secretary of State and the Attorney General that the person will be surrendered.

''(B) ACTIONS.—If the conditions described in subparagraph (A) are met, the Attorney General shall have the authority to—

''(i) temporarily transfer the person described in subparagraph (A) to the foreign country of the foreign government requesting the extradition of that person in order to face prosecution;

''(ii) transport that person from the United States in custody; and

''(iii) return that person in custody to the United States from the foreign country.

''(2) CONSENT BY STATE AUTHORITIES.—If the person is being held in custody for a violation of State law, the Attorney General may exercise the authority described in paragraph (1) if the appropriate State authorities give their consent to the Attorney General.

''(3) CRITERION FOR REQUEST.—The Attorney General shall make a request under paragraph (1) only if the Attorney General determines, after consultation with the Secretary of State, that the return of the person sought for extradition to the foreign country of the foreign government requesting the extradition would be consistent with United States international obligations.

''(4) EFFECT OF TEMPORARY TRANSFER.—With regard to any person in pretrial detention—

''(A) a temporary transfer under this subsection shall result in an interruption in the pretrial detention status of that person; and

''(B) the right to challenge the conditions of confinement pursuant to section 3142(f) does not extend to the right to challenge the conditions of confinement in a foreign country while in that foreign country temporarily under this subsection.

''(d) CONSENT BY PARTIES TO WAIVE PRIOR FINDING OF WHETHER A PERSON IS EXTRADITABLE.—The Attorney General may exercise the authority described in subsections (b) and (c) absent a prior finding that the person in custody is extraditable, if the person, any appropriate State authorities in a case under subsection (c), and the requesting foreign government give their consent to waive that requirement.

''(e) RETURN OF PERSONS.—

''(1) IN GENERAL.—If the temporary transfer to or from the United States of a person in custody for the purpose of prosecution is provided for by this section, that person shall be returned to the United States or to the foreign country from which the person is transferred on completion of the proceedings upon which the transfer was based.

''(2) STATUTORY INTERPRETATION WITH RESPECT TO IMMIGRATION LAWS.—In no event shall the return of a person under paragraph (1) require extradition proceedings or proceedings under the immigration laws.

''(3) CERTAIN RIGHTS AND REMEDIES BARRED.—Notwithstanding any other provision of law, a person temporarily transferred to the United States pursuant to this section shall not be entitled to apply for or obtain any right or remedy under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), including the right to apply for or be granted asylum or withholding of deportation.''.

(b) CLERICAL AMENDMENT.—The analysis for chapter 306 of title 18, United States Code, is amended by adding at the end the following:

''4116. Temporary transfer for prosecution.''.

SEC. 102. PROHIBITING FUGITIVES FROM BENEFITING FROM FUGITIVE STATUS.

(a) IN GENERAL.—Chapter 163 of title 28, United States Code, is amended by adding at the end the following:

''§ 2466. Fugitive disentitlement

''A person may not use the resources of the courts of the United States in furtherance of a claim in any related civil forfeiture action or a claim in third party proceedings in any related criminal forfeiture action if that person—

''(1) purposely leaves the jurisdiction of the United States;

''(2) declines to enter or reenter the United States to submit to its jurisdiction; or

''(3) otherwise evades the jurisdiction of the court in which a criminal case is pending against the person.''.

(b) CLERICAL AMENDMENT.—The analysis for chapter 163 of title 28, United States Code, is amended by adding at the end the following:

''2466. Fugitive disentitlement.''.

SEC. 103. TRANSFER OF FOREIGN PRISONERS TO SERVE SENTENCES IN COUNTRY OF ORIGIN.

Section 4100(b) of title 18, United States Code, is amended in the third sentence by striking ''An offender'' and inserting ''Unless otherwise provided by treaty, an offender''.

SEC. 104. TRANSIT OF FUGITIVES FOR PROSECUTION IN FOREIGN COUNTRIES.

(a) IN GENERAL.—Chapter 305 of title 18, United States Code, is amended by adding at the end the following:

''§ 4087. Transit through the United States of persons wanted in a foreign country

''(a) IN GENERAL.—The Attorney General may, in consultation with the Secretary of State, permit the temporary transit through the United States of a person wanted for prosecution or imposition of sentence in a foreign country.

''(b) LIMITATION ON JUDICIAL REVIEW.—A determination by the Attorney General to permit or not to permit a temporary transit described in subsection (a) shall not be subject to judicial review.

''(c) CUSTODY.—If the Attorney General permits a temporary transit under subsection (a), Federal law enforcement personnel may hold the person subject to that transit in custody during the transit of the person through the United States.

''(d) CONDITIONS APPLICABLE TO PERSONS SUBJECT TO TEMPORARY TRANSIT.—Notwithstanding any other provision of law, a person who is subject to a temporary transit through the United States under this section shall—

''(1) be required to have only such documents as the Attorney General shall require;

''(2) not be considered to be admitted or paroled into the United States; and

''(3) not be entitled to apply for or obtain any right or remedy under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), including the right to apply for or be granted asylum or withholding of deportation.''.

(b) CLERICAL AMENDMENT.—The analysis for chapter 305 of title 18, United States Code, is amended by adding at the end the following:

''4087. Transit through the United States of persons wanted in a foreign country.''.

TITLE II—PROMOTING GLOBAL COOPERATION IN THE FIGHT AGAINST INTERNATIONAL CRIME

SEC. 201. STREAMLINED PROCEDURES FOR EXECUTION OF MLAT REQUESTS.

(a) IN GENERAL.—Chapter 117 of title 28, United States Code, is amended by adding at the end the following:

''§ 1785. Assistance to foreign authorities

''(a) IN GENERAL.—

''(1) PRESENTATION OF REQUESTS.—The Attorney General may present a request made by a foreign government for assistance with respect to a foreign investigation, prosecution, or proceeding regarding a criminal matter pursuant to a treaty, convention, or executive agreement for mutual legal assistance between the United States and that government or in accordance with section 1782, the execution of which requires or appears to require the use of compulsory measures in more than 1 judicial district, to a judge or judge magistrate of—

''(A) any 1 of the districts in which persons who may be required to appear to testify or produce evidence or information reside or are found, or in which evidence or information to be produced is located; or

''(B) the United States District Court for the District of Columbia.

''(2) AUTHORITY OF COURT.—A judge or judge magistrate to whom a request for assistance is presented under paragraph (1) shall have the authority to issue those orders necessary to execute the request including orders appointing a person to direct the taking of testimony or statements and the production of evidence or information, of whatever nature and in whatever form, in execution of the request.

''(b) AUTHORITY OF APPOINTED PERSONS.—A person appointed under subsection (a)(2) shall have the authority to—

''(1) issue orders for the taking of testimony or statements and the production of evidence or information, which orders may be served at any place within the United States;

''(2) administer any necessary oath; and

''(3) take testimony or statements and receive evidence and information.

''(c) PERSONS ORDERED TO APPEAR.—A person ordered pursuant to subsection (b)(1) to appear outside the district in which that person resides or is found may, not later than 10 days after receipt of the order—

''(1) file with the judge or judge magistrate who authorized execution of the request a motion to appear in the district in which that person resides or is found or in which the evidence or information is located; or

''(2) provide written notice, requesting appearance in the district in which the person resides or is found or in which the evidence or information is located, to the person issuing the order to appear, who shall advise the judge or judge magistrate authorizing execution.

''(d) TRANSFER OF REQUESTS.—

''(1) IN GENERAL.—The judge or judge magistrate may transfer a request under subsection (c), or that portion requiring the appearance of that person, to the other district if—

''(A) the inconvenience to the person is substantial; and

''(B) the transfer is unlikely to adversely affect the effective or timely execution of the request or a portion thereof.

''(2) EXECUTION.—Upon transfer, the judge or judge magistrate to whom the request or a portion thereof is transferred shall complete its execution in accordance with subsections (a) and (b).''.

(b) CLERICAL AMENDMENT.—The analysis for chapter 117 of title 28, United States Code, is amended by adding at the end the following:

''1785. Assistance to foreign authorities.''.

SEC. 202. TEMPORARY TRANSFER OF INCARCERATED WITNESSES.

(a) IN GENERAL.—Section 3508 of title 18, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§ 3508. Temporary transfer of witnesses in custody";

(2) in subsection (a), by inserting ''IN GENERAL.—'' after ''(a)''; and

(3) by striking subsections (b) and (c) and inserting the following:

''(b) TRANSFER AUTHORITY.—

''(1) IN GENERAL.—If the testimony of a person who is serving a sentence, in pretrial detention, or otherwise being held in custody in the United States, is needed in a foreign criminal proceeding, the Attorney General shall have the authority to—

''(A) temporarily transfer that person to the foreign country for the purpose of giving the testimony;

''(B) transport that person from the United States in custody;

''(C) make appropriate arrangements for custody for that person while outside the United States; and

''(D) return that person in custody to the United States from the foreign country.

''(2) PERSONS HELD FOR STATE LAW VIOLATIONS.—If the person is being held in custody for a violation of State law, the Attorney General may exercise the authority described in this subsection if the appropriate State authorities give their consent.

''(c) RETURN OF PERSONS TRANSFERRED.—

''(1) IN GENERAL.—If the transfer to or from the United States of a person in custody for the purpose of giving testimony is provided for by treaty or convention, by this section, or both, that person shall be returned to the United States, or to the foreign country from which the person is transferred.

''(2) LIMITATION.—In no event shall the return of a person under this subsection require any request for extradition or extradition proceedings, or require that person to be subject to deportation or exclusion proceedings under the laws of the United States, or the foreign country from which the person is transferred.

''(d) APPLICABILITY OF INTERNATIONAL AGREEMENTS.—If there is an international agreement between the United States and the foreign country in which a witness is being held in custody or to which the witness will be transferred from the United States, that provides for the transfer, custody, and return of those witnesses, the terms and conditions of that international agreement shall apply. If there is no such international agreement, the Attorney General may exercise the authority described in subsections (a) and (b) if both the foreign country and the witness give their consent.

''(e) RIGHTS OF PERSONS TRANSFERRED.—

''(1) Notwithstanding any other provision of law, a person held in custody in a foreign country who is transferred to the United States pursuant to this section for the purpose of giving testimony—

''(A) shall not by reason of that transfer, during the period that person is present in the United States pursuant to that transfer, be entitled to apply for or obtain any right or remedy under the Immigration and Nationality Act, including the right to apply for or be granted asylum or withholding of deportation or any right to remain in the United States under any other law; and

''(B) may be summarily removed from the United States upon order of the Attorney General.

''(2) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to create any substantive or procedural right or benefit to remain in the United States that is legally enforceable in a court of law of the United States or of a State by any party against the United States or its agencies or officers.

''(f) CONSISTENCY WITH INTERNATIONAL OBLIGATIONS.—The Attorney General shall not take any action under this section to transfer or return a person to a foreign country unless the Attorney General determines, after consultation with the Secretary of State, that transfer or return would be consistent with the international obligations of the United States. A determination by the Attorney General under this subsection shall not be subject to judicial review by any court.''.

(b) CLERICAL AMENDMENT.—The analysis for chapter 223 of title 18, United States Code, is amended by striking the item relating to section 3508 and inserting the following:

''3508. Temporary transfer of witnesses in custody.''.

TITLE III—ANTI-ATROCITY ALIEN DEPORTATION

SEC. 301. INADMISSIBILITY AND REMOVABILITY OF ALIENS WHO HAVE COMMITTED ACTS OF TORTURE ABROAD.

(a) INADMISSIBILITY.—Section 212(a)(3)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(E)) is amended by adding at the end the following:

''(iii) COMMISSION OF ACTS OF TORTURE.—Any alien who, outside the United States, has committed any act of torture, as defined in section 2340 of title 18, United States Code, is inadmissible.''.

(b) REMOVABILITY.—Section 237(a)(4)(D) of that Act (8 U.S.C. 1227(a)(4)(D)) is amended by striking ''clause (i) or (ii)'' and inserting ''clause (i), (ii), or (iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offenses committed before, on, or after the date of enactment of this Act.

SEC. 302. ESTABLISHMENT OF THE OFFICE OF SPECIAL INVESTIGATIONS.

(a) AMENDMENT OF THE IMMIGRATION AND NATIONALITY ACT.—Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by adding at the end the following:

''(g) The Attorney General shall establish within the Criminal Division of the Department of Justice an Office of Special Investigations with the authority of investigating, and, where appropriate, taking legal action to remove, denaturalize, or prosecute any alien found to be in violation of clause (i), (ii), or (iii) of section 212(a)(3)(E).''.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Department of Justice for the fiscal year 2000 such sums as may be necessary to carry out the additional duties established under section 103(g) of the Immigration and Nationality Act (as added by this Act) in order to ensure that the Office of Special Investigations fulfills its continuing obligations regarding Nazi war criminals.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

AMENDMENT NO. 2510

(Purpose: To make technical amendments)

Mr. GRASSLEY. Senators LEAHY and HATCH have an amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] for Mr. LEAHY, for himself and Mr. HATCH, proposes an amendment numbered 2510.

The amendment is as follows:

On page 30, lines 20 and 21, strike ''WITH RESPECT TO IMMIGRATION LAWS''.

On page 30, lines 24 and 25, strike ''or proceedings under the immigration laws'' and insert a period, quotation marks, and a second period.

On page 31, strike lines 1 through 8.

On page 33, line 13, insert ''and'' after the semicolon.

On page 33, line 15, strike ''; and'' and insert a period, quotation marks, and a second period.

On page 33, strike lines 16 through 20.

Beginning on page 38, line 22, strike ''or require'' and all that follows through ''transferred'' on line 2 of page 39.

On page 39, line 13, after the period, insert ending quotation marks and a final period.

Beginning on page 39, strike line 14 and all that follows through line 20 on page 40.

On page 42, line 5, after ''denaturalize'', insert ''(as otherwise authorized by law)''.

Mr. LEAHY. Mr President, I am delighted that the Senate is considering S. 1754, the ''Denying Safe Haven to International and War Criminals Act of 1999,'' along with a technical amendment that strikes several provisions in the bill reported by the Judiciary Committee that would have had the effect of altering the applicability of current law in certain instances. Senator HATCH and I introduced this bill on October 20, 1999, with a number of provisions that I have long supported. The legislation will give United States law enforcement agencies important tools to help them combat international crime by facilitating international cooperation in the prosecution of criminal cases and ensuring that human rights abusers are denied safe haven in this country.

Unfortunately, crime and terrorism directed at Americans and American interests abroad are part of our modern reality. Furthermore, organized criminal activity does not recognize national boundaries. With improvements in technology, criminals now can move about the world with ease. They can transfer funds with the push of a button, or use computers and credit card numbers to steal from American citizens and businesses from any spot on the globe. They can commit crimes here or abroad and flee quickly to another jurisdiction or country. The playing field keeps changing, and we need to change with it.

This bill will help make needed modifications in our laws, not with sweeping changes but with thoughtful provisions carefully targeted at specific problems faced by law enforcement. We cannot stop international crime without international cooperation, and this bill gives additional tools to investigators and prosecutors to promote such cooperation, while narrowing the room for maneuver that international criminals, including human rights abusers, and terrorists now enjoy.

Regarding the Anti-Atrocity Alien Deportation Act (Title III), this bill contains as its last title the ''Anti-Atrocity Alien Deportation Act,'' which I introduced as S. 1375, on July 15, 1999, with Senator KOHL. Senator LIEBERMAN is also a cosponsor. This legislation has garnered bipartisan support both in the Senate and the House, where the measure has been introduced by Representatives FOLEY, FRANKS and ACKERMAN as H.R. 2642 and H.R. 3058.

I have been appalled that this country has become a safe haven for those who exercised power in foreign countries to terrorize, rape, and torture innocent civilians. For example, three Ethiopian refugees proved in an American court that Kelbessa Negewo, a

former senior government official in Ethiopia engaged in numerous acts of torture and human rights abuses against them in the late 1970's when they lived in that country. The court's descriptions of the abuse are chilling, and included whipping a naked woman with a wire for hours and threatening her with death in the presence of several men. The court's award of compensatory and punitive damages in the amount of $1,500,000 to the plaintiffs was subsequently affirmed by an appellate court. See *Abebe-Jira* v. *Negewo,* 72 F.3d 844 (11th Cir. 1996). Yet, while Negewo's case was on appeal, the Immigration and Naturalization Service granted him citizenship.

As Professor William Aceves of California Western School of Law has noted, this case reveals ''a glaring and troubling limitation in current immigration law and practice. This case is not unique. Other aliens who have committed gross human rights violations have also gained entry into the United States and been granted immigration relief.'' The Rutland Herald got it right when it opined on October 31, 1999, that:

> For the U.S. commitment to human rights to mean anything, U.S. policies must be strong and consistent. It is not enough to denounce war crimes in Bosnia and Kosovo or elsewhere and then wink as the perpetrators of torture and mass murder slip across the border to find a home in America.

The Immigration and Nationality Act currently provides that (i) participants in Nazi persecutions during the time period from March 23, 1933 to May 8, 1945, and (ii) aliens who engaged in genocide, are inadmissible to the United States and deportable. See 8 U.S.C. §1182(a)(3)(E)(i) and §1227(a)(4)(D). This legislation would amend these sections of the Immigration and Nationality Act by expanding the grounds for inadmissibility and deportation to cover aliens who have engaged in acts of torture abroad.

''Torture'' is already defined in the Federal criminal code, 18 U.S.C. § 2340, in a law passed as part of the implementing legislation for the ''Convention Against Torture,'' under which the United States has an affirmative duty to prosecute torturers within its boundaries regardless of their respective nationalities. 18 U.S.C. § 2340A (1994). As defined in the federal criminal code, torture means any act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering upon another person within his custody or physical control. This could include prolonged mental harm caused by or resulting from the infliction or threat to inflict physical pain, threats to kill another person, or the administration of mind-altering substances or procedures calculated to disrupt profoundly the senses or personality of another person. Under this definition, torturers include both those who issue the orders to torture innocent people as well as those who implement those orders.

The legislation would also amend the Immigration and Nationality Act, 8 U.S.C. § 1103, by directing the Attorney General to establish an Office of Special Investigations (OSI) within the Department of Justice with authorization to investigate, remove, denaturalize, or prosecute any alien who has participated in torture or genocide abroad. Attorney General Civiletti established OSI in 1979 within the Criminal Division of the Department of Justice, consolidating within it all ''investigative and litigation activities involving individuals, who prior to and during World War II, under the supervision of or in association with the Nazi government of Germany, its allies, and other affiliated [sic] governments, are alleged to have ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion.'' (Attorney Gen. Order No. 851–79). The OSI's mission continues to be limited by that Attorney General Order.

The legislation would provide statutory authorization for Office of Special Investigation, and would expand its jurisdiction to authorize investigations, prosecutions, and removal of any alien who participated in torture and genocide abroad—not just Nazis. The success of OSI in hunting Nazi war criminals demonstrates the effectiveness of centralized resources and expertise in these cases. OSI has worked, and it is time to update its mission. The knowledge of the people, politics and pathologies of particular regimes engaged in genocide and human rights abuses is often necessary for effective prosecutions of these cases and may best be accomplished by the concentrated efforts of a single office, rather than in piecemeal litigation around the country or in offices that have more diverse missions.

I appreciate that this part of the legislation has proven controversial within the Department of Justice, but others have concurred in my judgment that the OSI is an appropriate component of the Department to address the new responsibilities proposed in the bill. Professor Aceves, who has studied these matters extensively, has concluded that OSI's ''methodology for pursuing Nazi war criminals can be applied with equal rigor to other perpetrators of human rights violations. As the number of Nazi war criminals inevitably declines, the OSI can begin to enforce U.S. immigration laws against perpetrators of genocide and other gross violations of human rights.''

Similarly, the Rutland Herald recently noted that the INS has never deported an immigrant on the basis of human rights abuses, while the OSI has deported 48 ex-Nazis and stripped 61 of U.S. citizenship, while maintaining a list of 60,000 suspected war criminals with the aim of barring them from entry. Based on this record, the Rutland Herald concluded that the legislation correctly looks to OSI to carry out the additional responsibilities called for in the bill, noting that:

> It resolves a turf war between the INS and the OSI in favor of the OSI, which is as it should be. The victims of human rights abuses are often victimized again when, seeking refuge in the United States, they are confronted by the draconian policies of the INS. It's a better idea to give the job of finding war criminals to the office that has shown it knows how to do the job.

Unquestionably, the need to bring Nazi war criminals to justice remains a matter of great importance. Funds would not be diverted from the OSI's current mission. Additional resources are authorized in the bill for OSI's expanded duties. I would like to recognize the reporting of Boston Globe reporter Steve Fainaru, whose ground-breaking series has illuminated the need for a more focused response to this problem.

Regarding the sections Denying Safe Haven to International Criminals and Promoting Global Cooperation (Title I and II), I initially introduced title I, section 102 of this bill, regarding fugitive disentitlement, on April 30, 1998, in S. 2011, the ''Money Laundering Enforcement and Combating Drugs in Prisons Act of 1998,'' with Senators DASCHLE, KOHL, FEINSTEIN and CLELAND. Again, on July 14, 1998, I introduced with Senator BIDEN, on behalf of the Administration, S. 2303, the ''International Crime Control Act of 1998,'' which contains most of the provisions set forth in titles I and II of this bill. Virtually all of the provisions in these two titles of the bill were also included in another major anti-crime bill, S. 2484, the ''Safe Schools, Safe Streets, and Secure Borders Act of 1998,'' which I introduced on September 16, 1998, along with Senators DASCHLE, BIDEN, Moseley-Braun, KENNEDY, KERRY, LAUTENBERG, MIKULSKI, BINGAMAN, REID, MURRAY, DORGAN, and TORRICELLI. In addition, Senator HATCH and I included title II, section 201 of this bill, regarding streamlined procedures for MLAT requests in S. 2536, our ''International Crime and Anti-Terrorism Amendments of 1998,'' which passed the Senate last October 15, 1998.

We have drawn from these more comprehensive bills a set of discrete improvements that enjoy bipartisan support so that important provisions may be enacted promptly. Each of these provisions has been a law enforcement priority.

Title I sets forth important proposals for combating international crime and denying safe havens to international criminals. The substitute amendment adopted by the Judiciary Committee to the original bill removed sections 1 and 2, which set forth detailed procedures and safeguards for proceeding with extradition for offenses not covered in a treaty.

Section 101 of the bill considered by the Senate today would add a new section 4116 to title 18, United States Code, authorizing the Attorney General to request the temporary transfer to the United States of a person, who is in pretrial detention or custody in a

foreign country, to face prosecution, if the Attorney General, in consultation with the Secretary of State, determines that such transfer would be consistent with the international obligations of the United States. The section would also authorize the Attorney General to transfer temporarily to a foreign country a person, who is in pretrial detention or custody in the United States and found extraditable to the foreign country, to face prosecution in the foreign country, if the Attorney General, in consultation with the Secretary of State, determines that such transfer would be consistent with the international obligations of the United States. Consent of state authorities would be required for persons in state custody.

Section 102 is designed to stop drug kingpins, terrorists and other international fugitives from using our courts to fight to keep the proceeds of the very crimes for which they are wanted. Criminals should not be able to use our courts at the same time they are evading our laws. Specifically, this section adds a new section 2466 to title 28, United States Code, that would bar a person, who purposely leaves the United States or declines to submit to or otherwise evades U.S. jurisdiction where a criminal case is pending against the person, from participating as a party in a civil action over a related civil or criminal forfeiture claim. The Supreme Court recently decided that a previous judge-made rule to the same effect required a statutory basis. This section provides that basis.

Section 103 would amend section 4100(b) of title 18, United States Code, to permit transfer, on a case-by-case basis, of prisoners to their home country to serve their sentences, where such transfer is provided by treaty. Under this section, the prisoner need not consent to the transfer.

Section 104 would add a new section 4087 to title 18, United States Code, that would provide a statutory basis for holding and transferring prisoners who are sent from one foreign country to another through United States airports, at the discretion of the Attorney General.

Title II of the bill is designed to promote global cooperation in the fight against international crime. Section 201 would permit United States courts involved in multi-district litigation to enforce mutual legal assistance treaties and other agreements to execute foreign requests for assistance in criminal matters in all districts involved in the litigation. Specifically, this provision would add a new section 1785 to title 18, United States Code, that would authorize the Attorney General to present requests from foreign governments for assistance in criminal cases pursuant to mutual legal assistance treaties and other agreements when the enforcement involves multiple districts. Compulsory measures may be used to require persons to produce testimony or evidence where they reside or the evidence is located, or the U.S. District Court for the District of Columbia. A person ordered to produce testimony or evidence outside the jurisdiction of residence may petition to appear in the district where the person resides.

Section 202 outlines procedures for the temporary transfer of incarcerated witnesses. Mutual legal assistance treaties (''MLATS'') generally already provide a mechanism for the United States to send and receive persons in custody who are needed as witnesses, either in our courts or foreign courts for criminal cases. These witnesses are often cooperating to obtain a lighter sentence. Section 3508 of title 18, United States Code, enacted in 1988, already provides the authority, absent such a MLAT, for the Attorney General to request foreign witnesses, who are in custody, to come to the United States to testify in criminal cases here, and to assure their expeditious return to the foreign country. The bill would amend section 3508 to permit the Attorney General, as a matter of comity and reciprocity, to send United States prisoners abroad to testify, according to the terms and conditions of the MLAT. If there is no MLAT, the Attorney General may only send a United States prisoner abroad to testify with the prisoner's consent and, where applicable, the State holding the prisoner. Decisions of the Attorney General respecting such transfers are to be made in conjunction with the Secretary of State.

These are important provisions that I have advocated for some time. They are helpful, solid law enforcement provisions. I thank my friend from Utah, Senator HATCH, for his help in making this bill a reality. Working together, we were able to pass bipartisan legislation that will accomplish what all of us want, a safer and more secure America.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the amendment be agreed to, the committee amendment, as amended, be agreed to, the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 2510) was agreed to.

The committee amendment, as amended, was agreed to.

The bill (S. 1754), as amended, was read the third time and passed, as follows:

S. 1754

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 ''Denying Safe Havens to International and War Criminals Act of 1999''.

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

Sec. 1. Short title; table of contents.

TITLE I—DENYING SAFE HAVENS TO INTERNATIONAL CRIMINALS

Sec. 101. Temporary transfer of persons in custody for prosecution.

Sec. 102. Prohibiting fugitives from benefiting from fugitive status.

Sec. 103. Transfer of foreign prisoners to serve sentences in country of origin.

Sec. 104. Transit of fugitives for prosecution in foreign countries.

TITLE II—PROMOTING GLOBAL COOPERATION IN THE FIGHT AGAINST INTERNATIONAL CRIME

Sec. 201. Streamlined procedures for execution of MLAT requests.

Sec. 202. Temporary transfer of incarcerated witnesses.

TITLE III—ANTI-ATROCITY ALIEN DEPORTATION

Sec. 301. Inadmissibility and removability of aliens who have committed acts of torture abroad.

Sec. 302. Establishment of the Office of Special Investigations.

TITLE I—DENYING SAFE HAVENS TO INTERNATIONAL CRIMINALS

SEC. 101. TEMPORARY TRANSFER OF PERSONS IN CUSTODY FOR PROSECUTION.

(a) IN GENERAL.—Chapter 306 of title 18, United States Code, is amended by adding at the end the following:

''§ 4116. Temporary transfer for prosecution

''(a) STATE DEFINED.—In this section, the term 'State' includes a State of the United States, the District of Columbia, and a commonwealth, territory, or possession of the United States.

''(b) AUTHORITY OF ATTORNEY GENERAL WITH RESPECT TO TEMPORARY TRANSFERS.—

''(1) IN GENERAL.—Subject to subsection (d), if a person is in pretrial detention or is otherwise being held in custody in a foreign country based upon a violation of the law in that foreign country, and that person is found extraditable to the United States by the competent authorities of that foreign country while still in the pretrial detention or custody, the Attorney General shall have the authority—

''(A) to request the temporary transfer of that person to the United States in order to face prosecution in a Federal or State criminal proceeding;

''(B) to maintain the custody of that person while the person is in the United States; and

''(C) to return that person to the foreign country at the conclusion of the criminal prosecution, including any imposition of sentence.

''(2) REQUIREMENTS FOR REQUESTS BY ATTORNEY GENERAL.—The Attorney General shall make a request under paragraph (1) only if the Attorney General determines, after consultation with the Secretary of State, that the return of that person to the foreign country in question would be consistent with international obligations of the United States.

''(c) AUTHORITY OF ATTORNEY GENERAL WITH RESPECT TO PRETRIAL DETENTIONS.—

''(1) IN GENERAL.—

''(A) AUTHORITY OF ATTORNEY GENERAL.—Subject to paragraph (2) and subsection (d), the Attorney General shall have the authority to carry out the actions described in subparagraph (B), if—

''(i) a person is in pretrial detention or is otherwise being held in custody in the United States based upon a violation of Federal or State law, and that person is found extraditable to a foreign country while still in the pretrial detention or custody pursuant to section 3184, 3197, or 3198; and

''(ii) a determination is made by the Secretary of State and the Attorney General that the person will be surrendered.

''(B) ACTIONS.—If the conditions described in subparagraph (A) are met, the Attorney General shall have the authority to—

''(i) temporarily transfer the person described in subparagraph (A) to the foreign country of the foreign government requesting the extradition of that person in order to face prosecution;

''(ii) transport that person from the United States in custody; and

''(iii) return that person in custody to the United States from the foreign country.

''(2) CONSENT BY STATE AUTHORITIES.—If the person is being held in custody for a violation of State law, the Attorney General may exercise the authority described in paragraph (1) if the appropriate State authorities give their consent to the Attorney General.

''(3) CRITERION FOR REQUEST.—The Attorney General shall make a request under paragraph (1) only if the Attorney General determines, after consultation with the Secretary of State, that the return of the person sought for extradition to the foreign country of the foreign government requesting the extradition would be consistent with United States international obligations.

''(4) EFFECT OF TEMPORARY TRANSFER.—With regard to any person in pretrial detention—

''(A) a temporary transfer under this subsection shall result in an interruption in the pretrial detention status of that person; and

''(B) the right to challenge the conditions of confinement pursuant to section 3142(f) does not extend to the right to challenge the conditions of confinement in a foreign country while in that foreign country temporarily under this subsection.

''(d) CONSENT BY PARTIES TO WAIVE PRIOR FINDING OF WHETHER A PERSON IS EXTRADITABLE.—The Attorney General may exercise the authority described in subsections (b) and (c) absent a prior finding that the person in custody is extraditable, if the person, any appropriate State authorities in a case under subsection (c), and the requesting foreign government give their consent to waive that requirement.

''(e) RETURN OF PERSONS.—

''(1) IN GENERAL.—If the temporary transfer to or from the United States of a person in custody for the purpose of prosecution is provided for by this section, that person shall be returned to the United States or to the foreign country from which the person is transferred on completion of the proceedings upon which the transfer was based.

''(2) STATUTORY INTERPRETATION.—In no event shall the return of a person under paragraph (1) require extradition proceedings.''.

(b) CLERICAL AMENDMENT.—The analysis for chapter 306 of title 18, United States Code, is amended by adding at the end the following:

''4116. Temporary transfer for prosecution.''.

SEC. 102. PROHIBITING FUGITIVES FROM BENEFITING FROM FUGITIVE STATUS.

(a) IN GENERAL.—Chapter 163 of title 28, United States Code, is amended by adding at the end the following:

''§ 2466. Fugitive disentitlement

''A person may not use the resources of the courts of the United States in furtherance of a claim in any related civil forfeiture action or a claim in third party proceedings in any related criminal forfeiture action if that person—

''(1) purposely leaves the jurisdiction of the United States;

''(2) declines to enter or reenter the United States to submit to its jurisdiction; or

''(3) otherwise evades the jurisdiction of the court in which a criminal case is pending against the person.''.

(b) CLERICAL AMENDMENT.—The analysis for chapter 163 of title 28, United States Code, is amended by adding at the end the following:

''2466. Fugitive disentitlement.''.

SEC. 103. TRANSFER OF FOREIGN PRISONERS TO SERVE SENTENCES IN COUNTRY OF ORIGIN.

Section 4100(b) of title 18, United States Code, is amended in the third sentence by striking ''An offender'' and inserting ''Unless otherwise provided by treaty, an offender''.

SEC. 104. TRANSIT OF FUGITIVES FOR PROSECUTION IN FOREIGN COUNTRIES.

(a) IN GENERAL.—Chapter 305 of title 18, United States Code, is amended by adding at the end the following:

''§ 4087. Transit through the United States of persons wanted in a foreign country

''(a) IN GENERAL.—The Attorney General may, in consultation with the Secretary of State, permit the temporary transit through the United States of a person wanted for prosecution or imposition of sentence in a foreign country.

''(b) LIMITATION ON JUDICIAL REVIEW.—A determination by the Attorney General to permit or not to permit a temporary transit described in subsection (a) shall not be subject to judicial review.

''(c) CUSTODY.—If the Attorney General permits a temporary transit under subsection (a), Federal law enforcement personnel may hold the person subject to that transit in custody during the transit of the person through the United States.

''(d) CONDITIONS APPLICABLE TO PERSONS SUBJECT TO TEMPORARY TRANSIT.—Notwithstanding any other provision of law, a person who is subject to a temporary transit through the United States under this section shall—

''(1) be required to have only such documents as the Attorney General shall require; and

''(2) not be considered to be admitted or paroled into the United States.''.

(b) CLERICAL AMENDMENT.—The analysis for chapter 305 of title 18, United States Code, is amended by adding at the end the following:

''4087. Transit through the United States of persons wanted in a foreign country.''.

TITLE II—PROMOTING GLOBAL COOPERATION IN THE FIGHT AGAINST INTERNATIONAL CRIME

SEC. 201. STREAMLINED PROCEDURES FOR EXECUTION OF MLAT REQUESTS.

(a) IN GENERAL.—Chapter 117 of title 28, United States Code, is amended by adding at the end the following:

''§ 1785. Assistance to foreign authorities

''(a) IN GENERAL.—

''(1) PRESENTATION OF REQUESTS.—The Attorney General may present a request made by a foreign government for assistance with respect to a foreign investigation, prosecution, or proceeding regarding a criminal matter pursuant to a treaty, convention, or executive agreement for mutual legal assistance between the United States and that government or in accordance with section 1782, the execution of which requires or appears to require the use of compulsory measures in more than 1 judicial district, to a judge or judge magistrate of—

''(A) any 1 of the districts in which persons who may be required to appear to testify or produce evidence or information reside or are found, or in which evidence or information to be produced is located; or

''(B) the United States District Court for the District of Columbia.

''(2) AUTHORITY OF COURT.—A judge or judge magistrate to whom a request for assistance is presented under paragraph (1) shall have the authority to issue those orders necessary to execute the request including orders appointing a person to direct the taking of testimony or statements and the production of evidence or information, of whatever nature and in whatever form, in execution of the request.

''(b) AUTHORITY OF APPOINTED PERSONS.—A person appointed under subsection (a)(2) shall have the authority to—

''(1) issue orders for the taking of testimony or statements and the production of evidence or information, which orders may be served at any place within the United States;

''(2) administer any necessary oath; and

''(3) take testimony or statements and receive evidence and information.

''(c) PERSONS ORDERED TO APPEAR.—A person ordered pursuant to subsection (b)(1) to appear outside the district in which that person resides or is found may, not later than 10 days after receipt of the order—

''(1) file with the judge or judge magistrate who authorized execution of the request a motion to appear in the district in which that person resides or is found or in which the evidence or information is located; or

''(2) provide written notice, requesting appearance in the district in which the person resides or is found or in which the evidence or information is located, to the person issuing the order to appear, who shall advise the judge or judge magistrate authorizing execution.

''(d) TRANSFER OF REQUESTS.—

''(1) IN GENERAL.—The judge or judge magistrate may transfer a request under subsection (c), or that portion requiring the appearance of that person, to the other district if—

''(A) the inconvenience to the person is substantial; and

''(B) the transfer is unlikely to adversely affect the effective or timely execution of the request or a portion thereof.

''(2) EXECUTION.—Upon transfer, the judge or judge magistrate to whom the request or a portion thereof is transferred shall complete its execution in accordance with subsections (a) and (b).''.

(b) CLERICAL AMENDMENT.—The analysis for chapter 117 of title 28, United States Code, is amended by adding at the end the following:

''1785. Assistance to foreign authorities.''.

SEC. 202. TEMPORARY TRANSFER OF INCARCERATED WITNESSES.

(a) IN GENERAL.—Section 3508 of title 18, United States Code, is amended—

(1) by striking the section heading and inserting the following:

''§ 3508. Temporary transfer of witnesses in custody'';

(2) in subsection (a), by inserting ''IN GENERAL.—'' after ''(a)''; and

(3) by striking subsections (b) and (c) and inserting the following:

''(b) TRANSFER AUTHORITY.—

''(1) IN GENERAL.—If the testimony of a person who is serving a sentence, in pretrial detention, or otherwise being held in custody in the United States, is needed in a foreign criminal proceeding, the Attorney General shall have the authority to—

''(A) temporarily transfer that person to the foreign country for the purpose of giving the testimony;

''(B) transport that person from the United States in custody;

''(C) make appropriate arrangements for custody for that person while outside the United States; and

''(D) return that person in custody to the United States from the foreign country.

''(2) PERSONS HELD FOR STATE LAW VIOLATIONS.—If the person is being held in custody for a violation of State law, the Attorney General may exercise the authority described in this subsection if the appropriate State authorities give their consent.

''(c) RETURN OF PERSONS TRANSFERRED.—

''(1) IN GENERAL.—If the transfer to or from the United States of a person in custody for the purpose of giving testimony is provided for by treaty or convention, by this section, or both, that person shall be returned to the United States, or to the foreign country from which the person is transferred.

''(2) LIMITATION.—In no event shall the return of a person under this subsection require any request for extradition or extradition proceedings.

''(d) APPLICABILITY OF INTERNATIONAL AGREEMENTS.—If there is an international agreement between the United States and the foreign country in which a witness is being held in custody or to which the witness will be transferred from the United States, that provides for the transfer, custody, and return of those witnesses, the terms and conditions of that international agreement shall apply. If there is no such international agreement, the Attorney General may exercise the authority described in subsections (a) and (b) if both the foreign country and the witness give their consent.''.

(b) CLERICAL AMENDMENT.—The analysis for chapter 223 of title 18, United States Code, is amended by striking the item relating to section 3508 and inserting the following:

''3508. Temporary transfer of witnesses in custody.''.

TITLE III—ANTI-ATROCITY ALIEN DEPORTATION

SEC. 301. INADMISSIBILITY AND REMOVABILITY OF ALIENS WHO HAVE COMMITTED ACTS OF TORTURE ABROAD.

(a) INADMISSIBILITY.—Section 212(a)(3)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(E)) is amended by adding at the end the following:

''(iii) COMMISSION OF ACTS OF TORTURE.—Any alien who, outside the United States, has committed any act of torture, as defined in section 2340 of title 18, United States Code, is inadmissible.''.

(b) REMOVABILITY.—Section 237(a)(4)(D) of that Act (8 U.S.C. 1227(a)(4)(D)) is amended by striking ''clause (i) or (ii)'' and inserting ''clause (i), (ii), or (iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offenses committed before, on, or after the date of enactment of this Act.

SEC. 302. ESTABLISHMENT OF THE OFFICE OF SPECIAL INVESTIGATIONS.

(a) AMENDMENT OF THE IMMIGRATION AND NATIONALITY ACT.—Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by adding at the end the following:

''(g) The Attorney General shall establish within the Criminal Division of the Department of Justice an Office of Special Investigations with the authority of investigating, and, where appropriate, taking legal action to remove, denaturalize (as otherwise authorized by law), or prosecute any alien found to be in violation of clause (i), (ii), or (iii) of section 212(a)(3)(E).''.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Department of Justice for the fiscal year 2000 such sums as may be necessary to carry out the additional duties established under section 103(g) of the Immigration and Nationality Act (as added by this Act) in order to ensure that the Office of Special Investigations fulfills its continuing obligations regarding Nazi war criminals.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

FEDERAL FINANCIAL ASSISTANCE MANAGEMENT IMPROVEMENT ACT OF 1999

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House of Representatives on the bill (S. 468) to improve the effectiveness and performance of Federal financial assistance programs, simplify Federal financial assistance application and reporting requirements, and improve the delivery of services to the public.

There being no objection, the Presiding Officer (Mr. SESSIONS) laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 468) entitled ''An Act to improve the effectiveness and performance of Federal financial assistance programs, simplify Federal financial assistance application and reporting requirements, and improve the delivery of services to the public'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Financial Assistance Management Improvement Act of 1999''.

SEC. 2. FINDINGS.

Congress finds that—

(1) there are over 600 different Federal financial assistance programs to implement domestic policy;

(2) while the assistance described in paragraph (1) has been directed at critical problems, some Federal administrative requirements may be duplicative, burdensome or conflicting, thus impeding cost-effective delivery of services at the local level;

(3) the Nation's State, local, and tribal governments and private, nonprofit organizations are dealing with increasingly complex problems which require the delivery and coordination of many kinds of services; and

(4) streamlining and simplification of Federal financial assistance administrative procedures and reporting requirements will improve the delivery of services to the public.

SEC. 3. PURPOSES.

The purposes of this Act are to—

(1) improve the effectiveness and performance of Federal financial assistance programs;

(2) simplify Federal financial assistance application and reporting requirements;

(3) improve the delivery of services to the public; and

(4) facilitate greater coordination among those responsible for delivering such services.

SEC. 4. DEFINITIONS.

In this Act:

(1) DIRECTOR.—The term ''Director'' means the Director of the Office of Management and Budget.

(2) FEDERAL AGENCY.—The term ''Federal agency'' means any agency as defined under section 551(1) of title 5, United States Code.

(3) FEDERAL FINANCIAL ASSISTANCE.—The term ''Federal financial assistance'' has the same meaning as defined in section 7501(a)(5) of title 31, United States Code, under which Federal financial assistance is provided, directly or indirectly, to a non-Federal entity.

(4) LOCAL GOVERNMENT.—The term ''local government'' means a political subdivision of a State that is a unit of general local government (as defined under section 7501(a)(11) of title 31, United States Code).

(5) NON-FEDERAL ENTITY.—The term ''non-Federal entity'' means a State, local government, or nonprofit organization.

(6) NONPROFIT ORGANIZATION.—The term ''nonprofit organization'' means any corporation, trust, association, cooperative, or other organization that—

(A) is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;

(B) is not organized primarily for profit; and

(C) uses net proceeds to maintain, improve, or expand the operations of the organization.

(7) STATE.—The term ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, and any instrumentality thereof, any multi-State, regional, or interstate entity which has governmental functions, and any Indian Tribal Government.

(8) TRIBAL GOVERNMENT.—The term ''tribal government'' means an Indian tribe, as that term is defined in section 7501(a)(9) of title 31, United States Code.

(9) UNIFORM ADMINISTRATIVE RULE.—The term ''uniform administrative rule'' means a Government-wide uniform rule for any generally applicable requirement established to achieve national policy objectives that applies to multiple Federal financial assistance programs across Federal agencies.

SEC. 5. DUTIES OF FEDERAL AGENCIES.

(a) IN GENERAL.—Except as provided under subsection (b), not later than 18 months after the date of the enactment of this Act, each Federal agency shall develop and implement a plan that—

(1) streamlines and simplifies the application, administrative, and reporting procedures for Federal financial assistance programs administered by the agency;

(2) demonstrates active participation in the interagency process under section 6(a)(2);

(3) demonstrates appropriate agency use, or plans for use, of the common application and reporting system developed under section 6(a)(1);

(4) designates a lead agency official for carrying out the responsibilities of the agency under this Act;

(5) allows applicants to electronically apply for, and report on the use of, funds from the Federal financial assistance program administered by the agency;

(6) ensures recipients of Federal financial assistance provide timely, complete, and high quality information in response to Federal reporting requirements; and

(7) in cooperation with recipients of Federal financial assistance, establishes specific annual goals and objectives to further the purposes of this Act and measure annual performance in achieving those goals and objectives, which may be done as part of the agency's annual planning responsibilities under the Government Performance and Results Act of 1993 (Public Law 103–62; 107 Stat. 285).

(b) EXTENSION.—If a Federal agency is unable to comply with subsection (a), the Director may extend for up to 12 months the period for the agency to develop and implement a plan in accordance with subsection (a).

(c) COMMENT AND CONSULTATION ON AGENCY PLANS.—

(1) COMMENT.—Each agency shall publish the plan developed under subsection (a) in the Federal Register and shall receive public comment of the plan through the Federal Register and other means (including electronic means). To the maximum extent practicable, each Federal agency shall hold public forums on the plan.

(2) CONSULTATION.—The lead official designated under subsection (a)(4) shall consult with representatives of non-Federal entities during development and implementation of the plan. Consultation with representatives of State, local, and tribal governments shall be in accordance with section 204 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1534).

(d) SUBMISSION OF PLAN.—Each Federal agency shall submit the plan developed under subsection (a) to the Director and Congress and report annually thereafter on the implementation of the plan and performance of the agency in meeting the goals and objectives specified under subsection (a)(7). Such report may be included as part of any of the general management reports required under law.

SEC. 6. DUTIES OF THE DIRECTOR.

(a) IN GENERAL.—The Director, in consultation with agency heads and representatives of non-Federal entities, shall direct, coordinate, and assist Federal agencies in establishing—

(1) a common application and reporting system, including—

(A) a common application or set of common applications, wherein a non-Federal entity can apply for Federal financial assistance from multiple Federal financial assistance programs that serve similar purposes and are administered by different Federal agencies;

(B) a common system, including electronic processes, wherein a non-Federal entity can apply for, manage, and report on the use of funding from multiple Federal financial assistance programs that serve similar purposes and are administered by different Federal agencies; and

(C) uniform administrative rules for Federal financial assistance programs across different Federal agencies; and

(2) an interagency process for addressing—

(A) ways to streamline and simplify Federal financial assistance administrative procedures and reporting requirements for non-Federal entities;

(B) improved interagency and intergovernmental coordination of information collection and sharing of data pertaining to Federal financial assistance programs, including appropriate information sharing consistent with section 552a of title 5, United States Code; and

(C) improvements in the timeliness, completeness, and quality of information received by Federal agencies from recipients of Federal financial assistance.

(b) LEAD AGENCY AND WORKING GROUPS.—The Director may designate a lead agency to assist the Director in carrying out the responsibilities under this section. The Director may use interagency working groups to assist in carrying out such responsibilities.

(c) REVIEW OF PLANS AND REPORTS.—Upon the request of the Director, agencies shall submit to the Director, for the Director's review, information and other reporting regarding agency implementation of this Act.

(d) EXEMPTIONS.—The Director may exempt any Federal agency or Federal financial assistance program from the requirements of this Act if the Director determines that the Federal agency does not have a significant number of Federal financial assistance programs. The Director shall maintain a list of exempted agencies which shall be available to the public through the Office of Management and Budget's Internet site.

(e) REPORT ON RECOMMENDED CHANGES IN LAW.—Not later than 18 months after the date of the enactment of this Act, the Director shall submit to Congress a report containing recommendations for changes in law to improve the effectiveness, performance, and coordination of Federal financial assistance programs.

(f) DEADLINE.—All actions required under this section shall be carried out not later than 18 months after the date of the enactment of this Act.

SEC. 7. EVALUATION.

(a) IN GENERAL.—The General Accounting Office shall evaluate the effectiveness of this Act. Not later than 6 years after the date of the enactment of this Act, the evaluation shall be submitted to the lead agency, the Director, and Congress. The evaluation shall be performed with input from State, local, and tribal governments, and nonprofit organizations.

(b) CONTENTS.—The evaluation under subsection (a) shall—

(1) assess the effectiveness of this Act in meeting the purposes of this Act and make specific recommendations to further the implementation of this Act;

(2) evaluate actual performance of each agency in achieving the goals and objectives stated in agency plans; and

(3) assess the level of coordination among the Director, Federal agencies, State, local, and tribal governments, and nonprofit organizations in implementing this Act.

SEC. 8. COLLECTION OF INFORMATION.

Nothing in this Act shall be construed to prevent the Director or any Federal agency from gathering, or to exempt any recipient of Federal financial assistance from providing, information that is required for review of the financial integrity or quality of services of an activity assisted by a Federal financial assistance program.

SEC. 9. JUDICIAL REVIEW.

There shall be no judicial review of compliance or noncompliance with any of the provisions of this Act. No provision of this Act shall be construed to create any right or benefit, substantive or procedural, enforceable by any administrative or judicial action.

SEC. 10. STATUTORY REQUIREMENTS.

Nothing in this Act shall be construed as a means to deviate from the statutory requirements relating to applicable Federal financial assistance programs.

SEC. 11. EFFECTIVE DATE AND SUNSET.

This Act shall take effect on the date of the enactment of this Act and shall cease to be effective 8 years after such date of enactment.

Mr. GRASSLEY. I ask unanimous consent that the Senate agree to the amendment of the House.

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

NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION AMENDMENTS OF 1999

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 373, S. 225.

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

The legislative clerk read as follows:

A bill (S. 225) to provide Federal housing assistance to native Hawaiians.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Banking, Housing, and Urban Affairs with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Native American Housing Assistance and Self-Determination Amendments of 1999''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the United States has undertaken a responsibility to promote the general welfare of the United States by—

(A) employing its resources to remedy the unsafe and unsanitary housing conditions and the acute shortage of decent, safe, and sanitary dwellings for families of lower income; and

(B) developing effective partnerships with governmental and private entities to accomplish the objectives referred to in subparagraph (A);

(2) the United States has a special responsibility for the welfare of the Native peoples of the United States, including Native Hawaiians;

(3) pursuant to the provisions of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.), the United States set aside 200,000 acres of land in the Federal territory that later became the State of Hawaii in order to establish a homeland for the native people of Hawaii—Native Hawaiians;

(4) despite the intent of Congress in 1920 to address the housing needs of Native Hawaiians through the enactment of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.), Native Hawaiians eligible to reside on the Hawaiian home lands have been foreclosed from participating in Federal housing assistance programs available to all other eligible families in the United States;

(5) although Federal housing assistance programs have been administered on a racially neutral basis in the State of Hawaii, Native Hawaiians continue to have the greatest unmet need for housing and the highest rates of overcrowding in the United States;

(6) among the Native American population of the United States, Native Hawaiians experience the highest percentage of housing problems in the United States, as the percentage—

(A) of housing problems in the Native Hawaiian population is 49 percent, as compared to—

(i) 44 percent for American Indian and Alaska Native households in Indian country; and

(ii) 27 percent for all other households in the United States; and

(B) overcrowding in the Native Hawaiian population is 36 percent as compared to 3 percent for all other households in the United States;

(7) among the Native Hawaiian population, the needs of Native Hawaiians, as that term is defined in section 801 of the Native American Housing Assistance and Self-Determination Act of 1996, as added by section 3 of this Act, eligible to reside on the Hawaiian Home Lands are the most severe, as—

(A) the percentage of overcrowding in Native Hawaiian households on the Hawaiian Home Lands is 36 percent; and

(B) approximately 13,000 Native Hawaiians, which constitute 95 percent of the Native Hawaiians who are eligible to reside on the Hawaiian Home Lands, are in need of housing;

(8) applying the Department of Housing and Urban Development guidelines—

(A) 70.8 percent of Native Hawaiians who either reside or who are eligible to reside on the Hawaiian Home Lands have incomes that fall below the median family income; and

(B) 50 percent of Native Hawaiians who either reside or who are eligible to reside on the Hawaiian Home Lands have incomes below 30 percent of the median family income;

(9) ⅓ of those Native Hawaiians who are eligible to reside on the Hawaiian Home Lands pay more than 30 percent of their income for shelter, and ½ of those Native Hawaiians face overcrowding;

(10) the extraordinarily severe housing needs of Native Hawaiians demonstrate that Native Hawaiians who either reside on, or are eligible to reside on, Hawaiian Home Lands have been denied equal access to Federal low-income housing assistance programs available to other qualified residents of the United States, and that a more effective means of addressing their housing needs must be authorized;

(11) consistent with the recommendations of the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing, and in order to address the continuing prevalence of extraordinarily severe housing needs among Native Hawaiians who either reside or are eligible to reside on the Hawaiian Home Lands, Congress finds it necessary to extend the Federal low-income housing assistance available to American Indians and Alaska Natives under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.) to those Native Hawaiians;

(12) under the treatymaking power of the United States, Congress had the constitutional

authority to confirm a treaty between the United States and the government that represented the Hawaiian people, and from 1826 until 1893, the United States recognized the independence of the Kingdom of Hawaii, extended full diplomatic recognition to the Hawaiian Government, and entered into treaties and conventions with the Hawaiian monarchs to govern commerce and navigation in 1826, 1842, 1849, 1875, and 1887;

(13) the United States has recognized and reaffirmed that—

(A) Native Hawaiians have a cultural, historic, and land-based link to the indigenous people who exercised sovereignty over the Hawaiian Islands, and that group has never relinquished its claims to sovereignty or its sovereign lands;

(B) Congress does not extend services to Native Hawaiians because of their race, but because of their unique status as the indigenous people of a once sovereign nation as to whom the United States has established a trust relationship;

(C) Congress has also delegated broad authority to administer a portion of the Federal trust responsibility to the State of Hawaii;

(D) the political status of Native Hawaiians is comparable to that of American Indians and Alaska Natives; and

(E) the aboriginal, indigenous people of the United States have—

(i) a continuing right to autonomy in their internal affairs; and

(ii) an ongoing right of self-determination and self-governance that has never been extinguished;

(14) the political relationship between the United States and the Native Hawaiian people has been recognized and reaffirmed by the United States as evidenced by the inclusion of Native Hawaiians in—

(A) the Native American Programs Act of 1974 (42 U.S.C. 2291 et seq.);

(B) the American Indian Religious Freedom Act (42 U.S.C. 1996 et seq.);

(C) the National Museum of the American Indian Act (20 U.S.C. 80q et seq.);

(D) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);

(E) the National Historic Preservation Act (16 U.S.C. 470 et seq.);

(F) the Native American Languages Act of 1992 (106 Stat. 3434);

(G) the American Indian, Alaska Native and Native Hawaiian Culture and Arts Development Act (20 U.S.C. 4401 et seq.);

(H) the Job Training Partnership Act (29 U.S.C. 1501 et seq.); and

(I) the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.); and

(15) in the area of housing, the United States has recognized and reaffirmed the political relationship with the Native Hawaiian people through—

(A) the enactment of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.), which set aside approximately 200,000 acres of public lands that became known as Hawaiian Home Lands in the Territory of Hawaii that had been ceded to the United States for homesteading by Native Hawaiians in order to rehabilitate a landless and dying people;

(B) the enactment of the Act entitled ''An Act to provide for the admission of the State of Hawaii into the Union'', approved March 18, 1959 (73 Stat. 4)—

(i) by ceding to the State of Hawaii title to the public lands formerly held by the United States, and mandating that those lands be held in public trust, for the betterment of the conditions of Native Hawaiians, as that term is defined in section 201 of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.); and

(ii) by transferring the United States responsibility for the administration of Hawaiian Home Lands to the State of Hawaii, but retaining the authority to enforce the trust, including the exclusive right of the United States to consent to any actions affecting the lands which comprise the corpus of the trust and any amendments to the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.), enacted by the legislature of the State of Hawaii affecting the rights of beneficiaries under the Act;

(C) the authorization of mortgage loans insured by the Federal Housing Administration for the purchase, construction, or refinancing of homes on Hawaiian Home Lands under the Act of June 27, 1934 (commonly referred to as the ''National Housing Act'' (42 Stat. 1246 et seq., chapter 847; 12 U.S.C. 1701 et seq.));

(D) authorizing Native Hawaiian representation on the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing under Public Law 101–235;

(E) the inclusion of Native Hawaiians in the definition under section 3764 of title 38, United States Code, applicable to subchapter V of chapter 37 of title 38, United States Code (relating to a housing loan program for Native American veterans); and

(F) the enactment of the Hawaiian Home Lands Recovery Act (109 Stat. 357; 48 U.S.C. 491, note prec.) which establishes a process for the conveyance of Federal lands to the Department of Hawaiian Homes Lands that are equivalent in value to lands acquired by the United States from the Hawaiian Home Lands inventory.

SEC. 3. HOUSING ASSISTANCE.

The Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.) is amended by adding at the end the following:

''TITLE VIII—HOUSING ASSISTANCE FOR NATIVE HAWAIIANS

''SEC. 801. DEFINITIONS.

''In this title:

''(1) DEPARTMENT OF HAWAIIAN HOME LANDS; DEPARTMENT.—The term 'Department of Hawaiian Home Lands' or 'Department' means the agency or department of the government of the State of Hawaii that is responsible for the administration of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.).

''(2) DIRECTOR.—The term 'Director' means the Director of the Department of Hawaiian Home Lands.

''(3) ELDERLY FAMILIES; NEAR-ELDERLY FAMILIES.—

''(A) IN GENERAL.—The term 'elderly family' or 'near-elderly family' means a family whose head (or his or her spouse), or whose sole member, is—

''(i) for an elderly family, an elderly person; or

''(ii) for a near-elderly family, a near-elderly person.

''(B) CERTAIN FAMILIES INCLUDED.—The term 'elderly family' or 'near-elderly family' includes—

''(i) 2 or more elderly persons or near-elderly persons, as the case may be, living together; and

''(ii) 1 or more persons described in clause (i) living with 1 or more persons determined under the housing plan to be essential to their care or well-being.

''(4) HAWAIIAN HOME LANDS.—The term 'Hawaiian Home Lands' means lands that—

''(A) have the status as Hawaiian home lands under section 204 of the Hawaiian Homes Commission Act (42 Stat. 110); or

''(B) are acquired pursuant to that Act.

''(5) HOUSING AREA.—The term 'housing area' means an area of Hawaiian Home Lands with respect to which the Department of Hawaiian Home Lands is authorized to provide assistance for affordable housing under this Act.

''(6) HOUSING ENTITY.—The term 'housing entity' means the Department of Hawaiian Home Lands.

''(7) HOUSING PLAN.—The term 'housing plan' means a plan developed by the Department of Hawaiian Home Lands.

''(8) MEDIAN INCOME.—The term 'median income' means, with respect to an area that is a Hawaiian housing area, the greater of—

''(A) the median income for the Hawaiian housing area, which shall be determined by the Secretary; or

''(B) the median income for the State of Hawaii.

''(9) NATIVE HAWAIIAN.—The term 'Native Hawaiian' means any individual who is—

''(A) a citizen of the United States; and

''(B) a descendant of the aboriginal people, who, prior to 1778, occupied and exercised sovereignty in the area that currently constitutes the State of Hawaii, as evidenced by—

''(i) genealogical records;

''(ii) verification by kupuna (elders) or kama'aina (long-term community residents); or

''(iii) birth records of the State of Hawaii.

''SEC. 802. BLOCK GRANTS FOR AFFORDABLE HOUSING ACTIVITIES.

''(a) GRANT AUTHORITY.—For each fiscal year, the Secretary shall (to the extent amounts are made available to carry out this title) make a grant under this title to the Department of Hawaiian Home Lands to carry out affordable housing activities for Native Hawaiian families who are eligible to reside on the Hawaiian Home Lands.

''(b) PLAN REQUIREMENT.—

''(1) IN GENERAL.—The Secretary may make a grant under this title to the Department of Hawaiian Home Lands for a fiscal year only if—

''(A) the Director has submitted to the Secretary a housing plan for that fiscal year; and

''(B) the Secretary has determined under section 804 that the housing plan complies with the requirements of section 803.

''(2) WAIVER.—The Secretary may waive the applicability of the requirements under paragraph (1), in part, if the Secretary finds that the Department of Hawaiian Home Lands has not complied or cannot comply with those requirements due to circumstances beyond the control of the Department of Hawaiian Home Lands.

''(c) USE OF AFFORDABLE HOUSING ACTIVITIES UNDER PLAN.—Except as provided in subsection (e), amounts provided under a grant under this section may be used only for affordable housing activities under this title that are consistent with a housing plan approved under section 804.

''(d) ADMINISTRATIVE EXPENSES.—

''(1) IN GENERAL.—The Secretary shall, by regulation, authorize the Department of Hawaiian Home Lands to use a percentage of any grant amounts received under this title for any reasonable administrative and planning expenses of the Department relating to carrying out this title and activities assisted with those amounts.

''(2) ADMINISTRATIVE AND PLANNING EXPENSES.—The administrative and planning expenses referred to in paragraph (1) include—

''(A) costs for salaries of individuals engaged in administering and managing affordable housing activities assisted with grant amounts provided under this title; and

''(B) expenses incurred in preparing a housing plan under section 803.

''(e) PUBLIC-PRIVATE PARTNERSHIPS.—The Director shall make all reasonable efforts, consistent with the purposes of this title, to maximize participation by the private sector, including nonprofit organizations and for-profit entities, in implementing a housing plan that has been approved by the Secretary under section 803.

''(f) APPLICABILITY OF OTHER PROVISIONS.—

''(1) IN GENERAL.—The Secretary shall be guided by the relevant program requirements of titles I, II, and IV in the implementation of housing assistance programs for Native Hawaiians under this title.

''(2) EXCEPTION.—The Secretary may make exceptions to, or modifications of, program requirements for Native American housing assistance set forth in titles I, II, and IV as necessary and appropriate to meet the unique situation and housing needs of Native Hawaiians.

''SEC. 803. HOUSING PLAN.

''(a) PLAN SUBMISSION.—The Secretary shall—

''(1) require the Director to submit a housing plan under this section for each fiscal year; and

''(2) provide for the review of each plan submitted under paragraph (1).

''(b) 5-YEAR PLAN.—Each housing plan under this section shall—

''(1) be in a form prescribed by the Secretary; and

''(2) contain, with respect to the 5-year period beginning with the fiscal year for which the plan is submitted, the following information:

''(A) MISSION STATEMENT.—A general statement of the mission of the Department of Hawaiian Home Lands to serve the needs of the low-income families to be served by the Department.

''(B) GOAL AND OBJECTIVES.—A statement of the goals and objectives of the Department of Hawaiian Home Lands to enable the Department to serve the needs identified in subparagraph (A) during the period.

''(C) ACTIVITIES PLANS.—An overview of the activities planned during the period including an analysis of the manner in which the activities will enable the Department to meet its mission, goals, and objectives.

''(c) 1-YEAR PLAN.—A housing plan under this section shall—

''(1) be in a form prescribed by the Secretary; and

''(2) contain the following information relating to the fiscal year for which the assistance under this title is to be made available:

''(A) GOALS AND OBJECTIVES.—A statement of the goals and objectives to be accomplished during the period covered by the plan.

''(B) STATEMENT OF NEEDS.—A statement of the housing needs of the low-income families served by the Department and the means by which those needs will be addressed during the period covered by the plan, including—

''(i) a description of the estimated housing needs and the need for assistance for the low-income families to be served by the Department, including a description of the manner in which the geographical distribution of assistance is consistent with—

''(I) the geographical needs of those families; and

''(II) needs for various categories of housing assistance; and

''(ii) a description of the estimated housing needs for all families to be served by the Department.

''(C) FINANCIAL RESOURCES.—An operating budget for the Department of Hawaiian Home Lands, in a form prescribed by the Secretary, that includes—

''(i) an identification and a description of the financial resources reasonably available to the Department to carry out the purposes of this title, including an explanation of the manner in which amounts made available will be used to leverage additional resources; and

''(ii) the uses to which the resources described in clause (i) will be committed, including—

''(I) eligible and required affordable housing activities; and

''(II) administrative expenses.

''(D) AFFORDABLE HOUSING RESOURCES.—A statement of the affordable housing resources currently available at the time of the submittal of the plan and to be made available during the period covered by the plan, including—

''(i) a description of the significant characteristics of the housing market in the State of Hawaii, including the availability of housing from other public sources, private market housing;

''(ii) the manner in which the characteristics referred to in clause (i) influence the decision of the Department of Hawaiian Home Lands to use grant amounts to be provided under this title for—

''(I) rental assistance;

''(II) the production of new units;

''(III) the acquisition of existing units; or

''(IV) the rehabilitation of units;

''(iii) a description of the structure, coordination, and means of cooperation between the Department of Hawaiian Home Lands and any other governmental entities in the development, submission, or implementation of housing plans, including a description of—

''(I) the involvement of private, public, and nonprofit organizations and institutions;

''(II) the use of loan guarantees under section 184A of the Housing and Community Development Act of 1992; and

''(III) other housing assistance provided by the United States, including loans, grants, and mortgage insurance;

''(iv) a description of the manner in which the plan will address the needs identified pursuant to subparagraph (C);

''(v) a description of—

''(I) any existing or anticipated homeownership programs and rental programs to be carried out during the period covered by the plan; and

''(II) the requirements and assistance available under the programs referred to in subclause (I);

''(vi) a description of—

''(I) any existing or anticipated housing rehabilitation programs necessary to ensure the long-term viability of the housing to be carried out during the period covered by the plan; and

''(II) the requirements and assistance available under the programs referred to in subclause (I);

''(vii) a description of—

''(I) all other existing or anticipated housing assistance provided by the Department of Hawaiian Home Lands during the period covered by the plan, including—

''(aa) transitional housing;

''(bb) homeless housing;

''(cc) college housing; and

''(dd) supportive services housing; and

''(II) the requirements and assistance available under such programs;

''(viii)(I) a description of any housing to be demolished or disposed of;

''(II) a timetable for that demolition or disposition; and

''(III) any other information required by the Secretary with respect to that demolition or disposition;

''(ix) a description of the manner in which the Department of Hawaiian Home Lands will coordinate with welfare agencies in the State of Hawaii to ensure that residents of the affordable housing will be provided with access to resources to assist in obtaining employment and achieving self-sufficiency;

''(x) a description of the requirements established by the Department of Hawaiian Home Lands to—

''(I) promote the safety of residents of the affordable housing;

''(II) facilitate the undertaking of crime prevention measures;

''(III) allow resident input and involvement, including the establishment of resident organizations; and

''(IV) allow for the coordination of crime prevention activities between the Department and local law enforcement officials; and

''(xi) a description of the entities that will carry out the activities under the plan, including the organizational capacity and key personnel of the entities.

''(E) CERTIFICATION OF COMPLIANCE.—Evidence of compliance that shall include, as appropriate—

''(i) a certification that the Department of Hawaiian Home Lands will comply with—

''(I) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) or with title VIII of the Act popularly known as the 'Civil Rights Act of 1968' (42 U.S.C. 3601 et seq.) in carrying out this title, to the extent that such title is applicable; and

''(II) other applicable Federal statutes;

''(ii) a certification that the Department will require adequate insurance coverage for housing units that are owned and operated or assisted with grant amounts provided under this title, in compliance with such requirements as may be established by the Secretary;

''(iii) a certification that policies are in effect and are available for review by the Secretary and the public governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this title;

''(iv) a certification that policies are in effect and are available for review by the Secretary and the public governing rents charged, including the methods by which such rents or homebuyer payments are determined, for housing assisted with grant amounts provided under this title; and

''(v) a certification that policies are in effect and are available for review by the Secretary and the public governing the management and maintenance of housing assisted with grant amounts provided under this title.

''(d) APPLICABILITY OF CIVIL RIGHTS STATUTES.—

''(1) IN GENERAL.—To the extent that the requirements of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) or of title VIII of the Act popularly known as the 'Civil Rights Act of 1968' (42 U.S.C. 3601 et seq.) apply to assistance provided under this title, nothing in the requirements concerning discrimination on the basis of race shall be construed to prevent the provision of assistance under this title—

''(A) to the Department of Hawaiian Home Lands on the basis that the Department served Native Hawaiians; or

''(B) to an eligible family on the basis that the family is a Native Hawaiian family.

''(2) CIVIL RIGHTS.—Program eligibility under this title may be restricted to Native Hawaiians. Subject to the preceding sentence, no person may be discriminated against on the basis of race, color, national origin, religion, sex, familial status, or disability.

''(e) USE OF NONPROFIT ORGANIZATIONS.—As a condition of receiving grant amounts under this title, the Department of Hawaiian Home Lands shall, to the extent practicable, provide for private nonprofit organizations experienced in the planning and development of affordable housing for Native Hawaiians to carry out affordable housing activities with those grant amounts.

''SEC. 804. REVIEW OF PLANS.

''(a) REVIEW AND NOTICE.—

''(1) REVIEW.—

''(A) IN GENERAL.—The Secretary shall conduct a review of a housing plan submitted to the Secretary under section 803 to ensure that the plan complies with the requirements of that section.

''(B) LIMITATION.—The Secretary shall have the discretion to review a plan referred to in subparagraph (A) only to the extent that the Secretary considers that the review is necessary.

''(2) NOTICE.—

''(A) IN GENERAL.—Not later than 60 days after receiving a plan under section 803, the Secretary shall notify the Director of the Department of Hawaiian Home Lands whether the plan complies with the requirements under that section.

''(B) EFFECT OF FAILURE OF SECRETARY TO TAKE ACTION.—For purposes of this title, if the Secretary does not notify the Director, as required under this subsection and subsection (b), upon the expiration of the 60-day period described in subparagraph (A)—

''(i) the plan shall be considered to have been determined to comply with the requirements under section 803; and

''(ii) the Director shall be considered to have been notified of compliance.

''(b) NOTICE OF REASONS FOR DETERMINATION OF NONCOMPLIANCE.—If the Secretary determines that a plan submitted under section 803 does not comply with the requirements of that section, the Secretary shall specify in the notice under subsection (a)—

''(1) the reasons for noncompliance; and

''(2) any modifications necessary for the plan to meet the requirements of section 803.

''(c) REVIEW.—

''(1) IN GENERAL.—After the Director of the Department of Hawaiian Home Lands submits a housing plan under section 803, or any amendment or modification to the plan to the Secretary, to the extent that the Secretary considers such action to be necessary to make a determination under this subsection, the Secretary shall review the plan (including any amendments or modifications thereto) to determine whether the contents of the plan—

''(A) set forth the information required by section 803 to be contained in the housing plan;

''(B) are consistent with information and data available to the Secretary; and

''(C) are not prohibited by or inconsistent with any provision of this Act or any other applicable law.

''(2) INCOMPLETE PLANS.—If the Secretary determines under this subsection that any of the appropriate certifications required under section 803(c)(2)(E) are not included in a plan, the plan shall be considered to be incomplete.

''(d) UPDATES TO PLAN.—

''(1) IN GENERAL.—Subject to paragraph (2), after a plan under section 803 has been submitted for a fiscal year, the Director of the Department of Hawaiian Home Lands may comply with the provisions of that section for any succeeding fiscal year (with respect to information included for the 5-year period under section 803(b) or for the 1-year period under section 803(c)) by submitting only such information regarding such changes as may be necessary to update the plan previously submitted.

''(2) COMPLETE PLANS.—The Director shall submit a complete plan under section 803 not later than 4 years after submitting an initial plan under that section, and not less frequently than every 4 years thereafter.

''(e) EFFECTIVE DATE.—This section and section 803 shall take effect on the date provided by the Secretary pursuant to section 807(a) to provide for timely submission and review of the housing plan as necessary for the provision of assistance under this title for fiscal year 2000.

''SEC. 805. TREATMENT OF PROGRAM INCOME AND LABOR STANDARDS.

''(a) PROGRAM INCOME.—

''(1) AUTHORITY TO RETAIN.—The Department of Hawaiian Home Lands may retain any program income that is realized from any grant amounts received by the Department under this title if—

''(A) that income was realized after the initial disbursement of the grant amounts received by the Department; and

''(B) the Director agrees to use the program income for affordable housing activities in accordance with the provisions of this title.

''(2) PROHIBITION OF REDUCTION OF GRANT.—The Secretary may not reduce the grant amount for the Department of Hawaiian Home Lands based solely on—

''(A) whether the Department retains program income under paragraph (1); or

''(B) the amount of any such program income retained.

''(3) EXCLUSION OF AMOUNTS.—The Secretary may, by regulation, exclude from consideration as program income any amounts determined to be so small that compliance with the requirements of this subsection would create an unreasonable administrative burden on the Department.

''(b) LABOR STANDARDS.—

''(1) IN GENERAL.—Any contract or agreement for assistance, sale, or lease pursuant to this title shall contain—

''(A) a provision requiring that an amount not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable State or local law) by the Secretary, shall be paid to all architects, technical engineers, draftsmen, technicians employed in the development and all maintenance, and laborers and mechanics employed in the operation, of the affordable housing project involved; and

''(B) a provision that an amount not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Act commonly known as the 'Davis-Bacon Act' (46 Stat. 1494, chapter 411; 40 U.S.C. 276a et seq.) shall be paid to all laborers and mechanics employed in the development of the affordable housing involved.

''(2) EXCEPTIONS.—Paragraph (1) and provisions relating to wages required under paragraph (1) in any contract or agreement for assistance, sale, or lease under this title, shall not apply to any individual who performs the services for which the individual volunteered and who is not otherwise employed at any time in the construction work and received no compensation or is paid expenses, reasonable benefits, or a nominal fee for those services.

''SEC. 806. ENVIRONMENTAL REVIEW.

''(a) IN GENERAL.—

''(1) RELEASE OF FUNDS.—

''(A) IN GENERAL.—The Secretary may carry out the alternative environmental protection procedures described in subparagraph (B) in order to ensure—

''(i) that the policies of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other provisions of law that further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of grant amounts provided under this title; and

''(ii) to the public undiminished protection of the environment.

''(B) ALTERNATIVE ENVIRONMENTAL PROTECTION PROCEDURE.—In lieu of applying environmental protection procedures otherwise applicable, the Secretary may by regulation provide for the release of funds for specific projects to the Department of Hawaiian Home Lands if the Director of the Department assumes all of the responsibilities for environmental review, decision-making, and action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and such other provisions of law as the regulations of the Secretary specify, that would apply to the Secretary were the Secretary to undertake those projects as Federal projects.

''(2) REGULATIONS.—

''(A) IN GENERAL.—The Secretary shall issue regulations to carry out this section only after consultation with the Council on Environmental Quality.

''(B) CONTENTS.—The regulations issued under this paragraph shall—

''(i) provide for the monitoring of the environmental reviews performed under this section;

''(ii) in the discretion of the Secretary, facilitate training for the performance of such reviews; and

''(iii) provide for the suspension or termination of the assumption of responsibilities under this section.

''(3) EFFECT ON ASSUMED RESPONSIBILITY.—The duty of the Secretary under paragraph (2)(B) shall not be construed to limit or reduce any responsibility assumed by the Department of Hawaiian Home Lands for grant amounts with respect to any specific release of funds.

''(b) PROCEDURE.—

''(1) IN GENERAL.—The Secretary shall authorize the release of funds subject to the procedures under this section only if, not less than 15 days before that approval and before any commitment of funds to such projects, the Director of the Department of Hawaiian Home Lands submits to the Secretary a request for such release accompanied by a certification that meets the requirements of subsection (c).

''(2) EFFECT OF APPROVAL.—The approval of the Secretary of a certification described in paragraph (1) shall be deemed to satisfy the responsibilities of the Secretary under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and such other provisions of law as the regulations of the Secretary specify to the extent that those responsibilities relate to the releases of funds for projects that are covered by that certification.

''(c) CERTIFICATION.—A certification under the procedures under this section shall—

''(1) be in a form acceptable to the Secretary;

''(2) be executed by the Director of the Department of Hawaiian Home Lands;

''(3) specify that the Department of Hawaiian Home Lands has fully carried out its responsibilities as described under subsection (a); and

''(4) specify that the Director—

''(A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and each provision of law specified in regulations issued by the Secretary to the extent that those laws apply by reason of subsection (a); and

''(B) is authorized and consents on behalf of the Department of Hawaiian Home Lands and the Director to accept the jurisdiction of the Federal courts for the purpose of enforcement of the responsibilities of the Director of the Department of Hawaiian Home Lands as such an official.

''SEC. 807. REGULATIONS.

''The Secretary shall issue final regulations necessary to carry out this title not later than October 1, 1999.

''SEC. 808. EFFECTIVE DATE.

''Except as otherwise expressly provided in this title, this title shall take effect on October 1, 1999.

''SEC. 809. AFFORDABLE HOUSING ACTIVITIES.

''(a) NATIONAL OBJECTIVES AND ELIGIBLE FAMILIES.—

''(1) PRIMARY OBJECTIVE.—The national objectives of this title are—

''(A) to assist and promote affordable housing activities to develop, maintain, and operate affordable housing in safe and healthy environments for occupancy by low-income Native Hawaiian families;

''(B) to ensure better access to private mortgage markets and to promote self-sufficiency of low-income Native Hawaiian families;

''(C) to coordinate activities to provide housing for low-income Native Hawaiian families with Federal, State and local activities to further economic and community development;

''(D) to plan for and integrate infrastructure resources on the Hawaiian Home Lands with housing development; and

''(E) to—

''(i) promote the development of private capital markets; and

''(ii) allow the markets referred to in clause (i) to operate and grow, thereby benefiting Native Hawaiian communities.

''(2) ELIGIBLE FAMILIES.—

''(A) IN GENERAL.—Except as provided under subparagraph (B), assistance for eligible housing activities under this title shall be limited to low-income Native Hawaiian families.

''(B) EXCEPTION TO LOW-INCOME REQUIREMENT.—

''(i) IN GENERAL.—The Director may provide assistance for homeownership activities under—

''(I) section 810(b);

''(II) model activities under section 810(f); or

''(III) loan guarantee activities under section 184A of the Housing and Community Development Act of 1992 to Native Hawaiian families who are not low-income families, to the extent that the Secretary approves the activities under that section to address a need for housing for those families that cannot be reasonably met without that assistance.

''(ii) LIMITATIONS.—The Secretary shall establish limitations on the amount of assistance that may be provided under this title for activities for families that are not low-income families.

''(C) OTHER FAMILIES.—Notwithstanding paragraph (1), the Director may provide housing

or housing assistance provided through affordable housing activities assisted with grant amounts under this title to a family that is not composed of Native Hawaiians if—

''(i) the Department determines that the presence of the family in the housing involved is essential to the well-being of Native Hawaiian families; and

''(ii) the need for housing for the family cannot be reasonably met without the assistance.

''(D) PREFERENCE.—

''(i) IN GENERAL.—A housing plan submitted under section 803 may authorize a preference, for housing or housing assistance provided through affordable housing activities assisted with grant amounts provided under this title to be provided, to the extent practicable, to families that are eligible to reside on the Hawaiian Home Lands.

''(ii) APPLICATION.—In any case in which a housing plan provides for preference described in clause (i), the Director shall ensure that housing activities that are assisted with grant amounts under this title are subject to that preference.

''(E) USE OF NONPROFIT ORGANIZATIONS.—As a condition of receiving grant amounts under this title, the Department of Hawaiian Home Lands, shall to the extent practicable, provide for private nonprofit organizations experienced in the planning and development of affordable housing for Native Hawaiians to carry out affordable housing activities with those grant amounts.

''SEC. 810. ELIGIBLE AFFORDABLE HOUSING ACTIVITIES.

''(a) IN GENERAL.—Affordable housing activities under this section are activities conducted in accordance with the requirements of section 811 to—

''(1) develop or to support affordable housing for rental or homeownership; or

''(2) provide housing services with respect to affordable housing, through the activities described in subsection (b).

''(b) ACTIVITIES.—The activities described in this subsection are the following:

''(1) DEVELOPMENT.—The acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, which may include—

''(A) real property acquisition;

''(B) site improvement;

''(C) the development of utilities and utility services;

''(D) conversion;

''(E) demolition;

''(F) financing;

''(G) administration and planning; and

''(H) other related activities.

''(2) HOUSING SERVICES.—The provision of housing-related services for affordable housing, including—

''(A) housing counseling in connection with rental or homeownership assistance;

''(B) the establishment and support of resident organizations and resident management corporations;

''(C) energy auditing;

''(D) activities related to the provisions of self-sufficiency and other services; and

''(E) other services related to assisting owners, tenants, contractors, and other entities participating or seeking to participate in other housing activities assisted pursuant to this section.

''(3) HOUSING MANAGEMENT SERVICES.—The provision of management services for affordable housing, including—

''(A) the preparation of work specifications;

''(B) loan processing;

''(C) inspections;

''(D) tenant selection;

''(E) management of tenant-based rental assistance; and

''(F) management of affordable housing projects.

''(4) CRIME PREVENTION AND SAFETY ACTIVITIES.—The provision of safety, security, and law enforcement measures and activities appropriate to protect residents of affordable housing from crime.

''(5) MODEL ACTIVITIES.—Housing activities under model programs that are—

''(A) designed to carry out the purposes of this title; and

''(B) specifically approved by the Secretary as appropriate for the purpose referred to in subparagraph (A).

''SEC. 811. PROGRAM REQUIREMENTS.

''(a) RENTS.—

''(1) ESTABLISHMENT.—Subject to paragraph (2), as a condition to receiving grant amounts under this title, the Director shall develop written policies governing rents and homebuyer payments charged for dwelling units assisted under this title, including methods by which such rents and homebuyer payments are determined.

''(2) MAXIMUM RENT.—In the case of any low-income family residing in a dwelling unit assisted with grant amounts under this title, the monthly rent or homebuyer payment (as applicable) for that dwelling unit may not exceed 30 percent of the monthly adjusted income of that family.

''(b) MAINTENANCE AND EFFICIENT OPERATION.—

''(1) IN GENERAL.—The Director shall, using amounts of any grants received under this title, reserve and use for operating under section 810 such amounts as may be necessary to provide for the continued maintenance and efficient operation of such housing.

''(2) DISPOSAL OF CERTAIN HOUSING.—This subsection may not be construed to prevent the Director, or any entity funded by the Department, from demolishing or disposing of housing, pursuant to regulations established by the Secretary.

''(c) INSURANCE COVERAGE.—As a condition to receiving grant amounts under this title, the Director shall require adequate insurance coverage for housing units that are owned or operated or assisted with grant amounts provided under this title.

''(d) ELIGIBILITY FOR ADMISSION.—As a condition to receiving grant amounts under this title, the Director shall develop written policies governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this title.

''(e) MANAGEMENT AND MAINTENANCE.—As a condition to receiving grant amounts under this title, the Director shall develop policies governing the management and maintenance of housing assisted with grant amounts under this title.

''SEC. 812. TYPES OF INVESTMENTS.

''(a) IN GENERAL.—Subject to section 811 and an applicable housing plan approved under section 803, the Director shall have—

''(1) the discretion to use grant amounts for affordable housing activities through the use of—

''(A) equity investments;

''(B) interest-bearing loans or advances;

''(C) noninterest-bearing loans or advances;

''(D) interest subsidies;

''(E) the leveraging of private investments; or

''(F) any other form of assistance that the Secretary determines to be consistent with the purposes of this title; and

''(2) the right to establish the terms of assistance provided with funds referred to in paragraph (1).

''(b) INVESTMENTS.—The Director may invest grant amounts for the purposes of carrying out affordable housing activities in investment securities and other obligations, as approved by the Secretary.

''SEC. 813. LOW-INCOME REQUIREMENT AND INCOME TARGETING.

''(a) IN GENERAL.—Housing shall qualify for affordable housing for purposes of this title only if—

''(1) each dwelling unit in the housing—

''(A) in the case of rental housing, is made available for occupancy only by a family that is a low-income family at the time of the initial occupancy of that family of that unit; and

''(B) in the case of housing for homeownership, is made available for purchase only by a family that is a low-income family at the time of purchase; and

''(2) each dwelling unit in the housing will remain affordable, according to binding commitments satisfactory to the Secretary, for—

''(A) the remaining useful life of the property (as determined by the Secretary) without regard to the term of the mortgage or to transfer of ownership; or

''(B) such other period as the Secretary determines is the longest feasible period of time consistent with sound economics and the purposes of this title, except upon a foreclosure by a lender (or upon other transfer in lieu of foreclosure) if that action—

''(i) recognizes any contractual or legal rights of any public agency, nonprofit sponsor, or other person or entity to take an action that would—

''(I) avoid termination of low-income affordability, in the case of foreclosure; or

''(II) transfer ownership in lieu of foreclosure; and

''(ii) is not for the purpose of avoiding low-income affordability restrictions, as determined by the Secretary.

''(b) EXCEPTION.—Notwithstanding subsection (a), housing assisted pursuant to section 809(a)(2)(B) shall be considered affordable housing for purposes of this title.

''SEC. 814. LEASE REQUIREMENTS AND TENANT SELECTION.

''(a) LEASES.—Except to the extent otherwise provided by or inconsistent with the laws of the State of Hawaii, in renting dwelling units in affordable housing assisted with grant amounts provided under this title, the Director, owner, or manager shall use leases that—

''(1) do not contain unreasonable terms and conditions;

''(2) require the Director, owner, or manager to maintain the housing in compliance with applicable housing codes and quality standards;

''(3) require the Director, owner, or manager to give adequate written notice of termination of the lease, which shall be the period of time required under applicable State or local law;

''(4) specify that, with respect to any notice of eviction or termination, notwithstanding any State or local law, a resident shall be informed of the opportunity, before any hearing or trial, to examine any relevant documents, record, or regulations directly related to the eviction or termination;

''(5) require that the Director, owner, or manager may not terminate the tenancy, during the term of the lease, except for serious or repeated violation of the terms and conditions of the lease, violation of applicable Federal, State, or local law, or for other good cause; and

''(6) provide that the Director, owner, or manager may terminate the tenancy of a resident for any activity, engaged in by the resident, any member of the household of the resident, or any guest or other person under the control of the resident, that—

''(A) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other residents or employees of the Department, owner, or manager;

''(B) threatens the health or safety of, or right to peaceful enjoyment of their premises by, persons residing in the immediate vicinity of the premises; or

''(C) is criminal activity (including drug-related criminal activity) on or off the premises.

''(b) TENANT OR HOMEBUYER SELECTION.—As a condition to receiving grant amounts under this title, the Director shall adopt and use written tenant and homebuyer selection policies and criteria that—

''(1) are consistent with the purpose of providing housing for low-income families;

''(2) are reasonably related to program eligibility and the ability of the applicant to perform the obligations of the lease; and

''(3) provide for—

''(A) the selection of tenants and homebuyers from a written waiting list in accordance with the policies and goals set forth in an applicable housing plan approved under section 803; and

''(B) the prompt notification in writing of any rejected applicant of the grounds for that rejection.

''SEC. 815. REPAYMENT.

''If the Department of Hawaiian Home Lands uses grant amounts to provide affordable housing under activities under this title and, at any time during the useful life of the housing, the housing does not comply with the requirement under section 813(a)(2), the Secretary shall—

''(1) reduce future grant payments on behalf of the Department by an amount equal to the grant amounts used for that housing (under the authority of section 819(a)(2)); or

''(2) require repayment to the Secretary of any amount equal to those grant amounts.

''SEC. 816. ANNUAL ALLOCATION.

''For each fiscal year, the Secretary shall allocate any amounts made available for assistance under this title for the fiscal year, in accordance with the formula established pursuant to section 817 to the Department of Hawaiian Home Lands if the Department complies with the requirements under this title for a grant under this title.

''SEC. 817. ALLOCATION FORMULA.

''(a) ESTABLISHMENT.—The Secretary shall, by regulation issued not later than the expiration of the 6-month period beginning on the date of enactment of the Native American Housing Assistance and Self-Determination Amendments of 1999, in the manner provided under section 807, establish a formula to provide for the allocation of amounts available for a fiscal year for block grants under this title in accordance with the requirements of this section.

''(b) FACTORS FOR DETERMINATION OF NEED.—The formula under subsection (a) shall be based on factors that reflect the needs for assistance for affordable housing activities, including—

''(1) the number of low-income dwelling units owned or operated at the time pursuant to a contract between the Director and the Secretary;

''(2) the extent of poverty and economic distress and the number of Native Hawaiian families eligible to reside on the Hawaiian Home Lands; and

''(3) any other objectively measurable conditions that the Secretary and the Director may specify.

''(c) OTHER FACTORS FOR CONSIDERATION.—In establishing the formula under subsection (a), the Secretary shall consider the relative administrative capacities of the Department of Hawaiian Home Lands and other challenges faced by the Department, including—

''(1) geographic distribution within Hawaiian Home Lands; and

''(2) technical capacity.

''(d) EFFECTIVE DATE.—This section shall take effect on the date of enactment of the Native American Housing Assistance and Self-Determination Amendments of 1999.

''SEC. 818. REMEDIES FOR NONCOMPLIANCE.

''(a) ACTIONS BY SECRETARY AFFECTING GRANT AMOUNTS.—

''(1) IN GENERAL.—Except as provided in subsection (b), if the Secretary finds after reasonable notice and opportunity for a hearing that the Department of Hawaiian Home Lands has failed to comply substantially with any provision of this title, the Secretary shall—

''(A) terminate payments under this title to the Department;

''(B) reduce payments under this title to the Department by an amount equal to the amount of such payments that were not expended in accordance with this title; or

''(C) limit the availability of payments under this title to programs, projects, or activities not affected by such failure to comply.

''(2) ACTIONS.—If the Secretary takes an action under subparagraph (A), (B), or (C) of paragraph (1), the Secretary shall continue that action until the Secretary determines that the failure by the Department to comply with the provision has been remedied by the Department and the Department is in compliance with that provision.

''(b) NONCOMPLIANCE BECAUSE OF A TECHNICAL INCAPACITY.—The Secretary may provide technical assistance for the Department, either directly or indirectly, that is designed to increase the capability and capacity of the Director of the Department to administer assistance provided under this title in compliance with the requirements under this title if the Secretary makes a finding under subsection (a), but determines that the failure of the Department to comply substantially with the provisions of this title—

''(1) is not a pattern or practice of activities constituting willful noncompliance; and

''(2) is a result of the limited capability or capacity of the Department of Hawaiian Home Lands.

''(c) REFERRAL FOR CIVIL ACTION.—

''(1) AUTHORITY.—In lieu of, or in addition to, any action that the Secretary may take under subsection (a), if the Secretary has reason to believe that the Department of Hawaiian Home Lands has failed to comply substantially with any provision of this title, the Secretary may refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted.

''(2) CIVIL ACTION.—Upon receiving a referral under paragraph (1), the Attorney General may bring a civil action in any United States district court of appropriate jurisdiction for such relief as may be appropriate, including an action—

''(A) to recover the amount of the assistance furnished under this title that was not expended in accordance with this title; or

''(B) for mandatory or injunctive relief.

''(d) REVIEW.—

''(1) IN GENERAL.—If the Director receives notice under subsection (a) of the termination, reduction, or limitation of payments under this Act, the Director—

''(A) may, not later than 60 days after receiving such notice, file with the United States Court of Appeals for the Ninth Circuit, or in the United States Court of Appeals for the District of Columbia, a petition for review of the action of the Secretary; and

''(B) upon the filing of any petition under subparagraph (A), shall forthwith transmit copies of the petition to the Secretary and the Attorney General of the United States, who shall represent the Secretary in the litigation.

''(2) PROCEDURE.—

''(A) IN GENERAL.—The Secretary shall file in the court a record of the proceeding on which the Secretary based the action, as provided in section 2112 of title 28, United States Code.

''(B) OBJECTIONS.—No objection to the action of the Secretary shall be considered by the court unless the Department has registered the objection before the Secretary.

''(3) DISPOSITION.—

''(A) COURT PROCEEDINGS.—

''(i) JURISDICTION OF COURT.—The court shall have jurisdiction to affirm or modify the action of the Secretary or to set the action aside in whole or in part.

''(ii) FINDINGS OF FACT.—If supported by substantial evidence on the record considered as a whole, the findings of fact by the Secretary shall be conclusive.

''(iii) ADDITION.—The court may order evidence, in addition to the evidence submitted for review under this subsection, to be taken by the Secretary, and to be made part of the record.

''(B) SECRETARY.—

''(i) IN GENERAL.—The Secretary, by reason of the additional evidence referred to in subparagraph (A) and filed with the court—

''(I) may—

''(aa) modify the findings of fact of the Secretary; or

''(bb) make new findings; and

''(II) shall file—

''(aa) such modified or new findings; and

''(bb) the recommendation of the Secretary, if any, for the modification or setting aside of the original action of the Secretary.

''(ii) FINDINGS.—The findings referred to in clause (i)(II)(bb) shall, with respect to a question of fact, be considered to be conclusive if those findings are—

''(I) supported by substantial evidence on the record; and

''(II) considered as a whole.

''(4) FINALITY.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), upon the filing of the record under this subsection with the court—

''(i) the jurisdiction of the court shall be exclusive; and

''(ii) the judgment of the court shall be final.

''(B) REVIEW BY SUPREME COURT.—A judgment under subparagraph (A) shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification, as provided in section 1254 of title 28, United States Code.

''SEC. 819. MONITORING OF COMPLIANCE.

''(a) ENFORCEABLE AGREEMENTS.—

''(1) IN GENERAL.—The Director, through binding contractual agreements with owners or other authorized entities, shall ensure long-term compliance with the provisions of this title.

''(2) MEASURES.—The measures referred to in paragraph (1) shall provide for—

''(A) to the extent allowable by Federal and State law, the enforcement of the provisions of this title by the Department and the Secretary; and

''(B) remedies for breach of the provisions referred to in paragraph (1).

''(b) PERIODIC MONITORING.—

''(1) IN GENERAL.—Not less frequently than annually, the Director shall review the activities conducted and housing assisted under this title to assess compliance with the requirements of this title.

''(2) REVIEW.—Each review under paragraph (1) shall include onsite inspection of housing to determine compliance with applicable requirements.

''(3) RESULTS.—The results of each review under paragraph (1) shall be—

''(A) included in a performance report of the Director submitted to the Secretary under section 820; and

''(B) made available to the public.

''(c) PERFORMANCE MEASURES.—The Secretary shall establish such performance measures as may be necessary to assess compliance with the requirements of this title.

''SEC. 820. PERFORMANCE REPORTS.

''(a) REQUIREMENT.—For each fiscal year, the Director shall—

''(1) review the progress the Department has made during that fiscal year in carrying out the housing plan submitted by the Department under section 803; and

''(2) submit a report to the Secretary (in a form acceptable to the Secretary) describing the conclusions of the review.

''(b) CONTENT.—Each report submitted under this section for a fiscal year shall—

''(1) describe the use of grant amounts provided to the Department of Hawaiian Home Lands for that fiscal year;

''(2) assess the relationship of the use referred to in paragraph (1) to the goals identified in the housing plan;

''(3) indicate the programmatic accomplishments of the Department; and

''(4) describe the manner in which the Department would change its housing plan submitted under section 803 as a result of its experiences.

''(c) SUBMISSIONS.—The Secretary shall—

''(1) establish a date for submission of each report under this section;

''(2) review each such report; and

''(3) with respect to each such report, make recommendations as the Secretary considers appropriate to carry out the purposes of this title.

''(d) PUBLIC AVAILABILITY.—

''(1) COMMENTS BY BENEFICIARIES.—In preparing a report under this section, the Director shall make the report publicly available to the beneficiaries of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.) and give a sufficient amount of time to permit those beneficiaries to comment on that report before it is submitted to the Secretary (in such manner and at such time as the Director may determine).

''(2) SUMMARY OF COMMENTS.—The report shall include a summary of any comments received by the Director from beneficiaries under paragraph (1) regarding the program to carry out the housing plan.

''SEC. 821. REVIEW AND AUDIT BY SECRETARY.

''(a) ANNUAL REVIEW.—

''(1) IN GENERAL.—The Secretary shall, not less frequently than on an annual basis, make such reviews and audits as may be necessary or appropriate to determine whether—

''(A) the Director has—

''(i) carried out eligible activities under this title in a timely manner;

''(ii) carried out and made certifications in accordance with the requirements and the primary objectives of this title and with other applicable laws; and

''(iii) a continuing capacity to carry out the eligible activities in a timely manner;

''(B) the Director has complied with the housing plan submitted by the Director under section 803; and

''(C) the performance reports of the Department under section 821 are accurate.

''(2) ONSITE VISITS.—Each review conducted under this section shall, to the extent practicable, include onsite visits by employees of the Department of Housing and Urban Development.

''(b) REPORT BY SECRETARY.—The Secretary shall give the Department of Hawaiian Home Lands not less than 30 days to review and comment on a report under this subsection. After taking into consideration the comments of the Department, the Secretary may revise the report and shall make the comments of the Department and the report with any revisions, readily available to the public not later than 30 days after receipt of the comments of the Department.

''(c) EFFECT OF REVIEWS.—The Secretary may make appropriate adjustments in the amount of annual grants under this title in accordance with the findings of the Secretary pursuant to reviews and audits under this section. The Secretary may adjust, reduce, or withdraw grant amounts, or take other action as appropriate in accordance with the reviews and audits of the Secretary under this section, except that grant amounts already expended on affordable housing activities may not be recaptured or deducted from future assistance provided to the Department of Hawaiian Home Lands.

''SEC. 822. GENERAL ACCOUNTING OFFICE AUDITS.

''To the extent that the financial transactions of the Department of Hawaiian Home Lands involving grant amounts under this title relate to amounts provided under this title, those transactions may be audited by the Comptroller General of the United States under such regulations as may be prescribed by the Comptroller General. The Comptroller General of the United States shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by the Department of Hawaiian Home Lands pertaining to such financial transactions and necessary to facilitate the audit.

''SEC. 823. REPORTS TO CONGRESS.

''(a) IN GENERAL.—Not later than 90 days after the conclusion of each fiscal year in which assistance under this title is made available, the Secretary shall submit to Congress a report that contains—

''(1) a description of the progress made in accomplishing the objectives of this title;

''(2) a summary of the use of funds available under this title during the preceding fiscal year; and

''(3) a description of the aggregate outstanding loan guarantees under section 184A of the Housing and Community Development Act of 1992.

''(b) RELATED REPORTS.—The Secretary may require the Director to submit to the Secretary such reports and other information as may be necessary in order for the Secretary to prepare the report required under subsection (a).

''SEC. 824. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to the Department of Housing and Urban Development for grants under this title such sums as may be necessary for each of fiscal years 2000, 2001, 2002, 2003, and 2004.''.

SEC. 4. LOAN GUARANTEES FOR NATIVE HAWAIIAN HOUSING.

Subtitle E of title I of the Housing and Community Development Act of 1992 is amended by inserting after section 184 (12 U.S.C. 1715z–13a) the following:

''SEC. 184A. LOAN GUARANTEES FOR NATIVE HAWAIIAN HOUSING.

''(a) DEFINITIONS.—In this section:

''(1) DEPARTMENT OF HAWAIIAN HOME LANDS.—The term 'Department of Hawaiian Home Lands' means the agency or department of the government of the State of Hawaii that is responsible for the administration of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.).

''(2) ELIGIBLE ENTITY.—The term 'eligible entity' means a Native Hawaiian family, the Department of Hawaiian Home Lands, the Office of Hawaiian Affairs, and private nonprofit or private for-profit organizations experienced in the planning and development of affordable housing for Native Hawaiians.

''(3) FAMILY.—The term 'family' means 1 or more persons maintaining a household, as the Secretary shall by regulation provide.

''(4) GUARANTEE FUND.—The term 'Guarantee Fund' means the Native Hawaiian Housing Loan Guarantee Fund established under subsection (i).

''(5) HAWAIIAN HOME LANDS.—The term 'Hawaiian Home Lands' means lands that—

''(A) have the status of Hawaiian Home Lands under section 204 of the Hawaiian Homes Commission Act (42 Stat. 110); or

''(B) are acquired pursuant to that Act.

''(6) NATIVE HAWAIIAN.—The term 'Native Hawaiian' means any individual who is—

''(A) a citizen of the United States; and

''(B) a descendant of the aboriginal people, who, prior to 1778, occupied and exercised sovereignty in the area that currently constitutes the State of Hawaii, as evidenced by—

''(i) genealogical records;

''(ii) verification by kupuna (elders) or kama'aina (long-term community residents); or

''(iii) birth records of the State of Hawaii.

''(7) OFFICE OF HAWAIIAN AFFAIRS.—The term 'Office of Hawaiian Affairs' means the entity of that name established under the constitution of the State of Hawaii.

''(b) AUTHORITY.—To provide access to sources of private financing to Native Hawaiian families who otherwise could not acquire housing financing because of the unique legal status of the Hawaiian Home Lands or as a result of a lack of access to private financial markets, the Secretary may guarantee an amount not to exceed 100 percent of the unpaid principal and interest that is due on an eligible loan under subsection (b).

''(c) ELIGIBLE LOANS.—Under this section, a loan is an eligible loan if that loan meets the following requirements:

''(1) ELIGIBLE BORROWERS.—The loan is made only to a borrower who is—

''(A) a Native Hawaiian family;

''(B) the Department of Hawaiian Home Lands;

''(C) the Office of Hawaiian Affairs; or

''(D) a private nonprofit organization experienced in the planning and development of affordable housing for Native Hawaiians.

''(2) ELIGIBLE HOUSING.—

''(A) IN GENERAL.—The loan will be used to construct, acquire, or rehabilitate not more than 4-family dwellings that are standard housing and are located on Hawaiian Home Lands for which a housing plan described in subparagraph (B) applies.

''(B) HOUSING PLAN.—A housing plan described in this subparagraph is a housing plan that—

''(i) has been submitted and approved by the Secretary under section 803 of the Native American Housing Assistance and Self-Determination Amendments of 1999; and

''(ii) provides for the use of loan guarantees under this section to provide affordable homeownership housing on Hawaiian Home Lands.

''(3) SECURITY.—The loan may be secured by any collateral authorized under applicable Federal or State law.

''(4) LENDERS.—

''(A) IN GENERAL.—The loan shall be made only by a lender approved by, and meeting qualifications established by, the Secretary, including any lender described in subparagraph (B), except that a loan otherwise insured or guaranteed by an agency of the Federal Government or made by the Department of Hawaiian Home Lands from amounts borrowed from the United States shall not be eligible for a guarantee under this section.

''(B) APPROVAL.—The following lenders shall be considered to be lenders that have been approved by the Secretary:

''(i) Any mortgagee approved by the Secretary for participation in the single family mortgage insurance program under title II of the National Housing Act (12 U.S.C.A. 1707 et seq.).

''(ii) Any lender that makes housing loans under chapter 37 of title 38, United States Code, that are automatically guaranteed under section 3702(d) of title 38, United States Code.

''(iii) Any lender approved by the Secretary of Agriculture to make guaranteed loans for single family housing under the Housing Act of 1949 (42 U.S.C.A. 1441 et seq.).

''(iv) Any other lender that is supervised, approved, regulated, or insured by any agency of the Federal Government.

''(5) TERMS.—The loan shall—

''(A) be made for a term not exceeding 30 years;

''(B) bear interest (exclusive of the guarantee fee under subsection (d) and service charges, if any) at a rate agreed upon by the borrower and the lender and determined by the Secretary to be reasonable, but not to exceed the rate generally charged in the area (as determined by the Secretary) for home mortgage loans not guaranteed or insured by any agency or instrumentality of the Federal Government;

''(C) involve a principal obligation not exceeding—

''(i) 97.75 percent of the appraised value of the property as of the date the loan is accepted for guarantee (or 98.75 percent if the value of the property is $50,000 or less); or

''(ii) the amount approved by the Secretary under this section; and

''(D) involve a payment on account of the property—

''(i) in cash or its equivalent; or

''(ii) through the value of any improvements to the property made through the skilled or unskilled labor of the borrower, as the Secretary shall provide.

''(d) CERTIFICATE OF GUARANTEE.—

''(1) APPROVAL PROCESS.—

''(A) IN GENERAL.—Before the Secretary approves any loan for guarantee under this section, the lender shall submit the application for the loan to the Secretary for examination.

''(B) APPROVAL.—If the Secretary approves the application submitted under subparagraph (A), the Secretary shall issue a certificate under this subsection as evidence of the loan guarantee approved.

''(2) STANDARD FOR APPROVAL.—The Secretary may approve a loan for guarantee under this section and issue a certificate under this subsection only if the Secretary determines that there is a reasonable prospect of repayment of the loan.

''(3) EFFECT.—

''(A) IN GENERAL.—A certificate of guarantee issued under this subsection by the Secretary shall be conclusive evidence of the eligibility of the loan for guarantee under this section and the amount of that guarantee.

''(B) EVIDENCE.—The evidence referred to in subparagraph (A) shall be incontestable in the hands of the bearer.

''(C) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all amounts agreed to be paid by the Secretary as security for the obligations made by the Secretary under this section.

''(4) FRAUD AND MISREPRESENTATION.—This subsection may not be construed—

''(A) to preclude the Secretary from establishing defenses against the original lender based on fraud or material misrepresentation; or

''(B) to bar the Secretary from establishing by regulations that are on the date of issuance or disbursement, whichever is earlier, partial defenses to the amount payable on the guarantee.

''(e) GUARANTEE FEE.—

''(1) IN GENERAL.—The Secretary shall fix and collect a guarantee fee for the guarantee of a loan under this section, which may not exceed the amount equal to 1 percent of the principal obligation of the loan.

''(2) PAYMENT.—The fee under this subsection shall—

''(A) be paid by the lender at time of issuance of the guarantee; and

''(B) be adequate, in the determination of the Secretary, to cover expenses and probable losses.

''(3) DEPOSIT.—The Secretary shall deposit any fees collected under this subsection in the Native Hawaiian Housing Loan Guarantee Fund established under subsection (j).

''(f) LIABILITY UNDER GUARANTEE.—The liability under a guarantee provided under this section shall decrease or increase on a pro rata basis according to any decrease or increase in the amount of the unpaid obligation under the provisions of the loan agreement involved.

''(g) TRANSFER AND ASSUMPTION.—Notwithstanding any other provision of law, any loan guaranteed under this section, including the security given for the loan, may be sold or assigned by the lender to any financial institution subject to examination and supervision by an agency of the Federal Government or of any State or the District of Columbia.

''(h) DISQUALIFICATION OF LENDERS AND CIVIL MONEY PENALTIES.—

''(1) IN GENERAL.—

''(A) GROUNDS FOR ACTION.—The Secretary may take action under subparagraph (B) if the Secretary determines that any lender or holder of a guarantee certificate under subsection (c)—

''(i) has failed—

''(I) to maintain adequate accounting records;

''(II) to service adequately loans guaranteed under this section; or

''(III) to exercise proper credit or underwriting judgment; or

''(ii) has engaged in practices otherwise detrimental to the interest of a borrower or the United States.

''(B) ACTIONS.—Upon a determination by the Secretary that a holder of a guarantee certificate under subsection (c) has failed to carry out an activity described in subparagraph (A)(i) or has engaged in practices described in subparagraph (A)(ii), the Secretary may—

''(i) refuse, either temporarily or permanently, to guarantee any further loans made by such lender or holder;

''(ii) bar such lender or holder from acquiring additional loans guaranteed under this section; and

''(iii) require that such lender or holder assume not less than 10 percent of any loss on further loans made or held by the lender or holder that are guaranteed under this section.

''(2) CIVIL MONEY PENALTIES FOR INTENTIONAL VIOLATIONS.—

''(A) IN GENERAL.—The Secretary may impose a civil monetary penalty on a lender or holder of a guarantee certificate under subsection (d) if the Secretary determines that the holder or lender has intentionally failed—

''(i) to maintain adequate accounting records;

''(ii) to adequately service loans guaranteed under this section; or

''(iii) to exercise proper credit or underwriting judgment.

''(B) PENALTIES.—A civil monetary penalty imposed under this paragraph shall be imposed in the manner and be in an amount provided under section 536 of the National Housing Act (12 U.S.C.A. 1735f–1) with respect to mortgagees and lenders under that Act.

''(3) PAYMENT ON LOANS MADE IN GOOD FAITH.—Notwithstanding paragraphs (1) and (2), if a loan was made in good faith, the Secretary may not refuse to pay a lender or holder of a valid guarantee on that loan, without regard to whether the lender or holder is barred under this subsection.

''(i) PAYMENT UNDER GUARANTEE.—

''(1) LENDER OPTIONS.—

''(A) IN GENERAL.—

''(i) NOTIFICATION.—If a borrower on a loan guaranteed under this section defaults on the loan, the holder of the guarantee certificate shall provide written notice of the default to the Secretary.

''(ii) PAYMENT.—Upon providing the notice required under clause (i), the holder of the guarantee certificate shall be entitled to payment under the guarantee (subject to the provisions of this section) and may proceed to obtain payment in 1 of the following manners:

''(I) FORECLOSURE.—

''(aa) IN GENERAL.—The holder of the certificate may initiate foreclosure proceedings (after providing written notice of that action to the Secretary).

''(bb) PAYMENT.—Upon a final order by the court authorizing foreclosure and submission to the Secretary of a claim for payment under the guarantee, the Secretary shall pay to the holder of the certificate the pro rata portion of the amount guaranteed (as determined pursuant to subsection (f)) plus reasonable fees and expenses as approved by the Secretary.

''(cc) SUBROGATION.—The rights of the Secretary shall be subrogated to the rights of the holder of the guarantee. The holder shall assign the obligation and security to the Secretary.

''(II) NO FORECLOSURE.—

''(aa) IN GENERAL.—Without seeking foreclosure (or in any case in which a foreclosure proceeding initiated under clause (i) continues for a period in excess of 1 year), the holder of the guarantee may submit to the Secretary a request to assign the obligation and security interest to the Secretary in return for payment of the claim under the guarantee. The Secretary may accept assignment of the loan if the Secretary determines that the assignment is in the best interest of the United States.

''(bb) PAYMENT.—Upon assignment, the Secretary shall pay to the holder of the guarantee the pro rata portion of the amount guaranteed (as determined under subsection (f)).

''(cc) SUBROGATION.—The rights of the Secretary shall be subrogated to the rights of the holder of the guarantee. The holder shall assign the obligation and security to the Secretary.

''(B) REQUIREMENTS.—Before any payment under a guarantee is made under subparagraph (A), the holder of the guarantee shall exhaust all reasonable possibilities of collection. Upon payment, in whole or in part, to the holder, the note or judgment evidencing the debt shall be assigned to the United States and the holder shall have no further claim against the borrower or the United States. The Secretary shall then take such action to collect as the Secretary determines to be appropriate.

''(2) LIMITATIONS ON LIQUIDATION.—

''(A) IN GENERAL.—If a borrower defaults on a loan guaranteed under this section that involves a security interest in restricted Hawaiian Home Land property, the mortgagee or the Secretary shall only pursue liquidation after offering to transfer the account to another eligible Hawaiian family or the Department of Hawaiian Home Lands.

''(B) LIMITATION.—If, after action is taken under subparagraph (A), the mortgagee or the Secretary subsequently proceeds to liquidate the account, the mortgagee or the Secretary shall not sell, transfer, or otherwise dispose of or alienate the property described in subparagraph (A) except to another eligible Hawaiian family or to the Department of Hawaiian Home Lands.

''(j) HAWAIIAN HOUSING LOAN GUARANTEE FUND.—

''(1) ESTABLISHMENT.—There is established in the Treasury of the United States the Hawaiian Housing Loan Guarantee Fund for the purpose of providing loan guarantees under this section.

''(2) CREDITS.—The Guarantee Fund shall be credited with—

''(A) any amount, claims, notes, mortgages, contracts, and property acquired by the Secretary under this section, and any collections and proceeds therefrom;

''(B) any amounts appropriated pursuant to paragraph (7);

''(C) any guarantee fees collected under subsection (d); and

''(D) any interest or earnings on amounts invested under paragraph (4).

''(3) USE.—Amounts in the Guarantee Fund shall be available, to the extent provided in appropriations Acts, for—

''(A) fulfilling any obligations of the Secretary with respect to loans guaranteed under this section, including the costs (as that term is defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) of such loans;

''(B) paying taxes, insurance, prior liens, expenses necessary to make fiscal adjustment in connection with the application and transmittal of collections, and other expenses and advances to protect the Secretary for loans which are guaranteed under this section or held by the Secretary;

''(C) acquiring such security property at foreclosure sales or otherwise;

''(D) paying administrative expenses in connection with this section; and

''(E) reasonable and necessary costs of rehabilitation and repair to properties that the Secretary holds or owns pursuant to this section.

''(4) INVESTMENT.—Any amounts in the Guarantee Fund determined by the Secretary to be in excess of amounts currently required at the time of the determination to carry out this section may be invested in obligations of the United States.

''(5) LIMITATION ON COMMITMENTS TO GUARANTEE LOANS AND MORTGAGES.—

''(A) REQUIREMENT OF APPROPRIATIONS.—The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year to the extent, or in such amounts as are, or have been, provided in appropriations Acts, without regard to the fiscal year for which such amounts were appropriated.

''(B) LIMITATIONS ON COSTS OF GUARANTEES.—The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year only to the extent that amounts in the Guarantee Fund are or have been made available in appropriations Acts to cover the costs (as that term is defined in section 502 of the Federal Credit Reform

Act of 1990 (2 U.S.C. 661a)) of such loan guarantees for such fiscal year. Any amounts appropriated pursuant to this subparagraph shall remain available until expended.

''(C) LIMITATION ON OUTSTANDING AGGREGATE PRINCIPAL AMOUNT.—Subject to the limitations in subparagraphs (A) and (B), the Secretary may enter into commitments to guarantee loans under this section for each of fiscal years 2000, 2001, 2002, 2003, and 2004 with an aggregate outstanding principal amount not exceeding $100,000,000 for each such fiscal year.

''(6) LIABILITIES.—All liabilities and obligations of the assets credited to the Guarantee Fund under paragraph (2)(A) shall be liabilities and obligations of the Guarantee Fund.

''(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Guarantee Fund to carry out this section such sums as may be necessary for each of fiscal years 2000, 2001, 2002, 2003, and 2004.

''(k) REQUIREMENTS FOR STANDARD HOUSING.—

''(1) IN GENERAL.—The Secretary shall, by regulation, establish housing safety and quality standards to be applied for use under this section.

''(2) STANDARDS.—The standards referred to in paragraph (1) shall—

''(A) provide sufficient flexibility to permit the use of various designs and materials in housing acquired with loans guaranteed under this section; and

''(B) require each dwelling unit in any housing acquired in the manner described in subparagraph (A) to—

''(i) be decent, safe, sanitary, and modest in size and design;

''(ii) conform with applicable general construction standards for the region in which the housing is located;

''(iii) contain a plumbing system that—

''(I) uses a properly installed system of piping;

''(II) includes a kitchen sink and a partitional bathroom with lavatory, toilet, and bath or shower; and

''(III) uses water supply, plumbing, and sewage disposal systems that conform to any minimum standards established by the applicable county or State;

''(iv) contain an electrical system using wiring and equipment properly installed to safely supply electrical energy for adequate lighting and for operation of appliances that conforms to any appropriate county, State, or national code;

''(v) be not less than the size provided under the applicable locally adopted standards for size of dwelling units, except that the Secretary, upon request of the Department of Hawaiian Home Lands may waive the size requirements under this paragraph; and

''(vi) conform with the energy performance requirements for new construction established by the Secretary under section 526(a) of the National Housing Act (12 U.S.C.A. 1735f–4), unless the Secretary determines that the requirements are not applicable.

''(l) APPLICABILITY OF CIVIL RIGHTS STATUTES.—To the extent that the requirements of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) or of title VIII of the Act popularly known as the 'Civil Rights Act of 1968' (42 U.S.C.A. 3601 et seq.) apply to a guarantee provided under this subsection, nothing in the requirements concerning discrimination on the basis of race shall be construed to prevent the provision of the guarantee to an eligible entity on the basis that the entity serves Native Hawaiian families or is a Native Hawaiian family.''.

AMENDMENT NO. 2511

(Purpose: To make a series of amendments)

Mr. GRASSLEY. Mr. President, I understand Senator INOUYE has an amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for Mr. INOUYE, proposes an amendment numbered 2511.

The amendment is as follows:

On page 98, strike line 23 and all that follows through page 99, line 8.

On page 118, line 20, strike ''1999'' and insert ''2000''.

On page 118, line 23, strike ''October 1, 1999'' and insert ''the date of enactment of the Native American Housing Assistance and Self-Determination Amendments of 1999''.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the amendment be agreed to.

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

The amendment (No. 2511) was agreed to.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the substitute amendment, as amended, be agreed to.

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

The committee amendment, as amended, was agreed to.

Mr. GRASSLEY. I ask unanimous consent that the bill, as amended, be read the third time, passed, and the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 225), as amended, was read the third time and passed, as follows:

S. 225

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 ''Native American Housing Assistance and Self-Determination Amendments of 1999''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the United States has undertaken a responsibility to promote the general welfare of the United States by—

(A) employing its resources to remedy the unsafe and unsanitary housing conditions and the acute shortage of decent, safe, and sanitary dwellings for families of lower income; and

(B) developing effective partnerships with governmental and private entities to accomplish the objectives referred to in subparagraph (A);

(2) the United States has a special responsibility for the welfare of the Native peoples of the United States, including Native Hawaiians;

(3) pursuant to the provisions of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.), the United States set aside 200,000 acres of land in the Federal territory that later became the State of Hawaii in order to establish a homeland for the native people of Hawaii—Native Hawaiians;

(4) despite the intent of Congress in 1920 to address the housing needs of Native Hawaiians through the enactment of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.), Native Hawaiians eligible to reside on the Hawaiian home lands have been foreclosed from participating in Federal housing assistance programs available to all other eligible families in the United States;

(5) although Federal housing assistance programs have been administered on a racially neutral basis in the State of Hawaii, Native Hawaiians continue to have the greatest unmet need for housing and the highest rates of overcrowding in the United States;

(6) among the Native American population of the United States, Native Hawaiians experience the highest percentage of housing problems in the United States, as the percentage—

(A) of housing problems in the Native Hawaiian population is 49 percent, as compared to—

(i) 44 percent for American Indian and Alaska Native households in Indian country; and

(ii) 27 percent for all other households in the United States; and

(B) overcrowding in the Native Hawaiian population is 36 percent as compared to 3 percent for all other households in the United States;

(7) among the Native Hawaiian population, the needs of Native Hawaiians, as that term is defined in section 801 of the Native American Housing Assistance and Self-Determination Act of 1996, as added by section 3 of this Act, eligible to reside on the Hawaiian Home Lands are the most severe, as—

(A) the percentage of overcrowding in Native Hawaiian households on the Hawaiian Home Lands is 36 percent; and

(B) approximately 13,000 Native Hawaiians, which constitute 95 percent of the Native Hawaiians who are eligible to reside on the Hawaiian Home Lands, are in need of housing;

(8) applying the Department of Housing and Urban Development guidelines—

(A) 70.8 percent of Native Hawaiians who either reside or who are eligible to reside on the Hawaiian Home Lands have incomes that fall below the median family income; and

(B) 50 percent of Native Hawaiians who either reside or who are eligible to reside on the Hawaiian Home Lands have incomes below 30 percent of the median family income;

(9) ⅓ of those Native Hawaiians who are eligible to reside on the Hawaiian Home Lands pay more than 30 percent of their income for shelter, and ½ of those Native Hawaiians face overcrowding;

(10) the extraordinarily severe housing needs of Native Hawaiians demonstrate that Native Hawaiians who either reside on, or are eligible to reside on, Hawaiian Home Lands have been denied equal access to Federal low-income housing assistance programs available to other qualified residents of the United States, and that a more effective means of addressing their housing needs must be authorized;

(11) consistent with the recommendations of the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing, and in order to address the continuing prevalence of extraordinarily severe housing needs among Native Hawaiians who either reside or are eligible to reside on the Hawaiian Home Lands, Congress finds it necessary to extend the Federal low-income housing assistance available to American Indians and Alaska Natives under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.) to those Native Hawaiians;

(12) under the treatymaking power of the United States, Congress had the constitutional authority to confirm a treaty between the United States and the government that represented the Hawaiian people, and from 1826 until 1893, the United States recognized the independence of the Kingdom of Hawaii, extended full diplomatic recognition to the Hawaiian Government, and entered into treaties and conventions with the Hawaiian monarchs to govern commerce and navigation in 1826, 1842, 1849, 1875, and 1887;

(13) the United States has recognized and reaffirmed that—

(A) Native Hawaiians have a cultural, historic, and land-based link to the indigenous people who exercised sovereignty over the Hawaiian Islands, and that group has never relinquished its claims to sovereignty or its sovereign lands;

(B) Congress does not extend services to Native Hawaiians because of their race, but because of their unique status as the indigenous people of a once sovereign nation as to whom the United States has established a trust relationship;

(C) Congress has also delegated broad authority to administer a portion of the Federal trust responsibility to the State of Hawaii;

(D) the political status of Native Hawaiians is comparable to that of American Indians and Alaska Natives; and

(E) the aboriginal, indigenous people of the United States have—

(i) a continuing right to autonomy in their internal affairs; and

(ii) an ongoing right of self-determination and self-governance that has never been extinguished;

(14) the political relationship between the United States and the Native Hawaiian people has been recognized and reaffirmed by the United States as evidenced by the inclusion of Native Hawaiians in—

(A) the Native American Programs Act of 1974 (42 U.S.C. 2291 et seq.);

(B) the American Indian Religious Freedom Act (42 U.S.C. 1996 et seq.);

(C) the National Museum of the American Indian Act (20 U.S.C. 80q et seq.);

(D) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);

(E) the National Historic Preservation Act (16 U.S.C. 470 et seq.);

(F) the Native American Languages Act of 1992 (106 Stat. 3434);

(G) the American Indian, Alaska Native and Native Hawaiian Culture and Arts Development Act (20 U.S.C. 4401 et seq.);

(H) the Job Training Partnership Act (29 U.S.C. 1501 et seq.); and

(I) the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.); and

(15) in the area of housing, the United States has recognized and reaffirmed the political relationship with the Native Hawaiian people through—

(A) the enactment of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.), which set aside approximately 200,000 acres of public lands that became known as Hawaiian Home Lands in the Territory of Hawaii that had been ceded to the United States for homesteading by Native Hawaiians in order to rehabilitate a landless and dying people;

(B) the enactment of the Act entitled ''An Act to provide for the admission of the State of Hawaii into the Union'', approved March 18, 1959 (73 Stat. 4)—

(i) by ceding to the State of Hawaii title to the public lands formerly held by the United States, and mandating that those lands be held in public trust, for the betterment of the conditions of Native Hawaiians, as that term is defined in section 201 of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.); and

(ii) by transferring the United States responsibility for the administration of Hawaiian Home Lands to the State of Hawaii, but retaining the authority to enforce the trust, including the exclusive right of the United States to consent to any actions affecting the lands which comprise the corpus of the trust and any amendments to the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.), enacted by the legislature of the State of Hawaii affecting the rights of beneficiaries under the Act;

(C) the authorization of mortgage loans insured by the Federal Housing Administration for the purchase, construction, or refinancing of homes on Hawaiian Home Lands under the Act of June 27, 1934 (commonly referred to as the ''National Housing Act'' (42 Stat. 1246 et seq., chapter 847; 12 U.S.C. 1701 et seq.));

(D) authorizing Native Hawaiian representation on the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing under Public Law 101–235;

(E) the inclusion of Native Hawaiians in the definition under section 3764 of title 38, United States Code, applicable to subchapter V of chapter 37 of title 38, United States Code (relating to a housing loan program for Native American veterans); and

(F) the enactment of the Hawaiian Home Lands Recovery Act (109 Stat. 357; 48 U.S.C. 491, note prec.) which establishes a process for the conveyance of Federal lands to the Department of Hawaiian Homes Lands that are equivalent in value to lands acquired by the United States from the Hawaiian Home Lands inventory.

SEC. 3. HOUSING ASSISTANCE.

The Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.) is amended by adding at the end the following:

''TITLE VIII—HOUSING ASSISTANCE FOR NATIVE HAWAIIANS

''SEC. 801. DEFINITIONS.

''In this title:

''(1) DEPARTMENT OF HAWAIIAN HOME LANDS; DEPARTMENT.—The term 'Department of Hawaiian Home Lands' or 'Department' means the agency or department of the government of the State of Hawaii that is responsible for the administration of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.).

''(2) DIRECTOR.—The term 'Director' means the Director of the Department of Hawaiian Home Lands.

''(3) ELDERLY FAMILIES; NEAR-ELDERLY FAMILIES.—

''(A) IN GENERAL.—The term 'elderly family' or 'near-elderly family' means a family whose head (or his or her spouse), or whose sole member, is—

''(i) for an elderly family, an elderly person; or

''(ii) for a near-elderly family, a near-elderly person.

''(B) CERTAIN FAMILIES INCLUDED.—The term 'elderly family' or 'near-elderly family' includes—

''(i) 2 or more elderly persons or near-elderly persons, as the case may be, living together; and

''(ii) 1 or more persons described in clause (i) living with 1 or more persons determined under the housing plan to be essential to their care or well-being.

''(4) HAWAIIAN HOME LANDS.—The term 'Hawaiian Home Lands' means lands that—

''(A) have the status as Hawaiian home lands under section 204 of the Hawaiian Homes Commission Act (42 Stat. 110); or

''(B) are acquired pursuant to that Act.

''(5) HOUSING AREA.—The term 'housing area' means an area of Hawaiian Home Lands with respect to which the Department of Hawaiian Home Lands is authorized to provide assistance for affordable housing under this Act.

''(6) HOUSING ENTITY.—The term 'housing entity' means the Department of Hawaiian Home Lands.

''(7) HOUSING PLAN.—The term 'housing plan' means a plan developed by the Department of Hawaiian Home Lands.

''(8) MEDIAN INCOME.—The term 'median income' means, with respect to an area that is a Hawaiian housing area, the greater of—

''(A) the median income for the Hawaiian housing area, which shall be determined by the Secretary; or

''(B) the median income for the State of Hawaii.

''(9) NATIVE HAWAIIAN.—The term 'Native Hawaiian' means any individual who is—

''(A) a citizen of the United States; and

''(B) a descendant of the aboriginal people, who, prior to 1778, occupied and exercised sovereignty in the area that currently constitutes the State of Hawaii, as evidenced by—

''(i) genealogical records;

''(ii) verification by kupuna (elders) or kama'aina (long-term community residents); or

''(iii) birth records of the State of Hawaii.

''SEC. 802. BLOCK GRANTS FOR AFFORDABLE HOUSING ACTIVITIES.

''(a) GRANT AUTHORITY.—For each fiscal year, the Secretary shall (to the extent amounts are made available to carry out this title) make a grant under this title to the Department of Hawaiian Home Lands to carry out affordable housing activities for Native Hawaiian families who are eligible to reside on the Hawaiian Home Lands.

''(b) PLAN REQUIREMENT.—

''(1) IN GENERAL.—The Secretary may make a grant under this title to the Department of Hawaiian Home Lands for a fiscal year only if—

''(A) the Director has submitted to the Secretary a housing plan for that fiscal year; and

''(B) the Secretary has determined under section 804 that the housing plan complies with the requirements of section 803.

''(2) WAIVER.—The Secretary may waive the applicability of the requirements under paragraph (1), in part, if the Secretary finds that the Department of Hawaiian Home Lands has not complied or cannot comply with those requirements due to circumstances beyond the control of the Department of Hawaiian Home Lands.

''(c) USE OF AFFORDABLE HOUSING ACTIVITIES UNDER PLAN.—Except as provided in subsection (e), amounts provided under a grant under this section may be used only for affordable housing activities under this title that are consistent with a housing plan approved under section 804.

''(d) ADMINISTRATIVE EXPENSES.—

''(1) IN GENERAL.—The Secretary shall, by regulation, authorize the Department of Hawaiian Home Lands to use a percentage of any grant amounts received under this title for any reasonable administrative and planning expenses of the Department relating to carrying out this title and activities assisted with those amounts.

''(2) ADMINISTRATIVE AND PLANNING EXPENSES.—The administrative and planning expenses referred to in paragraph (1) include—

''(A) costs for salaries of individuals engaged in administering and managing affordable housing activities assisted with grant amounts provided under this title; and

''(B) expenses incurred in preparing a housing plan under section 803.

''(e) PUBLIC-PRIVATE PARTNERSHIPS.—The Director shall make all reasonable efforts, consistent with the purposes of this title, to maximize participation by the private sector, including nonprofit organizations and for-profit entities, in implementing a housing plan that has been approved by the Secretary under section 803.

''SEC. 803. HOUSING PLAN.

''(a) PLAN SUBMISSION.—The Secretary shall—

''(1) require the Director to submit a housing plan under this section for each fiscal year; and

''(2) provide for the review of each plan submitted under paragraph (1).

''(b) 5-YEAR PLAN.—Each housing plan under this section shall—

''(1) be in a form prescribed by the Secretary; and

''(2) contain, with respect to the 5-year period beginning with the fiscal year for which the plan is submitted, the following information:

''(A) MISSION STATEMENT.—A general statement of the mission of the Department of Hawaiian Home Lands to serve the needs of the low-income families to be served by the Department.

''(B) GOAL AND OBJECTIVES.—A statement of the goals and objectives of the Department of Hawaiian Home Lands to enable the Department to serve the needs identified in subparagraph (A) during the period.

''(C) ACTIVITIES PLANS.—An overview of the activities planned during the period including an analysis of the manner in which the activities will enable the Department to meet its mission, goals, and objectives.

''(c) 1-YEAR PLAN.—A housing plan under this section shall—

''(1) be in a form prescribed by the Secretary; and

''(2) contain the following information relating to the fiscal year for which the assistance under this title is to be made available:

''(A) GOALS AND OBJECTIVES.—A statement of the goals and objectives to be accomplished during the period covered by the plan.

''(B) STATEMENT OF NEEDS.—A statement of the housing needs of the low-income families served by the Department and the means by which those needs will be addressed during the period covered by the plan, including—

''(i) a description of the estimated housing needs and the need for assistance for the low-income families to be served by the Department, including a description of the manner in which the geographical distribution of assistance is consistent with—

''(I) the geographical needs of those families; and

''(II) needs for various categories of housing assistance; and

''(ii) a description of the estimated housing needs for all families to be served by the Department.

''(C) FINANCIAL RESOURCES.—An operating budget for the Department of Hawaiian Home Lands, in a form prescribed by the Secretary, that includes—

''(i) an identification and a description of the financial resources reasonably available to the Department to carry out the purposes of this title, including an explanation of the manner in which amounts made available will be used to leverage additional resources; and

''(ii) the uses to which the resources described in clause (i) will be committed, including—

''(I) eligible and required affordable housing activities; and

''(II) administrative expenses.

''(D) AFFORDABLE HOUSING RESOURCES.—A statement of the affordable housing resources currently available at the time of the submittal of the plan and to be made available during the period covered by the plan, including—

''(i) a description of the significant characteristics of the housing market in the State of Hawaii, including the availability of housing from other public sources, private market housing;

''(ii) the manner in which the characteristics referred to in clause (i) influence the decision of the Department of Hawaiian Home Lands to use grant amounts to be provided under this title for—

''(I) rental assistance;

''(II) the production of new units;

''(III) the acquisition of existing units; or

''(IV) the rehabilitation of units;

''(iii) a description of the structure, coordination, and means of cooperation between the Department of Hawaiian Home Lands and any other governmental entities in the development, submission, or implementation of housing plans, including a description of—

''(I) the involvement of private, public, and nonprofit organizations and institutions;

''(II) the use of loan guarantees under section 184A of the Housing and Community Development Act of 1992; and

''(III) other housing assistance provided by the United States, including loans, grants, and mortgage insurance;

''(iv) a description of the manner in which the plan will address the needs identified pursuant to subparagraph (C);

''(v) a description of—

''(I) any existing or anticipated homeownership programs and rental programs to be carried out during the period covered by the plan; and

''(II) the requirements and assistance available under the programs referred to in subclause (I);

''(vi) a description of—

''(I) any existing or anticipated housing rehabilitation programs necessary to ensure the long-term viability of the housing to be carried out during the period covered by the plan; and

''(II) the requirements and assistance available under the programs referred to in subclause (I);

''(vii) a description of—

''(I) all other existing or anticipated housing assistance provided by the Department of Hawaiian Home Lands during the period covered by the plan, including—

''(aa) transitional housing;

''(bb) homeless housing;

''(cc) college housing; and

''(dd) supportive services housing; and

''(II) the requirements and assistance available under such programs;

''(viii)(I) a description of any housing to be demolished or disposed of;

''(II) a timetable for that demolition or disposition; and

''(III) any other information required by the Secretary with respect to that demolition or disposition;

''(ix) a description of the manner in which the Department of Hawaiian Home Lands will coordinate with welfare agencies in the State of Hawaii to ensure that residents of the affordable housing will be provided with access to resources to assist in obtaining employment and achieving self-sufficiency;

''(x) a description of the requirements established by the Department of Hawaiian Home Lands to—

''(I) promote the safety of residents of the affordable housing;

''(II) facilitate the undertaking of crime prevention measures;

''(III) allow resident input and involvement, including the establishment of resident organizations; and

''(IV) allow for the coordination of crime prevention activities between the Department and local law enforcement officials; and

''(xi) a description of the entities that will carry out the activities under the plan, including the organizational capacity and key personnel of the entities.

''(E) CERTIFICATION OF COMPLIANCE.—Evidence of compliance that shall include, as appropriate—

''(i) a certification that the Department of Hawaiian Home Lands will comply with—

''(I) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) or with title VIII of the Act popularly known as the 'Civil Rights Act of 1968' (42 U.S.C. 3601 et seq.) in carrying out this title, to the extent that such title is applicable; and

''(II) other applicable Federal statutes;

''(ii) a certification that the Department will require adequate insurance coverage for housing units that are owned and operated or assisted with grant amounts provided under this title, in compliance with such requirements as may be established by the Secretary;

''(iii) a certification that policies are in effect and are available for review by the Secretary and the public governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this title;

''(iv) a certification that policies are in effect and are available for review by the Secretary and the public governing rents charged, including the methods by which such rents or homebuyer payments are determined, for housing assisted with grant amounts provided under this title; and

''(v) a certification that policies are in effect and are available for review by the Secretary and the public governing the management and maintenance of housing assisted with grant amounts provided under this title.

''(d) APPLICABILITY OF CIVIL RIGHTS STATUTES.—

''(1) IN GENERAL.—To the extent that the requirements of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) or of title VIII of the Act popularly known as the 'Civil Rights Act of 1968' (42 U.S.C. 3601 et seq.) apply to assistance provided under this title, nothing in the requirements concerning discrimination on the basis of race shall be construed to prevent the provision of assistance under this title—

''(A) to the Department of Hawaiian Home Lands on the basis that the Department served Native Hawaiians; or

''(B) to an eligible family on the basis that the family is a Native Hawaiian family.

''(2) CIVIL RIGHTS.—Program eligibility under this title may be restricted to Native Hawaiians. Subject to the preceding sentence, no person may be discriminated against on the basis of race, color, national origin, religion, sex, familial status, or disability.

''(e) USE OF NONPROFIT ORGANIZATIONS.—As a condition of receiving grant amounts under this title, the Department of Hawaiian Home Lands shall, to the extent practicable, provide for private nonprofit organizations experienced in the planning and development of affordable housing for Native Hawaiians to carry out affordable housing activities with those grant amounts.

''SEC. 804. REVIEW OF PLANS.

''(a) REVIEW AND NOTICE.—

''(1) REVIEW.—

''(A) IN GENERAL.—The Secretary shall conduct a review of a housing plan submitted to the Secretary under section 803 to ensure that the plan complies with the requirements of that section.

''(B) LIMITATION.—The Secretary shall have the discretion to review a plan referred to in subparagraph (A) only to the extent that the Secretary considers that the review is necessary.

''(2) NOTICE.—

''(A) IN GENERAL.—Not later than 60 days after receiving a plan under section 803, the Secretary shall notify the Director of the Department of Hawaiian Home Lands whether the plan complies with the requirements under that section.

''(B) EFFECT OF FAILURE OF SECRETARY TO TAKE ACTION.—For purposes of this title, if the Secretary does not notify the Director,

as required under this subsection and subsection (b), upon the expiration of the 60-day period described in subparagraph (A)—

''(i) the plan shall be considered to have been determined to comply with the requirements under section 803; and

''(ii) the Director shall be considered to have been notified of compliance.

''(b) NOTICE OF REASONS FOR DETERMINATION OF NONCOMPLIANCE.—If the Secretary determines that a plan submitted under section 803 does not comply with the requirements of that section, the Secretary shall specify in the notice under subsection (a)—

''(1) the reasons for noncompliance; and

''(2) any modifications necessary for the plan to meet the requirements of section 803.

''(c) REVIEW.—

''(1) IN GENERAL.—After the Director of the Department of Hawaiian Home Lands submits a housing plan under section 803, or any amendment or modification to the plan to the Secretary, to the extent that the Secretary considers such action to be necessary to make a determination under this subsection, the Secretary shall review the plan (including any amendments or modifications thereto) to determine whether the contents of the plan—

''(A) set forth the information required by section 803 to be contained in the housing plan;

''(B) are consistent with information and data available to the Secretary; and

''(C) are not prohibited by or inconsistent with any provision of this Act or any other applicable law.

''(2) INCOMPLETE PLANS.—If the Secretary determines under this subsection that any of the appropriate certifications required under section 803(c)(2)(E) are not included in a plan, the plan shall be considered to be incomplete.

''(d) UPDATES TO PLAN.—

''(1) IN GENERAL.—Subject to paragraph (2), after a plan under section 803 has been submitted for a fiscal year, the Director of the Department of Hawaiian Home Lands may comply with the provisions of that section for any succeeding fiscal year (with respect to information included for the 5-year period under section 803(b) or for the 1-year period under section 803(c)) by submitting only such information regarding such changes as may be necessary to update the plan previously submitted.

''(2) COMPLETE PLANS.—The Director shall submit a complete plan under section 803 not later than 4 years after submitting an initial plan under that section, and not less frequently than every 4 years thereafter.

''(e) EFFECTIVE DATE.—This section and section 803 shall take effect on the date provided by the Secretary pursuant to section 807(a) to provide for timely submission and review of the housing plan as necessary for the provision of assistance under this title for fiscal year 2000.

''SEC. 805. TREATMENT OF PROGRAM INCOME AND LABOR STANDARDS.

''(a) PROGRAM INCOME.—

''(1) AUTHORITY TO RETAIN.—The Department of Hawaiian Home Lands may retain any program income that is realized from any grant amounts received by the Department under this title if—

''(A) that income was realized after the initial disbursement of the grant amounts received by the Department; and

''(B) the Director agrees to use the program income for affordable housing activities in accordance with the provisions of this title.

''(2) PROHIBITION OF REDUCTION OF GRANT.—The Secretary may not reduce the grant amount for the Department of Hawaiian Home Lands based solely on—

''(A) whether the Department retains program income under paragraph (1); or

''(B) the amount of any such program income retained.

''(3) EXCLUSION OF AMOUNTS.—The Secretary may, by regulation, exclude from consideration as program income any amounts determined to be so small that compliance with the requirements of this subsection would create an unreasonable administrative burden on the Department.

''(b) LABOR STANDARDS.—

''(1) IN GENERAL.—Any contract or agreement for assistance, sale, or lease pursuant to this title shall contain—

''(A) a provision requiring that an amount not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable State or local law) by the Secretary, shall be paid to all architects, technical engineers, draftsmen, technicians employed in the development and all maintenance, and laborers and mechanics employed in the operation, of the affordable housing project involved; and

''(B) a provision that an amount not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Act commonly known as the 'Davis-Bacon Act' (46 Stat. 1494, chapter 411; 40 U.S.C. 276a et seq.) shall be paid to all laborers and mechanics employed in the development of the affordable housing involved.

''(2) EXCEPTIONS.—Paragraph (1) and provisions relating to wages required under paragraph (1) in any contract or agreement for assistance, sale, or lease under this title, shall not apply to any individual who performs the services for which the individual volunteered and who is not otherwise employed at any time in the construction work and received no compensation or is paid expenses, reasonable benefits, or a nominal fee for those services.

''SEC. 806. ENVIRONMENTAL REVIEW.

''(a) IN GENERAL.—

''(1) RELEASE OF FUNDS.—

''(A) IN GENERAL.—The Secretary may carry out the alternative environmental protection procedures described in subparagraph (B) in order to ensure—

''(i) that the policies of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other provisions of law that further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of grant amounts provided under this title; and

''(ii) to the public undiminished protection of the environment.

''(B) ALTERNATIVE ENVIRONMENTAL PROTECTION PROCEDURE.—In lieu of applying environmental protection procedures otherwise applicable, the Secretary may by regulation provide for the release of funds for specific projects to the Department of Hawaiian Home Lands if the Director of the Department assumes all of the responsibilities for environmental review, decisionmaking, and action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and such other provisions of law as the regulations of the Secretary specify, that would apply to the Secretary were the Secretary to undertake those projects as Federal projects.

''(2) REGULATIONS.—

''(A) IN GENERAL.—The Secretary shall issue regulations to carry out this section only after consultation with the Council on Environmental Quality.

''(B) CONTENTS.—The regulations issued under this paragraph shall—

''(i) provide for the monitoring of the environmental reviews performed under this section;

''(ii) in the discretion of the Secretary, facilitate training for the performance of such reviews; and

''(iii) provide for the suspension or termination of the assumption of responsibilities under this section.

''(3) EFFECT ON ASSUMED RESPONSIBILITY.—The duty of the Secretary under paragraph (2)(B) shall not be construed to limit or reduce any responsibility assumed by the Department of Hawaiian Home Lands for grant amounts with respect to any specific release of funds.

''(b) PROCEDURE.—

''(1) IN GENERAL.—The Secretary shall authorize the release of funds subject to the procedures under this section only if, not less than 15 days before that approval and before any commitment of funds to such projects, the Director of the Department of Hawaiian Home Lands submits to the Secretary a request for such release accompanied by a certification that meets the requirements of subsection (c).

''(2) EFFECT OF APPROVAL.—The approval of the Secretary of a certification described in paragraph (1) shall be deemed to satisfy the responsibilities of the Secretary under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and such other provisions of law as the regulations of the Secretary specify to the extent that those responsibilities relate to the releases of funds for projects that are covered by that certification.

''(c) CERTIFICATION.—A certification under the procedures under this section shall—

''(1) be in a form acceptable to the Secretary;

''(2) be executed by the Director of the Department of Hawaiian Home Lands;

''(3) specify that the Department of Hawaiian Home Lands has fully carried out its responsibilities as described under subsection (a); and

''(4) specify that the Director—

''(A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and each provision of law specified in regulations issued by the Secretary to the extent that those laws apply by reason of subsection (a); and

''(B) is authorized and consents on behalf of the Department of Hawaiian Home Lands and the Director to accept the jurisdiction of the Federal courts for the purpose of enforcement of the responsibilities of the Director of the Department of Hawaiian Home Lands as such an official.

''SEC. 807. REGULATIONS.

''The Secretary shall issue final regulations necessary to carry out this title not later than October 1, 2000.

''SEC. 808. EFFECTIVE DATE.

''Except as otherwise expressly provided in this title, this title shall take effect on the date of enactment of the Native American Housing Assistance and Self-Determination Amendments of 1999.

''SEC. 809. AFFORDABLE HOUSING ACTIVITIES.

''(a) NATIONAL OBJECTIVES AND ELIGIBLE FAMILIES.—

''(1) PRIMARY OBJECTIVE.—The national objectives of this title are—

''(A) to assist and promote affordable housing activities to develop, maintain, and operate affordable housing in safe and healthy environments for occupancy by low-income Native Hawaiian families;

''(B) to ensure better access to private mortgage markets and to promote self-sufficiency of low-income Native Hawaiian families;

''(C) to coordinate activities to provide housing for low-income Native Hawaiian

families with Federal, State and local activities to further economic and community development;

''(D) to plan for and integrate infrastructure resources on the Hawaiian Home Lands with housing development; and

''(E) to—

''(i) promote the development of private capital markets; and

''(ii) allow the markets referred to in clause (i) to operate and grow, thereby benefiting Native Hawaiian communities.

''(2) ELIGIBLE FAMILIES.—

''(A) IN GENERAL.—Except as provided under subparagraph (B), assistance for eligible housing activities under this title shall be limited to low-income Native Hawaiian families.

''(B) EXCEPTION TO LOW-INCOME REQUIREMENT.—

''(i) IN GENERAL.—The Director may provide assistance for homeownership activities under—

''(I) section 810(b);

''(II) model activities under section 810(f); or

''(III) loan guarantee activities under section 184A of the Housing and Community Development Act of 1992 to Native Hawaiian families who are not low-income families, to the extent that the Secretary approves the activities under that section to address a need for housing for those families that cannot be reasonably met without that assistance.

''(ii) LIMITATIONS.—The Secretary shall establish limitations on the amount of assistance that may be provided under this title for activities for families that are not low-income families.

''(C) OTHER FAMILIES.—Notwithstanding paragraph (1), the Director may provide housing or housing assistance provided through affordable housing activities assisted with grant amounts under this title to a family that is not composed of Native Hawaiians if—

''(i) the Department determines that the presence of the family in the housing involved is essential to the well-being of Native Hawaiian families; and

''(ii) the need for housing for the family cannot be reasonably met without the assistance.

''(D) PREFERENCE.—

''(i) IN GENERAL.—A housing plan submitted under section 803 may authorize a preference, for housing or housing assistance provided through affordable housing activities assisted with grant amounts provided under this title to be provided, to the extent practicable, to families that are eligible to reside on the Hawaiian Home Lands.

''(ii) APPLICATION.—In any case in which a housing plan provides for preference described in clause (i), the Director shall ensure that housing activities that are assisted with grant amounts under this title are subject to that preference.

''(E) USE OF NONPROFIT ORGANIZATIONS.—As a condition of receiving grant amounts under this title, the Department of Hawaiian Home Lands, shall to the extent practicable, provide for private nonprofit organizations experienced in the planning and development of affordable housing for Native Hawaiians to carry out affordable housing activities with those grant amounts.

''SEC. 810. ELIGIBLE AFFORDABLE HOUSING ACTIVITIES.

''(a) IN GENERAL.—Affordable housing activities under this section are activities conducted in accordance with the requirements of section 811 to—

''(1) develop or to support affordable housing for rental or homeownership; or

''(2) provide housing services with respect to affordable housing, through the activities described in subsection (b).

''(b) ACTIVITIES.—The activities described in this subsection are the following:

''(1) DEVELOPMENT.—The acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, which may include—

''(A) real property acquisition;

''(B) site improvement;

''(C) the development of utilities and utility services;

''(D) conversion;

''(E) demolition;

''(F) financing;

''(G) administration and planning; and

''(H) other related activities.

''(2) HOUSING SERVICES.—The provision of housing-related services for affordable housing, including—

''(A) housing counseling in connection with rental or homeownership assistance;

''(B) the establishment and support of resident organizations and resident management corporations;

''(C) energy auditing;

''(D) activities related to the provisions of self-sufficiency and other services; and

''(E) other services related to assisting owners, tenants, contractors, and other entities participating or seeking to participate in other housing activities assisted pursuant to this section.

''(3) HOUSING MANAGEMENT SERVICES.—The provision of management services for affordable housing, including—

''(A) the preparation of work specifications;

''(B) loan processing;

''(C) inspections;

''(D) tenant selection;

''(E) management of tenant-based rental assistance; and

''(F) management of affordable housing projects.

''(4) CRIME PREVENTION AND SAFETY ACTIVITIES.—The provision of safety, security, and law enforcement measures and activities appropriate to protect residents of affordable housing from crime.

''(5) MODEL ACTIVITIES.—Housing activities under model programs that are—

''(A) designed to carry out the purposes of this title; and

''(B) specifically approved by the Secretary as appropriate for the purpose referred to in subparagraph (A).

''SEC. 811. PROGRAM REQUIREMENTS.

''(a) RENTS.—

''(1) ESTABLISHMENT.—Subject to paragraph (2), as a condition to receiving grant amounts under this title, the Director shall develop written policies governing rents and homebuyer payments charged for dwelling units assisted under this title, including methods by which such rents and homebuyer payments are determined.

''(2) MAXIMUM RENT.—In the case of any low-income family residing in a dwelling unit assisted with grant amounts under this title, the monthly rent or homebuyer payment (as applicable) for that dwelling unit may not exceed 30 percent of the monthly adjusted income of that family.

''(b) MAINTENANCE AND EFFICIENT OPERATION.—

''(1) IN GENERAL.—The Director shall, using amounts of any grants received under this title, reserve and use for operating under section 810 such amounts as may be necessary to provide for the continued maintenance and efficient operation of such housing.

''(2) DISPOSAL OF CERTAIN HOUSING.—This subsection may not be construed to prevent the Director, or any entity funded by the Department, from demolishing or disposing of housing, pursuant to regulations established by the Secretary.

''(c) INSURANCE COVERAGE.—As a condition to receiving grant amounts under this title, the Director shall require adequate insurance coverage for housing units that are owned or operated or assisted with grant amounts provided under this title.

''(d) ELIGIBILITY FOR ADMISSION.—As a condition to receiving grant amounts under this title, the Director shall develop written policies governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this title.

''(e) MANAGEMENT AND MAINTENANCE.—As a condition to receiving grant amounts under this title, the Director shall develop policies governing the management and maintenance of housing assisted with grant amounts under this title.

''SEC. 812. TYPES OF INVESTMENTS.

''(a) IN GENERAL.—Subject to section 811 and an applicable housing plan approved under section 803, the Director shall have—

''(1) the discretion to use grant amounts for affordable housing activities through the use of—

''(A) equity investments;

''(B) interest-bearing loans or advances;

''(C) noninterest-bearing loans or advances;

''(D) interest subsidies;

''(E) the leveraging of private investments; or

''(F) any other form of assistance that the Secretary determines to be consistent with the purposes of this title; and

''(2) the right to establish the terms of assistance provided with funds referred to in paragraph (1).

''(b) INVESTMENTS.—The Director may invest grant amounts for the purposes of carrying out affordable housing activities in investment securities and other obligations, as approved by the Secretary.

''SEC. 813. LOW-INCOME REQUIREMENT AND INCOME TARGETING.

''(a) IN GENERAL.—Housing shall qualify for affordable housing for purposes of this title only if—

''(1) each dwelling unit in the housing—

''(A) in the case of rental housing, is made available for occupancy only by a family that is a low-income family at the time of the initial occupancy of that family of that unit; and

''(B) in the case of housing for homeownership, is made available for purchase only by a family that is a low-income family at the time of purchase; and

''(2) each dwelling unit in the housing will remain affordable, according to binding commitments satisfactory to the Secretary, for—

''(A) the remaining useful life of the property (as determined by the Secretary) without regard to the term of the mortgage or to transfer of ownership; or

''(B) such other period as the Secretary determines is the longest feasible period of time consistent with sound economics and the purposes of this title, except upon a foreclosure by a lender (or upon other transfer in lieu of foreclosure) if that action—

''(i) recognizes any contractual or legal rights of any public agency, nonprofit sponsor, or other person or entity to take an action that would—

''(I) avoid termination of low-income affordability, in the case of foreclosure; or

''(II) transfer ownership in lieu of foreclosure; and

''(ii) is not for the purpose of avoiding low-income affordability restrictions, as determined by the Secretary.

''(b) EXCEPTION.—Notwithstanding subsection (a), housing assisted pursuant to section 809(a)(2)(B) shall be considered affordable housing for purposes of this title.

''SEC. 814. LEASE REQUIREMENTS AND TENANT SELECTION.

''(a) LEASES.—Except to the extent otherwise provided by or inconsistent with the laws of the State of Hawaii, in renting dwelling units in affordable housing assisted with grant amounts provided under this title, the Director, owner, or manager shall use leases that—

''(1) do not contain unreasonable terms and conditions;

''(2) require the Director, owner, or manager to maintain the housing in compliance with applicable housing codes and quality standards;

''(3) require the Director, owner, or manager to give adequate written notice of termination of the lease, which shall be the period of time required under applicable State or local law;

''(4) specify that, with respect to any notice of eviction or termination, notwithstanding any State or local law, a resident shall be informed of the opportunity, before any hearing or trial, to examine any relevant documents, record, or regulations directly related to the eviction or termination;

''(5) require that the Director, owner, or manager may not terminate the tenancy, during the term of the lease, except for serious or repeated violation of the terms and conditions of the lease, violation of applicable Federal, State, or local law, or for other good cause; and

''(6) provide that the Director, owner, or manager may terminate the tenancy of a resident for any activity, engaged in by the resident, any member of the household of the resident, or any guest or other person under the control of the resident, that—

''(A) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other residents or employees of the Department, owner, or manager;

''(B) threatens the health or safety of, or right to peaceful enjoyment of their premises by, persons residing in the immediate vicinity of the premises; or

''(C) is criminal activity (including drug-related criminal activity) on or off the premises.

''(b) TENANT OR HOMEBUYER SELECTION.—As a condition to receiving grant amounts under this title, the Director shall adopt and use written tenant and homebuyer selection policies and criteria that—

''(1) are consistent with the purpose of providing housing for low-income families;

''(2) are reasonably related to program eligibility and the ability of the applicant to perform the obligations of the lease; and

''(3) provide for—

''(A) the selection of tenants and homebuyers from a written waiting list in accordance with the policies and goals set forth in an applicable housing plan approved under section 803; and

''(B) the prompt notification in writing of any rejected applicant of the grounds for that rejection.

''SEC. 815. REPAYMENT.

''If the Department of Hawaiian Home Lands uses grant amounts to provide affordable housing under activities under this title and, at any time during the useful life of the housing, the housing does not comply with the requirement under section 813(a)(2), the Secretary shall—

''(1) reduce future grant payments on behalf of the Department by an amount equal to the grant amounts used for that housing (under the authority of section 819(a)(2)); or

''(2) require repayment to the Secretary of any amount equal to those grant amounts.

''SEC. 816. ANNUAL ALLOCATION.

''For each fiscal year, the Secretary shall allocate any amounts made available for assistance under this title for the fiscal year, in accordance with the formula established pursuant to section 817 to the Department of Hawaiian Home Lands if the Department complies with the requirements under this title for a grant under this title.

''SEC. 817. ALLOCATION FORMULA.

''(a) ESTABLISHMENT.—The Secretary shall, by regulation issued not later than the expiration of the 6-month period beginning on the date of enactment of the Native American Housing Assistance and Self-Determination Amendments of 1999, in the manner provided under section 807, establish a formula to provide for the allocation of amounts available for a fiscal year for block grants under this title in accordance with the requirements of this section.

''(b) FACTORS FOR DETERMINATION OF NEED.—The formula under subsection (a) shall be based on factors that reflect the needs for assistance for affordable housing activities, including—

''(1) the number of low-income dwelling units owned or operated at the time pursuant to a contract between the Director and the Secretary;

''(2) the extent of poverty and economic distress and the number of Native Hawaiian families eligible to reside on the Hawaiian Home Lands; and

''(3) any other objectively measurable conditions that the Secretary and the Director may specify.

''(c) OTHER FACTORS FOR CONSIDERATION.—In establishing the formula under subsection (a), the Secretary shall consider the relative administrative capacities of the Department of Hawaiian Home Lands and other challenges faced by the Department, including—

''(1) geographic distribution within Hawaiian Home Lands; and

''(2) technical capacity.

''(d) EFFECTIVE DATE.—This section shall take effect on the date of enactment of the Native American Housing Assistance and Self-Determination Amendments of 1999.

''SEC. 818. REMEDIES FOR NONCOMPLIANCE.

''(a) ACTIONS BY SECRETARY AFFECTING GRANT AMOUNTS.—

''(1) IN GENERAL.—Except as provided in subsection (b), if the Secretary finds after reasonable notice and opportunity for a hearing that the Department of Hawaiian Home Lands has failed to comply substantially with any provision of this title, the Secretary shall—

''(A) terminate payments under this title to the Department;

''(B) reduce payments under this title to the Department by an amount equal to the amount of such payments that were not expended in accordance with this title; or

''(C) limit the availability of payments under this title to programs, projects, or activities not affected by such failure to comply.

''(2) ACTIONS.—If the Secretary takes an action under subparagraph (A), (B), or (C) of paragraph (1), the Secretary shall continue that action until the Secretary determines that the failure by the Department to comply with the provision has been remedied by the Department and the Department is in compliance with that provision.

''(b) NONCOMPLIANCE BECAUSE OF A TECHNICAL INCAPACITY.—The Secretary may provide technical assistance for the Department, either directly or indirectly, that is designed to increase the capability and capacity of the Director of the Department to administer assistance provided under this title in compliance with the requirements under this title if the Secretary makes a finding under subsection (a), but determines that the failure of the Department to comply substantially with the provisions of this title—

''(1) is not a pattern or practice of activities constituting willful noncompliance; and

''(2) is a result of the limited capability or capacity of the Department of Hawaiian Home Lands.

''(c) REFERRAL FOR CIVIL ACTION.—

''(1) AUTHORITY.—In lieu of, or in addition to, any action that the Secretary may take under subsection (a), if the Secretary has reason to believe that the Department of Hawaiian Home Lands has failed to comply substantially with any provision of this title, the Secretary may refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted.

''(2) CIVIL ACTION.—Upon receiving a referral under paragraph (1), the Attorney General may bring a civil action in any United States district court of appropriate jurisdiction for such relief as may be appropriate, including an action—

''(A) to recover the amount of the assistance furnished under this title that was not expended in accordance with this title; or

''(B) for mandatory or injunctive relief.

''(d) REVIEW.—

''(1) IN GENERAL.—If the Director receives notice under subsection (a) of the termination, reduction, or limitation of payments under this Act, the Director—

''(A) may, not later than 60 days after receiving such notice, file with the United States Court of Appeals for the Ninth Circuit, or in the United States Court of Appeals for the District of Columbia, a petition for review of the action of the Secretary; and

''(B) upon the filing of any petition under subparagraph (A), shall forthwith transmit copies of the petition to the Secretary and the Attorney General of the United States, who shall represent the Secretary in the litigation.

''(2) PROCEDURE.—

''(A) IN GENERAL.—The Secretary shall file in the court a record of the proceeding on which the Secretary based the action, as provided in section 2112 of title 28, United States Code.

''(B) OBJECTIONS.—No objection to the action of the Secretary shall be considered by the court unless the Department has registered the objection before the Secretary.

''(3) DISPOSITION.—

''(A) COURT PROCEEDINGS.—

''(i) JURISDICTION OF COURT.—The court shall have jurisdiction to affirm or modify the action of the Secretary or to set the action aside in whole or in part.

''(ii) FINDINGS OF FACT.—If supported by substantial evidence on the record considered as a whole, the findings of fact by the Secretary shall be conclusive.

''(iii) ADDITION.—The court may order evidence, in addition to the evidence submitted for review under this subsection, to be taken by the Secretary, and to be made part of the record.

''(B) SECRETARY.—

''(i) IN GENERAL.—The Secretary, by reason of the additional evidence referred to in subparagraph (A) and filed with the court—

''(I) may—

''(aa) modify the findings of fact of the Secretary; or

''(bb) make new findings; and

''(II) shall file—

''(aa) such modified or new findings; and

''(bb) the recommendation of the Secretary, if any, for the modification or setting aside of the original action of the Secretary.

''(ii) FINDINGS.—The findings referred to in clause (i)(II)(bb) shall, with respect to a

question of fact, be considered to be conclusive if those findings are—

''(I) supported by substantial evidence on the record; and

''(II) considered as a whole.

''(4) FINALITY.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), upon the filing of the record under this subsection with the court—

''(i) the jurisdiction of the court shall be exclusive; and

''(ii) the judgment of the court shall be final.

''(B) REVIEW BY SUPREME COURT.—A judgment under subparagraph (A) shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification, as provided in section 1254 of title 28, United States Code.

''SEC. 819. MONITORING OF COMPLIANCE.

''(a) ENFORCEABLE AGREEMENTS.—

''(1) IN GENERAL.—The Director, through binding contractual agreements with owners or other authorized entities, shall ensure long-term compliance with the provisions of this title.

''(2) MEASURES.—The measures referred to in paragraph (1) shall provide for—

''(A) to the extent allowable by Federal and State law, the enforcement of the provisions of this title by the Department and the Secretary; and

''(B) remedies for breach of the provisions referred to in paragraph (1).

''(b) PERIODIC MONITORING.—

''(1) IN GENERAL.—Not less frequently than annually, the Director shall review the activities conducted and housing assisted under this title to assess compliance with the requirements of this title.

''(2) REVIEW.—Each review under paragraph (1) shall include onsite inspection of housing to determine compliance with applicable requirements.

''(3) RESULTS.—The results of each review under paragraph (1) shall be—

''(A) included in a performance report of the Director submitted to the Secretary under section 820; and

''(B) made available to the public.

''(c) PERFORMANCE MEASURES.—The Secretary shall establish such performance measures as may be necessary to assess compliance with the requirements of this title.

''SEC. 820. PERFORMANCE REPORTS.

''(a) REQUIREMENT.—For each fiscal year, the Director shall—

''(1) review the progress the Department has made during that fiscal year in carrying out the housing plan submitted by the Department under section 803; and

''(2) submit a report to the Secretary (in a form acceptable to the Secretary) describing the conclusions of the review.

''(b) CONTENT.—Each report submitted under this section for a fiscal year shall—

''(1) describe the use of grant amounts provided to the Department of Hawaiian Home Lands for that fiscal year;

''(2) assess the relationship of the use referred to in paragraph (1) to the goals identified in the housing plan;

''(3) indicate the programmatic accomplishments of the Department; and

''(4) describe the manner in which the Department would change its housing plan submitted under section 803 as a result of its experiences.

''(c) SUBMISSIONS.—The Secretary shall—

''(1) establish a date for submission of each report under this section;

''(2) review each such report; and

''(3) with respect to each such report, make recommendations as the Secretary considers appropriate to carry out the purposes of this title.

''(d) PUBLIC AVAILABILITY.—

''(1) COMMENTS BY BENEFICIARIES.—In preparing a report under this section, the Director shall make the report publicly available to the beneficiaries of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.) and give a sufficient amount of time to permit those beneficiaries to comment on that report before it is submitted to the Secretary (in such manner and at such time as the Director may determine).

''(2) SUMMARY OF COMMENTS.—The report shall include a summary of any comments received by the Director from beneficiaries under paragraph (1) regarding the program to carry out the housing plan.

''SEC. 821. REVIEW AND AUDIT BY SECRETARY.

''(a) ANNUAL REVIEW.—

''(1) IN GENERAL.—The Secretary shall, not less frequently than on an annual basis, make such reviews and audits as may be necessary or appropriate to determine whether—

''(A) the Director has—

''(i) carried out eligible activities under this title in a timely manner;

''(ii) carried out and made certifications in accordance with the requirements and the primary objectives of this title and with other applicable laws; and

''(iii) a continuing capacity to carry out the eligible activities in a timely manner;

''(B) the Director has complied with the housing plan submitted by the Director under section 803; and

''(C) the performance reports of the Department under section 821 are accurate.

''(2) ONSITE VISITS.—Each review conducted under this section shall, to the extent practicable, include onsite visits by employees of the Department of Housing and Urban Development.

''(b) REPORT BY SECRETARY.—The Secretary shall give the Department of Hawaiian Home Lands not less than 30 days to review and comment on a report under this subsection. After taking into consideration the comments of the Department, the Secretary may revise the report and shall make the comments of the Department and the report with any revisions, readily available to the public not later than 30 days after receipt of the comments of the Department.

''(c) EFFECT OF REVIEWS.—The Secretary may make appropriate adjustments in the amount of annual grants under this title in accordance with the findings of the Secretary pursuant to reviews and audits under this section. The Secretary may adjust, reduce, or withdraw grant amounts, or take other action as appropriate in accordance with the reviews and audits of the Secretary under this section, except that grant amounts already expended on affordable housing activities may not be recaptured or deducted from future assistance provided to the Department of Hawaiian Home Lands.

''SEC. 822. GENERAL ACCOUNTING OFFICE AUDITS.

''To the extent that the financial transactions of the Department of Hawaiian Home Lands involving grant amounts under this title relate to amounts provided under this title, those transactions may be audited by the Comptroller General of the United States under such regulations as may be prescribed by the Comptroller General. The Comptroller General of the United States shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by the Department of Hawaiian Home Lands pertaining to such financial transactions and necessary to facilitate the audit.

''SEC. 823. REPORTS TO CONGRESS.

''(a) IN GENERAL.—Not later than 90 days after the conclusion of each fiscal year in which assistance under this title is made available, the Secretary shall submit to Congress a report that contains—

''(1) a description of the progress made in accomplishing the objectives of this title;

''(2) a summary of the use of funds available under this title during the preceding fiscal year; and

''(3) a description of the aggregate outstanding loan guarantees under section 184A of the Housing and Community Development Act of 1992.

''(b) RELATED REPORTS.—The Secretary may require the Director to submit to the Secretary such reports and other information as may be necessary in order for the Secretary to prepare the report required under subsection (a).

''SEC. 824. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to the Department of Housing and Urban Development for grants under this title such sums as may be necessary for each of fiscal years 2000, 2001, 2002, 2003, and 2004.''.

SEC. 4. LOAN GUARANTEES FOR NATIVE HAWAIIAN HOUSING.

Subtitle E of title I of the Housing and Community Development Act of 1992 is amended by inserting after section 184 (12 U.S.C. 1715z–13a) the following:

''SEC. 184A. LOAN GUARANTEES FOR NATIVE HAWAIIAN HOUSING.

''(a) DEFINITIONS.—In this section:

''(1) DEPARTMENT OF HAWAIIAN HOME LANDS.—The term 'Department of Hawaiian Home Lands' means the agency or department of the government of the State of Hawaii that is responsible for the administration of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.).

''(2) ELIGIBLE ENTITY.—The term 'eligible entity' means a Native Hawaiian family, the Department of Hawaiian Home Lands, the Office of Hawaiian Affairs, and private nonprofit or private for-profit organizations experienced in the planning and development of affordable housing for Native Hawaiians.

''(3) FAMILY.—The term 'family' means 1 or more persons maintaining a household, as the Secretary shall by regulation provide.

''(4) GUARANTEE FUND.—The term 'Guarantee Fund' means the Native Hawaiian Housing Loan Guarantee Fund established under subsection (i).

''(5) HAWAIIAN HOME LANDS.—The term 'Hawaiian Home Lands' means lands that—

''(A) have the status of Hawaiian Home Lands under section 204 of the Hawaiian Homes Commission Act (42 Stat. 110); or

''(B) are acquired pursuant to that Act.

''(6) NATIVE HAWAIIAN.—The term 'Native Hawaiian' means any individual who is—

''(A) a citizen of the United States; and

''(B) a descendant of the aboriginal people, who, prior to 1778, occupied and exercised sovereignty in the area that currently constitutes the State of Hawaii, as evidenced by—

''(i) genealogical records;

''(ii) verification by kupuna (elders) or kama'aina (long-term community residents); or

''(iii) birth records of the State of Hawaii.

''(7) OFFICE OF HAWAIIAN AFFAIRS.—The term 'Office of Hawaiian Affairs' means the entity of that name established under the constitution of the State of Hawaii.

''(b) AUTHORITY.—To provide access to sources of private financing to Native Hawaiian families who otherwise could not acquire housing financing because of the unique legal status of the Hawaiian Home Lands or as a result of a lack of access to private financial markets, the Secretary may guarantee an amount not to exceed 100 percent of the unpaid principal and interest that is due on an eligible loan under subsection (b).

''(c) ELIGIBLE LOANS.—Under this section, a loan is an eligible loan if that loan meets the following requirements:

''(1) ELIGIBLE BORROWERS.—The loan is made only to a borrower who is—

''(A) a Native Hawaiian family;

''(B) the Department of Hawaiian Home Lands;

''(C) the Office of Hawaiian Affairs; or

''(D) a private nonprofit organization experienced in the planning and development of affordable housing for Native Hawaiians.

''(2) ELIGIBLE HOUSING.—

''(A) IN GENERAL.—The loan will be used to construct, acquire, or rehabilitate not more than 4-family dwellings that are standard housing and are located on Hawaiian Home Lands for which a housing plan described in subparagraph (B) applies.

''(B) HOUSING PLAN.—A housing plan described in this subparagraph is a housing plan that—

''(i) has been submitted and approved by the Secretary under section 803 of the Native American Housing Assistance and Self-Determination Amendments of 1999; and

''(ii) provides for the use of loan guarantees under this section to provide affordable homeownership housing on Hawaiian Home Lands.

''(3) SECURITY.—The loan may be secured by any collateral authorized under applicable Federal or State law.

''(4) LENDERS.—

''(A) IN GENERAL.—The loan shall be made only by a lender approved by, and meeting qualifications established by, the Secretary, including any lender described in subparagraph (B), except that a loan otherwise insured or guaranteed by an agency of the Federal Government or made by the Department of Hawaiian Home Lands from amounts borrowed from the United States shall not be eligible for a guarantee under this section.

''(B) APPROVAL.—The following lenders shall be considered to be lenders that have been approved by the Secretary:

''(i) Any mortgagee approved by the Secretary for participation in the single family mortgage insurance program under title II of the National Housing Act (12 U.S.C.A. 1707 et seq.).

''(ii) Any lender that makes housing loans under chapter 37 of title 38, United States Code, that are automatically guaranteed under section 3702(d) of title 38, United States Code.

''(iii) Any lender approved by the Secretary of Agriculture to make guaranteed loans for single family housing under the Housing Act of 1949 (42 U.S.C.A. 1441 et seq.).

''(iv) Any other lender that is supervised, approved, regulated, or insured by any agency of the Federal Government.

''(5) TERMS.—The loan shall—

''(A) be made for a term not exceeding 30 years;

''(B) bear interest (exclusive of the guarantee fee under subsection (d) and service charges, if any) at a rate agreed upon by the borrower and the lender and determined by the Secretary to be reasonable, but not to exceed the rate generally charged in the area (as determined by the Secretary) for home mortgage loans not guaranteed or insured by any agency or instrumentality of the Federal Government;

''(C) involve a principal obligation not exceeding—

''(i) 97.75 percent of the appraised value of the property as of the date the loan is accepted for guarantee (or 98.75 percent if the value of the property is $50,000 or less); or

''(ii) the amount approved by the Secretary under this section; and

''(D) involve a payment on account of the property—

''(i) in cash or its equivalent; or

''(ii) through the value of any improvements to the property made through the skilled or unskilled labor of the borrower, as the Secretary shall provide.

''(d) CERTIFICATE OF GUARANTEE.—

''(1) APPROVAL PROCESS.—

''(A) IN GENERAL.—Before the Secretary approves any loan for guarantee under this section, the lender shall submit the application for the loan to the Secretary for examination.

''(B) APPROVAL.—If the Secretary approves the application submitted under subparagraph (A), the Secretary shall issue a certificate under this subsection as evidence of the loan guarantee approved.

''(2) STANDARD FOR APPROVAL.—The Secretary may approve a loan for guarantee under this section and issue a certificate under this subsection only if the Secretary determines that there is a reasonable prospect of repayment of the loan.

''(3) EFFECT.—

''(A) IN GENERAL.—A certificate of guarantee issued under this subsection by the Secretary shall be conclusive evidence of the eligibility of the loan for guarantee under this section and the amount of that guarantee.

''(B) EVIDENCE.—The evidence referred to in subparagraph (A) shall be incontestable in the hands of the bearer.

''(C) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all amounts agreed to be paid by the Secretary as security for the obligations made by the Secretary under this section.

''(4) FRAUD AND MISREPRESENTATION.—This subsection may not be construed—

''(A) to preclude the Secretary from establishing defenses against the original lender based on fraud or material misrepresentation; or

''(B) to bar the Secretary from establishing by regulations that are on the date of issuance or disbursement, whichever is earlier, partial defenses to the amount payable on the guarantee.

''(e) GUARANTEE FEE.—

''(1) IN GENERAL.—The Secretary shall fix and collect a guarantee fee for the guarantee of a loan under this section, which may not exceed the amount equal to 1 percent of the principal obligation of the loan.

''(2) PAYMENT.—The fee under this subsection shall—

''(A) be paid by the lender at time of issuance of the guarantee; and

''(B) be adequate, in the determination of the Secretary, to cover expenses and probable losses.

''(3) DEPOSIT.—The Secretary shall deposit any fees collected under this subsection in the Native Hawaiian Housing Loan Guarantee Fund established under subsection (j).

''(f) LIABILITY UNDER GUARANTEE.—The liability under a guarantee provided under this section shall decrease or increase on a pro rata basis according to any decrease or increase in the amount of the unpaid obligation under the provisions of the loan agreement involved.

''(g) TRANSFER AND ASSUMPTION.—Notwithstanding any other provision of law, any loan guaranteed under this section, including the security given for the loan, may be sold or assigned by the lender to any financial institution subject to examination and supervision by an agency of the Federal Government or of any State or the District of Columbia.

''(h) DISQUALIFICATION OF LENDERS AND CIVIL MONEY PENALTIES.—

''(1) IN GENERAL.—

''(A) GROUNDS FOR ACTION.—The Secretary may take action under subparagraph (B) if the Secretary determines that any lender or holder of a guarantee certificate under subsection (c)—

''(i) has failed—

''(I) to maintain adequate accounting records;

''(II) to service adequately loans guaranteed under this section; or

''(III) to exercise proper credit or underwriting judgment; or

''(ii) has engaged in practices otherwise detrimental to the interest of a borrower or the United States.

''(B) ACTIONS.—Upon a determination by the Secretary that a holder of a guarantee certificate under subsection (c) has failed to carry out an activity described in subparagraph (A)(i) or has engaged in practices described in subparagraph (A)(ii), the Secretary may—

''(i) refuse, either temporarily or permanently, to guarantee any further loans made by such lender or holder;

''(ii) bar such lender or holder from acquiring additional loans guaranteed under this section; and

''(iii) require that such lender or holder assume not less than 10 percent of any loss on further loans made or held by the lender or holder that are guaranteed under this section.

''(2) CIVIL MONEY PENALTIES FOR INTENTIONAL VIOLATIONS.—

''(A) IN GENERAL.—The Secretary may impose a civil monetary penalty on a lender or holder of a guarantee certificate under subsection (d) if the Secretary determines that the holder or lender has intentionally failed—

''(i) to maintain adequate accounting records;

''(ii) to adequately service loans guaranteed under this section; or

''(iii) to exercise proper credit or underwriting judgment.

''(B) PENALTIES.—A civil monetary penalty imposed under this paragraph shall be imposed in the manner and be in an amount provided under section 536 of the National Housing Act (12 U.S.C.A. 1735f–1) with respect to mortgagees and lenders under that Act.

''(3) PAYMENT ON LOANS MADE IN GOOD FAITH.—Notwithstanding paragraphs (1) and (2), if a loan was made in good faith, the Secretary may not refuse to pay a lender or holder of a valid guarantee on that loan, without regard to whether the lender or holder is barred under this subsection.

''(i) PAYMENT UNDER GUARANTEE.—

''(1) LENDER OPTIONS.—

''(A) IN GENERAL.—

''(i) NOTIFICATION.—If a borrower on a loan guaranteed under this section defaults on the loan, the holder of the guarantee certificate shall provide written notice of the default to the Secretary.

''(ii) PAYMENT.—Upon providing the notice required under clause (i), the holder of the guarantee certificate shall be entitled to payment under the guarantee (subject to the provisions of this section) and may proceed to obtain payment in 1 of the following manners:

''(I) FORECLOSURE.—

''(aa) IN GENERAL.—The holder of the certificate may initiate foreclosure proceedings (after providing written notice of that action to the Secretary).

''(bb) PAYMENT.—Upon a final order by the court authorizing foreclosure and submission to the Secretary of a claim for payment under the guarantee, the Secretary shall pay to the holder of the certificate the pro rata portion of the amount guaranteed (as determined pursuant to subsection (f)) plus reasonable fees and expenses as approved by the Secretary.

''(cc) SUBROGATION.—The rights of the Secretary shall be subrogated to the rights of

the holder of the guarantee. The holder shall assign the obligation and security to the Secretary.

''(II) NO FORECLOSURE.—

''(aa) IN GENERAL.—Without seeking foreclosure (or in any case in which a foreclosure proceeding initiated under clause (i) continues for a period in excess of 1 year), the holder of the guarantee may submit to the Secretary a request to assign the obligation and security interest to the Secretary in return for payment of the claim under the guarantee. The Secretary may accept assignment of the loan if the Secretary determines that the assignment is in the best interest of the United States.

''(bb) PAYMENT.—Upon assignment, the Secretary shall pay to the holder of the guarantee the pro rata portion of the amount guaranteed (as determined under subsection (f)).

''(cc) SUBROGATION.—The rights of the Secretary shall be subrogated to the rights of the holder of the guarantee. The holder shall assign the obligation and security to the Secretary.

''(B) REQUIREMENTS.—Before any payment under a guarantee is made under subparagraph (A), the holder of the guarantee shall exhaust all reasonable possibilities of collection. Upon payment, in whole or in part, to the holder, the note or judgment evidencing the debt shall be assigned to the United States and the holder shall have no further claim against the borrower or the United States. The Secretary shall then take such action to collect as the Secretary determines to be appropriate.

''(2) LIMITATIONS ON LIQUIDATION.—

''(A) IN GENERAL.—If a borrower defaults on a loan guaranteed under this section that involves a security interest in restricted Hawaiian Home Land property, the mortgagee or the Secretary shall only pursue liquidation after offering to transfer the account to another eligible Hawaiian family or the Department of Hawaiian Home Lands.

''(B) LIMITATION.—If, after action is taken under subparagraph (A), the mortgagee or the Secretary subsequently proceeds to liquidate the account, the mortgagee or the Secretary shall not sell, transfer, or otherwise dispose of or alienate the property described in subparagraph (A) except to another eligible Hawaiian family or to the Department of Hawaiian Home Lands.

''(j) HAWAIIAN HOUSING LOAN GUARANTEE FUND.—

''(1) ESTABLISHMENT.—There is established in the Treasury of the United States the Hawaiian Housing Loan Guarantee Fund for the purpose of providing loan guarantees under this section.

''(2) CREDITS.—The Guarantee Fund shall be credited with—

''(A) any amount, claims, notes, mortgages, contracts, and property acquired by the Secretary under this section, and any collections and proceeds therefrom;

''(B) any amounts appropriated pursuant to paragraph (7);

''(C) any guarantee fees collected under subsection (d); and

''(D) any interest or earnings on amounts invested under paragraph (4).

''(3) USE.—Amounts in the Guarantee Fund shall be available, to the extent provided in appropriations Acts, for—

''(A) fulfilling any obligations of the Secretary with respect to loans guaranteed under this section, including the costs (as that term is defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) of such loans;

''(B) paying taxes, insurance, prior liens, expenses necessary to make fiscal adjustment in connection with the application and transmittal of collections, and other expenses and advances to protect the Secretary for loans which are guaranteed under this section or held by the Secretary;

''(C) acquiring such security property at foreclosure sales or otherwise;

''(D) paying administrative expenses in connection with this section; and

''(E) reasonable and necessary costs of rehabilitation and repair to properties that the Secretary holds or owns pursuant to this section.

''(4) INVESTMENT.—Any amounts in the Guarantee Fund determined by the Secretary to be in excess of amounts currently required at the time of the determination to carry out this section may be invested in obligations of the United States.

''(5) LIMITATION ON COMMITMENTS TO GUARANTEE LOANS AND MORTGAGES.—

''(A) REQUIREMENT OF APPROPRIATIONS.—The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year to the extent, or in such amounts as are, or have been, provided in appropriations Acts, without regard to the fiscal year for which such amounts were appropriated.

''(B) LIMITATIONS ON COSTS OF GUARANTEES.—The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year only to the extent that amounts in the Guarantee Fund are or have been made available in appropriations Acts to cover the costs (as that term is defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) of such loan guarantees for such fiscal year. Any amounts appropriated pursuant to this subparagraph shall remain available until expended.

''(C) LIMITATION ON OUTSTANDING AGGREGATE PRINCIPAL AMOUNT.—Subject to the limitations in subparagraphs (A) and (B), the Secretary may enter into commitments to guarantee loans under this section for each of fiscal years 2000, 2001, 2002, 2003, and 2004 with an aggregate outstanding principal amount not exceeding $100,000,000 for each such fiscal year.

''(6) LIABILITIES.—All liabilities and obligations of the assets credited to the Guarantee Fund under paragraph (2)(A) shall be liabilities and obligations of the Guarantee Fund.

''(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Guarantee Fund to carry out this section such sums as may be necessary for each of fiscal years 2000, 2001, 2002, 2003, and 2004.

''(k) REQUIREMENTS FOR STANDARD HOUSING.—

''(1) IN GENERAL.—The Secretary shall, by regulation, establish housing safety and quality standards to be applied for use under this section.

''(2) STANDARDS.—The standards referred to in paragraph (1) shall—

''(A) provide sufficient flexibility to permit the use of various designs and materials in housing acquired with loans guaranteed under this section; and

''(B) require each dwelling unit in any housing acquired in the manner described in subparagraph (A) to—

''(i) be decent, safe, sanitary, and modest in size and design;

''(ii) conform with applicable general construction standards for the region in which the housing is located;

''(iii) contain a plumbing system that—

''(I) uses a properly installed system of piping;

''(II) includes a kitchen sink and a partitional bathroom with lavatory, toilet, and bath or shower; and

''(III) uses water supply, plumbing, and sewage disposal systems that conform to any minimum standards established by the applicable county or State;

''(iv) contain an electrical system using wiring and equipment properly installed to safely supply electrical energy for adequate lighting and for operation of appliances that conforms to any appropriate county, State, or national code;

''(v) be not less than the size provided under the applicable locally adopted standards for size of dwelling units, except that the Secretary, upon request of the Department of Hawaiian Home Lands may waive the size requirements under this paragraph; and

''(vi) conform with the energy performance requirements for new construction established by the Secretary under section 526(a) of the National Housing Act (12 U.S.C.A. 1735f–4), unless the Secretary determines that the requirements are not applicable.

''(l) APPLICABILITY OF CIVIL RIGHTS STATUTES.—To the extent that the requirements of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) or of title VIII of the Act popularly known as the 'Civil Rights Act of 1968' (42 U.S.C.A. 3601 et seq.) apply to a guarantee provided under this subsection, nothing in the requirements concerning discrimination on the basis of race shall be construed to prevent the provision of the guarantee to an eligible entity on the basis that the entity serves Native Hawaiian families or is a Native Hawaiian family.''.

AMERICAN INDIAN EDUCATION FOUNDATION ACT OF 1999

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 334, S. 1290.

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

The legislative clerk read as follows:

A bill (S. 1290) to amend title 36 of the United States Code to establish the American Indian Education Foundation, and for other purposes.

Without objection, the Senate proceeded to consider the bill.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 1290) was read the third time and passed, as follows:

S. 1290

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 ''American Indian Education Foundation Act of 1999''.

SEC. 2. AMERICAN INDIAN EDUCATION FOUNDATION.

(a) IN GENERAL.—Part B of subtitle II of title 36, United States Code, is amended by inserting after chapter 215 the following:

''CHAPTER 216. AMERICAN INDIAN EDUCATION FOUNDATION

''Sec.
''21601. Organization.
''21602. Purposes.
''21603. Governing body.
''21604. Powers.
''21605. Principal office.
''21606. Service of process.
''21607. Liability of officers and agents.
''21608. Restrictions.
''21609. Transfer of donated funds.

"§ 21601. Organization

''(a) FEDERAL CHARTER.—The American Indian Education Foundation (referred to in this chapter as the 'foundation') is a federally chartered corporation.

''(b) PERPETUAL EXISTENCE.—Except as otherwise provided, the foundation has perpetual existence.

''(c) NATURE OF CORPORATION.—The foundation is a charitable and nonprofit corporation and is not an agency or instrumentality of the United States.

''(d) PLACE OF INCORPORATION AND DOMICILE.—The foundation is declared to be incorporated and domiciled in the District of Columbia.

''(e) DEFINITIONS.—In this chapter:

''(1) AMERICAN INDIAN.—The term 'American Indian' has the meaning given the term 'Indian' in section 4(d) of the Indian Self-Determination and Assistance Act (25 U.S.C. 450b(d)).

''(2) BUREAU FUNDED SCHOOL.—The term 'Bureau funded school' has the meaning given that term in section 1146 of the Education Amendments of 1978 (25 U.S.C. 2026).

"§ 21602. Purposes

''The purposes of the foundation are—

''(1) to encourage, accept, and administer private gifts of real and personal property or any income therefrom or other interest therein for the benefit of, or in support of, the mission of the Office of Indian Education Programs of the Bureau of Indian Affairs (or its successor office);

''(2) to undertake and conduct such other activities as will further the educational opportunities of American Indians who attend a Bureau funded school; and

''(3) to participate with, and otherwise assist, Federal, State, and tribal governments, agencies, entities, and individuals in undertaking and conducting activities that will further the educational opportunities of American Indians attending Bureau funded schools.

"§ 21603. Governing body

''(a) BOARD OF DIRECTORS.—

''(1) IN GENERAL.—The board of directors (referred to in this chapter as the 'board') is the governing body of the foundation. The board may exercise, or provide for the exercise of, the powers of the foundation.

''(2) COMPOSITION OF BOARD.—Subject to section 3 of the American Indian Education Foundation Act of 1999—

''(A) the number of members of the board, the manner of selection of those members, the filling of vacancies for the board, and terms of office of the members of the board shall be as provided in the constitution and bylaws of the foundation; except that

''(B) the board shall have at least 11 members, 2 of whom shall be the Secretary of the Interior and the Assistant Secretary of the Interior for Indian Affairs, who shall serve as ex officio nonvoting members.

''(3) CITIZENSHIP OF MEMBERS.—The members of the board shall be United States citizens who are knowledgeable or experienced in American Indian education and shall, to the extent practicable, represent diverse points of view relating to the education of American Indians.

''(b) OFFICERS.—

''(1) IN GENERAL.—The officers of the foundation shall be a secretary elected from among the members of the board and any other officers provided for in the constitution and bylaws of the foundation.

''(2) QUALIFICATIONS AND DUTIES OF SECRETARY.—The secretary shall—

''(A) serve, at the direction of the board, as its chief operating officer; and

''(B) be knowledgeable and experienced in matters relating to education in general and education of American Indians in particular.

''(3) ELECTION, TERMS, AND DUTIES OF MEMBERS.—The manner of election, term of office, and duties of the officers shall be as provided in the constitution and bylaws of the foundation.

''(c) COMPENSATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no compensation shall be paid to a member of the board by reason of service as a member.

''(2) TRAVEL EXPENSES.—A member of the board shall be reimbursed for actual and necessary travel and subsistence expenses incurred by that member in the performance of the duties of the foundation.

"§ 21604. Powers

''The foundation—

''(1) shall adopt a constitution and bylaws for the management of its property and the regulation of its affairs, which may be amended;

''(2) shall adopt and alter a corporate seal;

''(3) may make contracts, subject to the limitations of this chapter;

''(4) may acquire (through a gift or otherwise), own, lease, encumber, and transfer real or personal property as necessary or convenient to carry out the purposes of the foundation;

''(5) may sue and be sued; and

''(6) may carry out any other act necessary and proper to carry out the purposes of the foundation.

"§ 21605. Principal office

''The principal office of the foundation shall be in the District of Columbia. The activities of the foundation may be conducted, and offices may be maintained, throughout the United States in accordance with the constitution and bylaws of the foundation.

"§ 21606. Service of process

''The foundation shall comply with the law on service of process of each State in which it is incorporated and of each State in which the foundation carries on activities.

"§ 21607. Liability of officers and agents

''The foundation shall be liable for the acts of its officers and agents acting within the scope of their authority. Members of the board shall be personally liable only for gross negligence in the performance of their duties.

"§ 21608. Restrictions

''(a) LIMITATION ON SPENDING.—Beginning with the fiscal year following the first full fiscal year during which the foundation is in operation, the administrative costs of the foundation may not exceed 10 percent of the sum of—

''(1) the amounts transferred to the foundation under section 21609 during the preceding fiscal year; and

''(2) donations received from private sources during the preceding fiscal year.

''(b) APPOINTMENT AND HIRING.—The appointment of officers and employees of the foundation shall be subject to the availability of funds.

''(c) STATUS.—The members of the board, and the officers, employees, and agents of the foundation shall not, by reason of their association with the foundation, be considered to be officers, employees, or agents of the United States.

"§ 21609. Transfer of donated funds

''The Secretary of the Interior may transfer to the foundation funds held by the Department of the Interior under the Act of February 14, 1931 (46 Stat. 1106, chapter 171; 25 U.S.C. 451), if the transfer or use of such funds is not prohibited by any term under which the funds were donated.''.

(b) CLERICAL AMENDMENT.—The table of chapters for part B of subtitle II of title 36, United States Code, is amended by inserting after the item relating to chapter 215 the following:

"216. American Indian Education Foundation ..... 21601".

SEC. 3. INITIAL PERIOD AFTER ESTABLISHMENT.

(a) BOARD OF DIRECTORS.—

(1) INITIAL BOARD.—Not later than 6 months after the date of enactment of this Act, the Secretary of the Interior shall appoint the initial voting members of the board of directors under section 21603 of title 36, United States Code (referred to in this section as the ''board''). The initial members of the board shall have staggered terms (as determined by the Secretary of the Interior).

(2) SUCCESSIVE BOARDS.—The composition of all successive boards after the initial board shall be in conformity with the constitution and bylaws of the American Indian Education Foundation organized under chapter 216 of title 36, United States Code (referred to in this section as the ''foundation'').

(b) ADMINISTRATIVE SERVICES AND SUPPORT.—

(1) PROVISION OF SUPPORT BY SECRETARY.—Subject to paragraph (2), during the 5-year period beginning on the date of enactment of this Act, the Secretary of the Interior—

(A) may provide personnel, facilities, and other administrative support services to the foundation;

(B) may provide funds to reimburse the travel expenses of the members of the board under section 21603(c)(2) of title 36, United States Code; and

(C) shall require and accept reimbursements from the foundation for any—

(i) services provided under subparagraph (A); and

(ii) funds provided under subparagraph (B).

(2) REIMBURSEMENT.—Reimbursements accepted under paragraph (1)(C) shall be deposited in the Treasury to the credit of the appropriations then current and chargeable for the cost of providing services described in paragraph (1)(A) and the travel expenses described in paragraph (1)(B).

(3) CONTINUATION OF CERTAIN SERVICES.—Notwithstanding any other provision of this section, the Secretary of the Interior may continue to provide facilities and necessary support services to the foundation after the termination of the 5-year period specified in paragraph (1), on a space available, reimbursable cost basis.

CHIPPEWA CREE TRIBE OF THE ROCKY BOY'S RESERVATION INDIAN RESERVED WATER RIGHTS SETTLEMENT ACT OF 1999

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 297, S. 438.

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

The legislative clerk read as follows:

A bill (S. 438) to provide for the settlement of the water rights claims for the Chippewa Cree Tribe of the Rocky Boy's Reservation, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2512

(Purpose: To provide a complete substitute)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for Mr. BURNS, for himself and Mr. BAUCUS, proposes an amendment numbered 2512.

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

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

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

Mr. BURNS. Mr. President, I am pleased to urge passage of S. 438, The Chippewa Cree Tribe of the Rocky Boy's Reservation Indian Reserved Water Rights Settlement Act of 1999, introduced by myself and Senator BAUCUS of Montana. S. 438 is the ratification of an agreement among the United States, the State of Montana and the Chippewa Cree Tribe settling the water rights of the Tribe in Montana. This represents a fair and equitable settlement that will enhance the ability of the Tribe to develop a sustainable economy while protecting existing investments in water use by off-Reservation ranchers who rely on water for their livelihoods.

The Settlement was negotiated with extensive involvement by the Tribe and its members, the State of Montana, the Administration, and the water users who own private land on streams shared with the Reservation. It has the support of all those affected and received the overwhelming support of the Montana Legislature when presented for ratification in 1997.

It is a tribute to the Governor of Montana, Marc Racicot, represented by the Reserved Water Rights Compact Commission; the chairman of the Tribe, Bert Corcoran and the Tribe Negotiating Team; David Hayes, Acting Deputy Secretary of the Interior, the Federal negotiating team; and the water users on Big Sandy and Beaver Creeks in the Milk River valley of Montana, that this Compact represents a truly local solution that takes into account the needs and sovereign rights of each party.

In addition to ratifying the Settlement, the bill provides the necessary authorization for funding to develop the water resources on the Reservation and to assure a safe drinking water supply for the Tribe. For several years we have worked closely with the Senate Indian Affairs and Energy Committees to fashion a bill that is consistent with federal policy toward Indian tribes. Thanks to the substantial efforts of the Committees, I believe we have accomplished that goal.

This is the first Indian water right settlement to come before Congress in many years. in approving the Chippewa Cree Settlement Act, we have the opportunity to send the message to western States that we endorse negotiation as the preferred method of Indian water right quantification, and that we will defer to States and Tribes to fashion their own approach to the allocation of water.

In closing, I believe that the Chippewa Cree Tribe of the Rocky Boy's Reservation Indian Reserved Water Rights Settlement Act is an historic agreement. This is truly a local solution that takes into account the needs and sovereign rights of each party. Just as the mentioned parties have worked closely together to get us to the submission of this bill today, I want to thank all members of Congress with whom I worked closely to ensure passage of this important bill.

Mr. BAUCUS. Mr. President, I am so pleased that the Senate will pass the Chippewa Cree Tribe of the Rocky Boy's Reservation Reserved Water Rights Settlement. The legislation ratifies the Compact approved by the State and the Tribe in 1997. I was proud to sponsor this legislation in the 105th with Senator BURNS as a co-sponsor, and had the 2nd Session of that Congress lasted a few more weeks, I believe the bill would have been approved by the Senate. Once again this year, Senator BURNS and I jointly introduced this legislation. The passage of this bill is the culmination of 16 years of extensive technical studies and six years of rather intensive negotiations in our state involving the Chippewa Cree Tribe, the Montana State government, off-Reservation county and municipal governments in north-central Montana, local ranchers, and the United States Departments of Justice and Interior.

The 122,000-acre Rocky Boy's Reservation sits west of Havre, Montana on several tributaries of the Milk River on what was formerly the Fort Assiniboine Military Reserve. Unfortunately, the portion of the land reserved for the Chippewa Cree is rough and arid. Without irrigation, much of the land is not suitable for farming. Recent studies have demonstrated that the Reservation could not sustain the membership of the Chippewa Cree Tribe as a permanent homeland without an infusion of additional water. The development of a viable reservation economy calls for more water for drinking purposes, as well as for agriculture and other municipal uses. In 1982, acting in its fiduciary capacity as trustee for the Tribe, the United States filed a claim for the water rights of the Chippewa Cree in the State of Montana general stream adjudication. Were it not for the negotiated settlement represented by this legislation, divisive and costly litigation would be pending between the State, the Tribe, the United States and non-Indian ranchers for many years to come. Fortunately, in 1979, the Montana legislature articulated a policy in favor of negotiation and established the Montana Reserved Water Rights Compact Commission to negotiate compacts for the equitable division and apportionment of waters between the state and its people and several Indian tribes claiming reserved water rights within the state.

From the initial meeting in 1992, to the conclusion of an agreed on water rights Compact in 1997, the State, the Federal Government and the Tribe acted in good faith and worked together to explore options. This culminated in passage of a resolution by the Chippewa Cree Tribal Council to ratify the Compact on January 9, 1997. Following overwhelming approval by the Montana Legislature and appropriation of funds for implementation, Governor Marc Racicot signed the Compact into state law on April 14, 1997. Subsequent negotiation, in which staff from my office assisted the State and Tribe, resulted in approval by the United States Departments of the Interior and Justice and drafting of this bill by the three parties.

The litigation filed in State water court in 1982 is stayed pending the outcome of this bill. Once passed, the United States, the Tribe and the State of Montana will petition the Montana Water Court to enter a decree reflecting the water rights of the Tribe.

I thank my colleagues for supporting this very positive legislation. After years of hard work and negotiations, we have a victory to be thankful for at last.

Mr. President, I yield the floor.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the amendment be agreed to, the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 2512) was agreed to.

The bill (S. 438), as amended, was read the third time and passed, as follows:

S. 438

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 ''Chippewa Cree Tribe of The Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999''.

SEC. 2. FINDINGS.

Congress finds that—

(1) in fulfillment of its trust responsibility to Indian tribes and to promote tribal sovereignty and economic self-sufficiency, it is the policy of the United States to settle the water rights claims of the tribes without lengthy and costly litigation;

(2) the Rocky Boy's Reservation was established as a homeland for the Chippewa Cree Tribe;

(3) adequate water for the Chippewa Cree Tribe of the Rocky Boy's Reservation is important to a permanent, sustainable, and sovereign homeland for the Tribe and its members;

(4) the sovereignty of the Chippewa Cree Tribe and the economy of the Reservation depend on the development of the water resources of the Reservation;

(5) the planning, design, and construction of the facilities needed to utilize water supplies effectively are necessary to the development of a viable Reservation economy and to implementation of the Chippewa Cree-Montana Water Rights Compact;

(6) the Rocky Boy's Reservation is located in a water-short area of Montana and it is appropriate that the Act provide funding for

the development of additional water supplies, including domestic water, to meet the needs of the Chippewa Cree Tribe;

(7) proceedings to determine the full extent of the water rights of the Chippewa Cree Tribe are currently pending before the Montana Water Court as a part of In the Matter of the Adjudication of All Rights to the Use of Water, Both Surface and Underground, within the State of Montana;

(8) recognizing that final resolution of the general stream adjudication will take many years and entail great expense to all parties, prolong uncertainty as to the availability of water supplies, and seriously impair the long-term economic planning and development of all parties, the Chippewa Cree Tribe and the State of Montana entered into the Compact on April 14, 1997; and

(9) the allocation of water resources from the Tiber Reservoir to the Chippewa Cree Tribe under this Act is uniquely suited to the geographic, social, and economic characteristics of the area and situation involved.

SEC. 3. PURPOSES.

The purposes of this Act are as follows:

(1) To achieve a fair, equitable, and final settlement of all claims to water rights in the State of Montana for—

(A) the Chippewa Cree Tribe; and

(B) the United States for the benefit of the Chippewa Cree Tribe.

(2) To approve, ratify, and confirm, as modified in this Act, the Chippewa Cree-Montana Water Rights Compact entered into by the Chippewa Cree Tribe of the Rocky Boy's Reservation and the State of Montana on April 14, 1997, and to provide funding and other authorization necessary for the implementation of the Compact.

(3) To authorize the Secretary of the Interior to execute and implement the Compact referred to in paragraph (2) and to take such other actions as are necessary to implement the Compact in a manner consistent with this Act.

(4) To authorize Federal feasibility studies designed to identify and analyze potential mechanisms to enhance, through conservation or otherwise, water supplies in North Central Montana, including mechanisms to import domestic water supplies for the future growth of the Rocky Boy's Indian Reservation.

(5) To authorize certain projects on the Rocky Boy's Indian Reservation, Montana, in order to implement the Compact.

(6) To authorize certain modifications to the purposes and operation of the Bureau of Reclamation's Tiber Dam and Lake Elwell on the Marias River in Montana in order to provide the Tribe with an allocation of water from Tiber Reservoir.

(7) To authorize the appropriation of funds necessary for the implementation of the Compact.

SEC. 4. DEFINITIONS.

In this Act:

(1) ACT.—The term ''Act'' means the ''Chippewa Cree Tribe of The Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999''.

(2) COMPACT.—The term ''Compact'' means the water rights compact between the Chippewa Cree Tribe of the Rocky Boy's Reservation and the State of Montana contained in section 85–20–601 of the Montana Code Annotated (1997).

(3) FINAL.—The term ''final'' with reference to approval of the decree in section 101(b) means completion of any direct appeal to the Montana Supreme Court of a final decree by the Water Court pursuant to section 85–2–235 of the Montana Code Annotated (1997), or to the Federal Court of Appeals, including the expiration of the time in which a petition for certiorari may be filed in the United States Supreme Court, denial of such a petition, or the issuance of the Supreme Court's mandate, whichever occurs last.

(4) FUND.—The term ''Fund'' means the Chippewa Cree Indian Reserved Water Rights Settlement Fund established under section 104.

(5) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given that term in section 101(2) of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a(2)).

(6) MR&I FEASIBILITY STUDY.—The term ''MR&I feasibility study'' means a municipal, rural, and industrial, domestic, and incidental drought relief feasibility study described in section 202.

(7) MISSOURI RIVER SYSTEM.—The term ''Missouri River System'' means the mainstem of the Missouri River and its tributaries, including the Marias River.

(8) RECLAMATION LAW.—The term ''Reclamation Law'' has the meaning given the term ''reclamation law'' in section 4 of the Act of December 5, 1924 (43 Stat. 701, chapter 4; 43 U.S.C. 371).

(9) ROCKY BOY'S RESERVATION; RESERVATION.—The term ''Rocky Boy's Reservation'' or ''Reservation'' means the Rocky Boy's Reservation of the Chippewa Cree Tribe in Montana.

(10) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, or his or her duly authorized representative.

(11) TOWE PONDS.—The term ''Towe Ponds'' means the reservoir or reservoirs referred to as ''Stoneman Reservoir'' in the Compact.

(12) TRIBAL COMPACT ADMINISTRATION.—The term ''Tribal Compact Administration'' means the activities assumed by the Tribe for implementation of the Compact as set forth in Article IV of the Compact.

(13) TRIBAL WATER CODE.—The term ''tribal water code'' means a water code adopted by the Tribe, as provided in the Compact.

(14) TRIBAL WATER RIGHT.—

(A) IN GENERAL.—The term ''Tribal Water Right'' means the water right set forth in section 85–20–601 of the Montana Code Annotated (1997) and includes the water allocation set forth in Title II of this Act.

(B) RULE OF CONSTRUCTION.—The definition of the term ''Tribal Water Right'' under this paragraph and the treatment of that right under this Act shall not be construed or interpreted as a precedent for the litigation of reserved water rights or the interpretation or administration of future compacts between the United States and the State of Montana or any other State.

(15) TRIBE.—The term ''Tribe'' means the Chippewa Cree Tribe of the Rocky Boy's Reservation and all officers, agents, and departments thereof.

(16) WATER DEVELOPMENT.—The term ''water development'' includes all activities that involve the use of water or modification of water courses or water bodies in any way.

SEC. 5. MISCELLANEOUS PROVISIONS.

(a) NONEXERCISE OF TRIBE'S RIGHTS.—Pursuant to Tribal Resolution No. 40–98, and in exchange for benefits under this Act, the Tribe shall not exercise the rights set forth in Article VII.A.3 of the Compact, except that in the event that the approval, ratification, and confirmation of the Compact by the United States becomes null and void under section 101(b), the Tribe shall have the right to exercise the rights set forth in Article VII.A.3 of the Compact.

(b) WAIVER OF SOVEREIGN IMMUNITY.—Except to the extent provided in subsections (a), (b), and (c) of section 208 of the Department of Justice Appropriation Act, 1953 (43 U.S.C. 666), nothing in this Act may be construed to waive the sovereign immunity of the United States.

(c) TRIBAL RELEASE OF CLAIMS AGAINST THE UNITED STATES.—

(1) IN GENERAL.—Pursuant to Tribal Resolution No. 40–98, and in exchange for benefits under this Act, the Tribe shall, on the date of enactment of this Act, execute a waiver and release of the claims described in paragraph (2) against the United States, the validity of which are not recognized by the United States, except that—

(A) the waiver and release of claims shall not become effective until the appropriation of the funds authorized in section 105, the water allocation in section 201, and the appropriation of funds for the MR&I feasibility study authorized in section 204 have been completed and the decree has become final in accordance with the requirements of section 101(b); and

(B) in the event that the approval, ratification, and confirmation of the Compact by the United States becomes null and void under section 101(b), the waiver and release of claims shall become null and void.

(2) CLAIMS DESCRIBED.—The claims referred to in paragraph (1) are as follows:

(A) Any and all claims to water rights (including water rights in surface water, ground water, and effluent), claims for injuries to water rights, claims for loss or deprivation of use of water rights, and claims for failure to acquire or develop water rights for lands of the Tribe from time immemorial to the date of ratification of the Compact by Congress.

(B) Any and all claims arising out of the negotiation of the Compact and the settlement authorized by this Act.

(3) SETOFFS.—In the event the waiver and release do not become effective as set forth in paragraph (1)—

(A) the United States shall be entitled to setoff against any claim for damages asserted by the Tribe against the United States, any funds transferred to the Tribe pursuant to section 104, and any interest accrued thereon up to the date of setoff; and

(B) the United States shall retain any other claims or defenses not waived in this Act or in the Compact as modified by this Act.

(d) OTHER TRIBES NOT ADVERSELY AFFECTED.—Nothing in this Act shall be construed to quantify or otherwise adversely affect the land and water rights, or claims or entitlements to land or water of an Indian tribecc other than the Chippewa Cree Tribe.

(e) ENVIRONMENTAL COMPLIANCE.—In implementing the Compact, the Secretary shall comply with all aspects of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and all other applicable environmental Acts and regulations.

(f) EXECUTION OF COMPACT.—The execution of the Compact by the Secretary as provided for in this Act shall not constitute a major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.). The Secretary is directed to carry out all necessary environmental compliance required by Federal law in implementing the Compact.

(g) CONGRESSIONAL INTENT.—Nothing in this Act shall be construed to prohibit the Tribe from seeking additional authorization or appropriation of funds for tribal programs or purposes.

(h) ACT NOT PRECEDENTIAL.—Nothing in this Act shall be construed or interpreted as a precedent for the litigation of reserved water rights or the interpretation or administration of future water settlement Acts.

TITLE I—CHIPPEWA CREE TRIBE OF THE ROCKY BOY'S RESERVATION INDIAN RESERVED WATER RIGHTS SETTLEMENT

SEC. 101. RATIFICATION OF COMPACT AND ENTRY OF DECREE.

(a) WATER RIGHTS COMPACT APPROVED.—Except as modified by this Act, and to the extent the Compact does not conflict with this Act—

(1) the Compact, entered into by the Chippewa Cree Tribe of the Rocky Boy's Reservation and the State of Montana on April 14, 1997, is hereby approved, ratified, and confirmed; and

(2) the Secretary shall—

(A) execute and implement the Compact together with any amendments agreed to by the parties or necessary to bring the Compact into conformity with this Act; and

(B) take such other actions as are necessary to implement the Compact.

(b) APPROVAL OF DECREE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the United States, the Tribe, or the State of Montana shall petition the Montana Water Court, individually or jointly, to enter and approve the decree agreed to by the United States, the Tribe, and the State of Montana attached as Appendix 1 to the Compact, or any amended version thereof agreed to by the United States, the Tribe, and the State of Montana.

(2) RESORT TO THE FEDERAL DISTRICT COURT.—Under the circumstances set forth in Article VII.B.4 of the Compact, 1 or more parties may file an appropriate motion (as provided in that article) in the United States district court of appropriate jurisdiction.

(3) EFFECT OF FAILURE OF APPROVAL TO BECOME FINAL.—In the event the approval by the appropriate court, including any direct appeal, does not become final within 3 years after the filing of the decree, or the decree is approved but is subsequently set aside by the appropriate court—

(A) the approval, ratification, and confirmation of the Compact by the United States shall be null and void; and

(B) except as provided in subsections (a) and (c)(3) of section 5 and section 105(e)(1), this Act shall be of no further force and effect.

SEC. 102. USE AND TRANSFER OF THE TRIBAL WATER RIGHT.

(a) ADMINISTRATION AND ENFORCEMENT.—As provided in the Compact, until the adoption and approval of a tribal water code by the Tribe, the Secretary shall administer and enforce the Tribal Water Right.

(b) TRIBAL MEMBER ENTITLEMENT.—

(1) IN GENERAL.—Any entitlement to Federal Indian reserved water of any tribal member shall be satisfied solely from the water secured to the Tribe by the Compact and shall be governed by the terms and conditions of the Compact.

(2) ADMINISTRATION.—An entitlement described in paragraph (1) shall be administered by the Tribe pursuant to a tribal water code developed and adopted pursuant to Article IV.A.2 of the Compact, or by the Secretary pending the adoption and approval of the tribal water code.

(c) TEMPORARY TRANSFER OF TRIBAL WATER RIGHT.—The Tribe may, with the approval of the Secretary and the approval of the State of Montana pursuant to Article IV.A.4 of the Compact, transfer any portion of the Tribal water right for use off the Reservation by service contract, lease, exchange, or other agreement. No service contract, lease, exchange, or other agreement entered into under this subsection may permanently alienate any portion of the Tribal water right. The enactment of this subsection shall constitute a plenary exercise of the powers set forth in Article I, section 8(3) of the United States Constitution and is statutory law of the United States within the meaning of Article IV.A.4.b.(3) of the Compact.

SEC. 103. ON-RESERVATION WATER RESOURCES DEVELOPMENT.

(a) WATER DEVELOPMENT PROJECTS.—The Secretary, acting through the Bureau of Reclamation, is authorized and directed to plan, design, and construct, or to provide, pursuant to subsection (b), for the planning, design, and construction of the following water development projects on the Rocky Boy's Reservation:

(1) Bonneau Dam and Reservoir Enlargement.

(2) East Fork of Beaver Creek Dam Repair and Enlargement.

(3) Brown's Dam Enlargement.

(4) Towe Ponds' Enlargement.

(5) Such other water development projects as the Tribe shall from time to time consider appropriate.

(b) IMPLEMENTATION AGREEMENT.—The Secretary, at the request of the Tribe, shall enter into an agreement, or, if appropriate, renegotiate an existing agreement, with the Tribe to implement the provisions of this Act through the Tribe's annual funding agreement entered into under the self-governance program under title IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aa et seq.) by which the Tribe shall plan, design, and construct any or all of the projects authorized by this section.

(c) BUREAU OF RECLAMATION PROJECT ADMINISTRATION.—

(1) IN GENERAL.—Congress finds that the Secretary, through the Bureau of Reclamation, has entered into an agreement with the Tribe, pursuant to title IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aa et seq.)—

(A) defining and limiting the role of the Bureau of Reclamation in its administration of the projects authorized in subsection (a);

(B) establishing the standards upon which the projects will be constructed; and

(C) for other purposes necessary to implement this section.

(2) AGREEMENT.—The agreement referred to in paragraph (1) shall become effective when the Tribe exercises its right under subsection (b).

SEC. 104. CHIPPEWA CREE INDIAN RESERVED WATER RIGHTS SETTLEMENT TRUST FUND.

(a) ESTABLISHMENT OF TRUST FUND.—

(1) IN GENERAL.—

(A) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a trust fund for the Chippewa Cree Tribe of the Rocky Boy's Reservation to be known as the "Chippewa Cree Indian Reserved Water Rights Settlement Trust Fund".

(B) AVAILABILITY OF AMOUNTS IN FUND.—

(i) IN GENERAL.—Amounts in the Fund shall be available to the Secretary for management and investment on behalf of the Tribe and distribution to the Tribe in accordance with this Act.

(ii) AVAILABILITY.—Funds made available from the Fund under this section shall be available without fiscal year limitation.

(2) MANAGEMENT OF FUND.—The Secretary shall deposit and manage the principal and interest in the Fund in a manner consistent with subsection (b) and other applicable provisions of this Act.

(3) CONTENTS OF FUND.—The Fund shall consist of the amounts authorized to be appropriated to the Fund under section 105(a) and such other amounts as may be transferred or credited to the Fund.

(4) WITHDRAWAL.—The Tribe, with the approval of the Secretary, may withdraw the Fund and deposit it in a mutually agreed upon private financial institution. That withdrawal shall be made pursuant to the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(5) ACCOUNTS.—The Secretary of the Interior shall establish the following accounts in the Fund and shall allocate appropriations to the various accounts as required in this Act:

(A) The Tribal Compact Administration Account.

(B) The Economic Development Account.

(C) The Future Water Supply Facilities Account.

(b) FUND MANAGEMENT.—

(1) IN GENERAL.—

(A) AMOUNTS IN FUND.—The Fund shall consist of such amounts as are appropriated to the Fund and allocated to the accounts of the Fund by the Secretary as provided for in this Act and in accordance with the authorizations for appropriations in paragraphs (1), (2), and (3) of section 105(a), together with all interest that accrues in the Fund.

(B) MANAGEMENT BY SECRETARY.—The Secretary shall manage the Fund, make investments from the Fund, and make available funds from the Fund for distribution to the Tribe in a manner consistent with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(2) TRIBAL MANAGEMENT.—

(A) IN GENERAL.—If the Tribe exercises its right pursuant to subsection (a)(4) to withdraw the Fund and deposit it in a private financial institution, except as provided in the withdrawal plan, neither the Secretary nor the Secretary of the Treasury shall retain any oversight over or liability for the accounting, disbursement, or investment of the funds.

(B) WITHDRAWAL PLAN.—The withdrawal plan referred to in subparagraph (A) shall provide for—

(i) the creation of accounts and allocation to accounts in a fund established under the plan in a manner consistent with subsection (a); and

(ii) the appropriate terms and conditions, if any, on expenditures from the fund (in addition to the requirements of the plans set forth in paragraphs (2) and (3) of subsection (c)).

(c) USE OF FUND.—The Tribe shall use the Fund to fulfill the purposes of this Act, subject to the following restrictions on expenditures:

(1) Except for $400,000 necessary for capital expenditures in connection with Tribal Compact Administration, only interest accrued on the Tribal Compact Administration Account referred to in subsection (a)(5)(A) shall be available to satisfy the Tribe's obligations for Tribal Compact Administration under the provisions of the Compact.

(2) Both principal and accrued interest on the Economic Development Account referred to in subsection (a)(5)(B) shall be available to the Tribe for expenditure pursuant to an economic development plan approved by the Secretary.

(3) Both principal and accrued interest on the Future Water Supply Facilities Account referred to in subsection (a)(5)(C) shall be available to the Tribe for expenditure pursuant to a water supply plan approved by the Secretary.

(d) INVESTMENT OF FUND.—

(1) IN GENERAL.—

(A) APPLICABLE LAWS.—The Secretary shall invest amounts in the Fund in accordance with—

(i) the Act of April 1, 1880 (21 Stat. 70, chapter 41; 25 U.S.C. 161);

(ii) the first section of the Act entitled "An Act to authorize the payment of interest of certain funds held in trust by the

United States for Indian tribes'', approved February 12, 1929 (25 U.S.C. 161a); and

(iii) the first section of the Act entitled ''An Act to authorize the deposit and investment of Indian funds'', approved June 24, 1938 (25 U.S.C.162a).

(B) CREDITING OF AMOUNTS TO THE FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations of the United States held in the Fund shall be credited to and form part of the Fund. The Secretary of the Treasury shall credit to each of the accounts contained in the Fund a proportionate amount of that interest and proceeds.

(2) CERTAIN WITHDRAWN FUNDS.—

(A) IN GENERAL.—Amounts withdrawn from the Fund and deposited in a private financial institution pursuant to a withdrawal plan approved by the Secretary under the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.) shall be invested by an appropriate official under that plan.

(B) DEPOSIT OF INTEREST AND PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held under this paragraph shall be deposited in the private financial institution referred to in subparagraph (A) in the fund established pursuant to the withdrawal plan referred to in that subparagraph. The appropriate official shall credit to each of the accounts contained in that fund a proportionate amount of that interest and proceeds.

(e) AGREEMENT REGARDING FUND EXPENDITURES.—If the Tribe does not exercise its right under subsection (a)(4) to withdraw the funds in the Fund and transfer those funds to a private financial institution, the Secretary shall enter into an agreement with the Tribe providing for appropriate terms and conditions, if any, on expenditures from the Fund in addition to the plans set forth in paragraphs (2) and (3) of subsection (c).

(f) PER CAPITA DISTRIBUTIONS PROHIBITED.—No part of the Fund shall be distributed on a per capita basis to members of the Tribe.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

(a) CHIPPEWA CREE FUND.—There is authorized to be appropriated for the Fund, $21,000,000 to be allocated by the Secretary as follows:

(1) TRIBAL COMPACT ADMINISTRATION ACCOUNT.—For Tribal Compact Administration assumed by the Tribe under the Compact and this Act, $3,000,000 is authorized to be appropriated for fiscal year 2000.

(2) ECONOMIC DEVELOPMENT ACCOUNT.—For tribal economic development, $3,000,000 is authorized to be appropriated for fiscal year 2000.

(3) FUTURE WATER SUPPLY FACILITIES ACCOUNT.—For the total Federal contribution to the planning, design, construction, operation, maintenance, and rehabilitation of a future water supply system for the Reservation, there are authorized to be appropriated—

(A) $2,000,000 for fiscal year 2000;

(B) $8,000,000 for fiscal year 2001; and

(C) $5,000,000 for fiscal year 2002.

(b) ON-RESERVATION WATER DEVELOPMENT.—

(1) IN GENERAL.—There are authorized to be appropriated to the Department of the Interior, for the Bureau of Reclamation, for the construction of the on-Reservation water development projects authorized by section 103—

(A) $13,000,000 for fiscal year 2000, for the planning, design, and construction of the Bonneau Dam Enlargement, for the development of additional capacity in Bonneau Reservoir for storage of water secured to the Tribe under the Compact;

(B) $8,000,000 for fiscal year 2001, for the planning, design, and construction of the East Fork Dam and Reservoir enlargement, of the Brown's Dam and Reservoir enlargement, and of the Towe Ponds enlargement of which—

(i) $4,000,000 shall be used for the East Fork Dam and Reservoir enlargement;

(ii) $2,000,000 shall be used for the Brown's Dam and Reservoir enlargement; and

(iii) $2,000,000 shall be used for the Towe Ponds enlargement; and

(C) $3,000,000 for fiscal year 2002, for the planning, design, and construction of such other water resource developments as the Tribe, with the approval of the Secretary, from time to time may consider appropriate or for the completion of the 4 projects enumerated in subparagraphs (A) and (B) of paragraph (1).

(2) UNEXPENDED BALANCES.—Any unexpended balance in the funds authorized to be appropriated under subparagraph (A) or (B) of paragraph (1), after substantial completion of all of the projects enumerated in paragraphs (1) through (4) of section 103(a)—

(A) shall be available to the Tribe first for completion of the enumerated projects; and

(B) then for other water resource development projects on the Reservation.

(c) ADMINISTRATION COSTS.—There is authorized to be appropriated to the Department of the Interior, for the Bureau of Reclamation, $1,000,000 for fiscal year 2000, for the costs of administration of the Bureau of Reclamation under this Act, except that—

(1) if those costs exceed $1,000,000, the Bureau of Reclamation may use funds authorized for appropriation under subsection (b) for costs; and

(2) the Bureau of Reclamation shall exercise its best efforts to minimize those costs to avoid expenditures for the costs of administration under this Act that exceed a total of $1,000,000.

(d) AVAILABILITY OF FUNDS.—

(1) IN GENERAL.—The amounts authorized to be appropriated to the Fund and allocated to its accounts pursuant to subsection (a) shall be deposited into the Fund and allocated immediately on appropriation.

(2) INVESTMENTS.—Investments may be made from the Fund pursuant to section 104(d).

(3) AVAILABILITY OF CERTAIN MONEYS.—The amounts authorized to be appropriated in subsection (a)(1) shall be available for use immediately upon appropriation in accordance with subsection 104(c)(1).

(4) LIMITATION.—Those moneys allocated by the Secretary to accounts in the Fund or in a fund established under section 104(a)(4) shall draw interest consistent with section 104(d), but the moneys authorized to be appropriated under subsection (b) and paragraphs (2) and (3) of subsection (a) shall not be available for expenditure until the requirements of section 101(b) have been met so that the decree has become final and the Tribe has executed the waiver and release required under section 5(c).

(e) RETURN OF FUNDS TO THE TREASURY.—

(1) IN GENERAL.—In the event that the approval, ratification, and confirmation of the Compact by the United States becomes null and void under section 101(b), all unexpended funds appropriated under the authority of this Act together with all interest earned on such funds, notwithstanding whether the funds are held by the Tribe, a private institution, or the Secretary, shall revert to the general fund of the Treasury 12 months after the expiration of the deadline established in section 101(b).

(2) INCLUSION IN AGREEMENTS AND PLAN.—The requirements in paragraph (1) shall be included in all annual funding agreements entered into under the self-governance program under title IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aa et seq.), withdrawal plans, withdrawal agreements, or any other agreements for withdrawal or transfer of the funds to the Tribe or a private financial institution under this Act.

(f) WITHOUT FISCAL YEAR LIMITATION.—All money appropriated pursuant to authorizations under this title shall be available without fiscal year limitation.

SEC. 106. STATE CONTRIBUTIONS TO SETTLEMENT.

Consistent with Articles VI.C.2 and C.3 of the Compact, the State contribution to settlement shall be as follows:

(1) The contribution of $150,000 appropriated by Montana House Bill 6 of the 55th Legislative Session (1997) shall be used for the following purposes:

(A) Water quality discharge monitoring wells and monitoring program.

(B) A diversion structure on Big Sandy Creek.

(C) A conveyance structure on Box Elder Creek.

(D) The purchase of contract water from Lower Beaver Creek Reservoir.

(2) Subject to the availability of funds, the State shall provide services valued at $400,000 for administration required by the Compact and for water quality sampling required by the Compact.

TITLE II—TIBER RESERVOIR ALLOCATION AND FEASIBILITY STUDIES AUTHORIZATION.

SEC. 201. TIBER RESERVOIR.

(a) ALLOCATION OF WATER TO THE TRIBE.—

(1) IN GENERAL.—The Secretary shall permanently allocate to the Tribe, without cost to the Tribe, 10,000 acre-feet per year of stored water from the water right of the Bureau of Reclamation in Lake Elwell, Lower Marias Unit, Upper Missouri Division, Pick-Sloan Missouri Basin Program, Montana, measured at the outlet works of the dam or at the diversion point from the reservoir. The allocation shall become effective when the decree referred to in section 101(b) has become final in accordance with that section. The allocation shall be part of the Tribal Water Right and subject to the terms of this Act.

(2) AGREEMENT.—The Secretary shall enter into an agreement with the Tribe setting forth the terms of the allocation and providing for the Tribe's use or temporary transfer of water stored in Lake Elwell, subject to the terms and conditions of the Compact and this Act.

(3) PRIOR RESERVED WATER RIGHTS.—The allocation provided in this section shall be subject to the prior reserved water rights, if any, of any Indian tribe, or person claiming water through any Indian tribe.

(b) USE AND TEMPORARY TRANSFER OF ALLOCATION.—

(1) IN GENERAL.—Subject to the limitations and conditions set forth in the Compact and this Act, the Tribe shall have the right to devote the water allocated by this section to any use, including agricultural, municipal, commercial, industrial, mining, or recreational uses, within or outside the Rocky Boy's Reservation.

(2) CONTRACTS AND AGREEMENTS.—Notwithstanding any other provision of statutory or common law, the Tribe may, with the approval of the Secretary and subject to the limitations and conditions set forth in the Compact, enter into a service contract, lease, exchange, or other agreement providing for the temporary delivery, use, or transfer of the water allocated by this section, except that no such service contract, lease, exchange, or other agreement may permanently alienate any portion of the tribal allocation.

(c) REMAINING STORAGE.—The United States shall retain the right to use for any authorized purpose, any and all storage remaining in Lake Elwell after the allocation made to the Tribe in subsection (a).

(d) WATER TRANSPORT OBLIGATION; DEVELOPMENT AND DELIVERY COSTS.—The United States shall have no responsibility or obligation to provide any facility for the transport of the water allocated by this section to the Rocky Boy's Reservation or to any other location. Except for the contribution set forth in section 105(a)(3), the cost of developing and delivering the water allocated by this title or any other supplemental water to the Rocky Boy's Reservation shall not be borne by the United States.

(e) SECTION NOT PRECEDENTIAL.—The provisions of this section regarding the allocation of water resources from the Tiber Reservoir to the Tribe shall not be construed as precedent in the litigation or settlement of any other Indian water right claims.

SEC. 202. MUNICIPAL, RURAL, AND INDUSTRIAL FEASIBILITY STUDY.

(a) AUTHORIZATION.—

(1) IN GENERAL.—

(A) STUDY.—The Secretary, acting through the Bureau of Reclamation, shall perform an MR&I feasibility study of water and related resources in North Central Montana to evaluate alternatives for a municipal, rural, and industrial supply for the Rocky Boy's Reservation.

(B) USE OF FUNDS MADE AVAILABLE FOR FISCAL YEAR 1999.—The authority under subparagraph (A) shall be deemed to apply to MR&I feasibility study activities for which funds were made available by appropriations for fiscal year 1999.

(2) CONTENTS OF STUDY.—The MR&I feasibility study shall include the feasibility of releasing the Tribe's Tiber allocation as provided for in section 201 into the Missouri River System for later diversion to a treatment and delivery system for the Rocky Boy's Reservation.

(3) UTILIZATION OF EXISTING STUDIES.—The MR&I feasibility study shall include utilization of existing Federal and non-Federal studies and shall be planned and conducted in consultation with other Federal agencies, the State of Montana, and the Chippewa Cree Tribe.

(b) ACCEPTANCE OR PARTICIPATION IN IDENTIFIED OFF-RESERVATION SYSTEM.—The United States, the Chippewa Cree Tribe of the Rocky Boy's Reservation, and the State of Montana shall not be obligated to accept or participate in any potential off-Reservation water supply system identified in the MR&I feasibility study authorized in subsection (a).

SEC. 203. REGIONAL FEASIBILITY STUDY—

(a) IN GENERAL.—

(1) STUDY.—The Secretary, acting through the Bureau of Reclamation, shall conduct, pursuant to Reclamation Law, a regional feasibility study (referred to in this subsection as the ''regional feasibility study'') to evaluate water and related resources in North-Central Montana in order to determine the limitations of those resources and how those resources can best be managed and developed to serve the needs of the citizens of Montana.

(2) USE OF FUNDS MADE AVAILABLE FOR FISCAL YEAR 1999.—The authority under paragraph (1) shall be deemed to apply to regional feasibility study activities for which funds were made available by appropriations for fiscal year 1999.

(b) CONTENTS OF STUDY.—The regional feasibility study shall—

(1) evaluate existing and potential water supplies, uses, and management;

(2) identify major water-related issues, including environmental, water supply, and economic issues;

(3) evaluate opportunities to resolve the issues referred to in paragraph (2); and

(4) evaluate options for implementation of resolutions to the issues.

(c) REQUIREMENTS.—Because of the regional and international impact of the regional feasibility study, the study may not be segmented. The regional study shall—

(1) utilize, to the maximum extent possible, existing information; and

(2) be planned and conducted in consultation with all affected interests, including interests in Canada.

SEC. 204. AUTHORIZATION OF APPROPRIATIONS FOR FEASIBILITY STUDIES.

(a) FISCAL YEAR 1999 APPROPRIATIONS.—Of the amounts made available by appropriations for fiscal year 1999 for the Bureau of Reclamation, $1,000,000 shall be used for the purpose of commencing the MR&I feasibility study under section 202 and the regional study under section 203, of which—

(1) $500,000 shall be used for the MR&I study under section 202; and

(2) $500,000 shall be used for the regional study under section 203.

(b) FEASIBILITY STUDIES.—There is authorized to be appropriated to the Department of the Interior, for the Bureau of Reclamation, for the purpose of conducting the MR&I feasibility study under section 202 and the regional study under section 203, $3,000,000 for fiscal year 2000, of which—

(1) $500,000 shall be used for the MR&I feasibility study under section 202; and

(2) $2,500,000 shall be used for the regional study under section 203.

(c) WITHOUT FISCAL YEAR LIMITATION.—All money appropriated pursuant to authorizations under this title shall be available without fiscal year limitation.

(d) AVAILABILITY OF CERTAIN MONEYS.—The amounts made available for use under subsection (a) shall be deemed to have been available for use as of the date on which those funds were appropriated. The amounts authorized to be appropriated in subsection (b) shall be available for use immediately upon appropriation.

SERBIA DEMOCRATIZATION ACT OF 1999

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 256, S. 720.

The PRESIDING OFFICER. The clerk will report the bill by title. The legislative clerk read as follows:

A bill (S. 720) to promote the development of a government in the Federal Republic of Yugoslavia (Serbia and Montenegro) based on democratic principles and the rule of law, and that respects internationally recognized human rights, to assist the victims of Serbian oppression, to apply measures against the Federal Republic of Yugoslavia, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Foreign Relations, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Serbia Democratization Act of 1999''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
TITLE I—SUPPORT FOR THE DEMOCRATIC OPPOSITION
Sec. 101. Findings and policy.
Sec. 102. Assistance to promote democracy and civil society in Yugoslavia.
Sec. 103. Authority for radio and television broadcasting.
TITLE II—ASSISTANCE TO THE VICTIMS OF SERBIAN OPPRESSION
Sec. 201. Findings.
Sec. 202. Sense of Congress.
Sec. 203. Assistance.
TITLE III—''OUTER WALL'' SANCTIONS
Sec. 301. ''Outer wall'' sanctions.
Sec. 302. International financial institutions not in compliance with ''outer wall'' sanctions.
TITLE IV—OTHER MEASURES AGAINST YUGOSLAVIA
Sec. 401. Blocking Yugoslavia assets in the United States.
Sec. 402. Suspension of entry into the United States.
Sec. 403. Prohibition on strategic exports to Yugoslavia.
Sec. 404. Prohibition on loans and investment.
Sec. 405. Prohibition of military-to-military cooperation.
Sec. 406. Multilateral sanctions.
Sec. 407. Exemptions.
Sec. 408. Waiver; termination of measures against Yugoslavia.
Sec. 409. Statutory construction.
TITLE V—MISCELLANEOUS PROVISIONS
Sec. 501. The International Criminal Tribunal for the former Yugoslavia.
Sec. 502. Sense of Congress with respect to ethnic Hungarians of Vojvodina.
Sec. 503. Ownership and use of diplomatic and consular properties.
Sec. 504. Transition assistance.

SEC. 2. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(2) COMMERCIAL EXPORT.—The term ''commercial export'' means the sale of a farm product or medicine by a United States seller to a foreign buyer in exchange for cash payment on market terms without benefit of concessionary financing, export subsidies, government or government-backed credits or other nonmarket financing arrangements.

(3) INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA OR TRIBUNAL.—The term ''International Criminal Tribunal for the former Yugoslavia'' or the ''Tribunal'' means the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia Since 1991, as established by United Nations Security Council Resolution 827 of May 25, 1993.

(4) YUGOSLAVIA.—The term ''Yugoslavia'' means the so-called Federal Republic of Yugoslavia (Serbia and Montenegro), and the term ''Government of Yugoslavia'' means the central government of Yugoslavia.

TITLE I—SUPPORT FOR THE DEMOCRATIC OPPOSITION

SEC. 101. FINDINGS AND POLICY.

(a) FINDINGS.—Congress finds the following:

(1) The President of Yugoslavia, Slobodan Milosevic, has consistently engaged in undemocratic methods of governing.

(2) Yugoslavia has passed and implemented a law strictly limiting freedom of the press and has acted to intimidate and prevent independent media from operating inside Yugoslavia.

(3) Although the Yugoslav and Serbian constitutions provide for the right of citizens to change their government, citizens of Serbia in practice are prevented from exercising that right by the Milosevic regime's domination of the

mass media and manipulation of the electoral process.

(4) The Yugoslav government has orchestrated attacks on academics at institutes and universities throughout the country in an effort to prevent the dissemination of opinions that differ from official state propaganda.

(5) The Yugoslav government prevents the formation of nonviolent, democratic opposition through restrictions on freedom of assembly and association.

(6) The Yugoslav government uses control and intimidation to control the judiciary and manipulates the country's legal framework to suit the regime's immediate political interests.

(7) The Government of Serbia and the Government of Yugoslavia, under the direction of President Milosevic, have obstructed the efforts of the Government of Montenegro to pursue democratic and free-market policies.

(8) At great risk, the Government of Montenegro has withstood efforts by President Milosevic to interfere with its government and supported the goals of the United States in the conflict in Kosovo.

(9) The people of Serbia who do not endorse the undemocratic actions of the Milosevic government should not be the target of criticism that is rightly directed at the Milosevic regime.

(b) POLICY.—

(1) It is the policy of the United States to encourage the development of a government in Yugoslavia based on democratic principles and the rule of law and that respects internationally recognized human rights.

(2) It is the sense of Congress that—

(A) the United States should actively support the democratic opposition in Yugoslavia, including political parties and independent trade unions, to develop a legitimate and viable alternative to the Milosevic regime;

(B) all United States Government officials, including individuals from the private sector acting on behalf of the United States Government, should attempt to meet regularly with representatives of democratic opposition organizations of Yugoslavia and minimize to the extent practicable any direct contacts with government officials from Yugoslavia, particularly President Slobodan Milosevic, who perpetuate the nondemocratic regime in Yugoslavia; and

(C) the United States should emphasize to all political leaders in Yugoslavia the importance of respecting internationally recognized human rights for all individuals residing in Yugoslavia.

SEC. 102. ASSISTANCE TO PROMOTE DEMOCRACY AND CIVIL SOCIETY IN YUGOSLAVIA.

(a) ASSISTANCE.—

(1) PURPOSE OF ASSISTANCE.—The purpose of assistance under this subsection is to promote and strengthen institutions of democratic government and the growth of an independent civil society in Yugoslavia, including ethnic tolerance and respect for internationally recognized human rights.

(2) AUTHORIZATION FOR ASSISTANCE.—To carry out the purpose of paragraph (1), the President is authorized to furnish assistance and other support for the activities described in paragraph (3).

(3) ACTIVITIES SUPPORTED.—Activities that may be supported by assistance under paragraph (2) include the following:

(A) Democracy building.

(B) The development of nongovernmental organizations.

(C) The development of independent media working within Serbia if possible, but, if that is not feasible, from locations in neighboring countries.

(D) The development of the rule of law, to include a strong, independent judiciary, the impartial administration of justice, and transparency in political practices.

(E) International exchanges and advanced professional training programs in skill areas central to the development of civil society and a market economy.

(F) The development of all elements of the democratic process, including political parties and the ability to administer free and fair elections.

(G) The development of local governance.

(H) The development of a free-market economy.

(4) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—There is authorized to be appropriated to the President $100,000,000 for the period beginning October 1, 1999, and ending September 30, 2001, to carry out this subsection.

(B) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subparagraph (A) are authorized to remain available until expended.

(b) PROHIBITION ON ASSISTANCE TO GOVERNMENT OF SERBIA.—In carrying out subsection (a), the President should take all necessary steps to ensure that no funds or other assistance is provided to the Government of Yugoslavia or to the Government of Serbia, except for purposes permitted under this Act.

(c) ASSISTANCE TO GOVERNMENT OF MONTENEGRO.—In carrying out subsection (a), the President may provide assistance to the Government of Montenegro, unless the President determines, and so reports to the appropriate congressional committees, that the leadership of the Government of Montenegro is not committed to, or is not taking steps to promote, democratic principles, the rule of law, or respect for internationally recognized human rights.

SEC. 103. AUTHORITY FOR RADIO AND TELEVISION BROADCASTING.

(a) IN GENERAL.—The Broadcasting Board of Governors shall further the open communication of information and ideas through the increased use of radio and television broadcasting to Yugoslavia in both the Serbo-Croatian and Albanian languages.

(b) IMPLEMENTATION.—Radio and television broadcasting under subsection (a) shall be carried out by the Voice of America and, in addition, radio broadcasting under that subsection shall be carried out by RFE/RL, Incorporated. Subsection (a) shall be carried out in accordance with all the respective Voice of America and RFE/RL, Incorporated, standards to ensure that radio and television broadcasting to Yugoslavia serves as a consistently reliable and authoritative source of accurate, objective, and comprehensive news.

(c) STATUTORY CONSTRUCTION.—The implementation of subsection (a) may not be construed as a replacement for the strengthening of indigenous independent media called for in section 102(a)(3)(C). To the maximum extent practicable, the two efforts (strengthening independent media and increasing broadcasts into Serbia) shall be carried out in such a way that they mutually support each other.

TITLE II—ASSISTANCE TO THE VICTIMS OF SERBIAN OPPRESSION

SEC. 201. FINDINGS.

The Congress finds the following:

(1) Beginning in February 1998 and ending in June 1999, the armed forces of Yugoslavia and the Serbian Interior Ministry police force engaged in a brutal crackdown against the ethnic Albanian population in Kosovo.

(2) As a result of the attack by Yugoslav and Serbian forces against the Albanian population of Kosovo, more than 10,000 individuals have been killed and 1,500,000 individuals were displaced from their homes.

(3) The majority of the individuals displaced by the conflict in Kosovo was left homeless or was forced to find temporary shelter in Kosovo or outside the country.

(4) The activities of the Yugoslav armed forces and the police force of the Serbian Interior Ministry resulted in the widespread destruction of agricultural crops, livestock, and property, as well as the poisoning of wells and water supplies, and the looting of humanitarian goods provided by the international community.

SEC. 202. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) humanitarian assistance to the victims of the conflict in Kosovo, including refugees and internally displaced persons, and all assistance to rebuild damaged property in Kosovo, should be the responsibility of the Government of Yugoslavia and the Government of Serbia;

(2) under the direction of President Milosevic, neither the Government of Yugoslavia nor the Government of Serbia has provided the resources to assist innocent, civilian victims of oppression in Kosovo; and

(3) because neither the Government of Yugoslavia nor the Government of Serbia has fulfilled the responsibilities of a sovereign government toward the people in Kosovo, the international community offers the only recourse for humanitarian assistance to victims of oppression in Kosovo.

SEC. 203. ASSISTANCE.

(a) AUTHORITY.—The President is authorized to furnish assistance under section 491 of the Foreign Assistance Act of 1961 (22 U.S.C. 2292) and the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601 et seq.), as appropriate, for—

(1) relief, rehabilitation, and reconstruction in Kosovo; and

(2) refugees and persons displaced by the conflict in Kosovo.

(b) PROHIBITION.—No assistance may be provided under this section to any group that has been designated as a terrorist organization under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189).

(c) USE OF ECONOMIC SUPPORT FUNDS.—Any funds that have been allocated under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.) for assistance described in subsection (a) may be used in accordance with the authority of that subsection.

TITLE III—"OUTER WALL" SANCTIONS

SEC. 301. "OUTER WALL" SANCTIONS.

(a) APPLICATION OF MEASURES.—The sanctions described in subsections (c) through (g) shall apply with respect to Yugoslavia until the President determines and certifies to the appropriate congressional committees that the Government of Yugoslavia has made significant progress in meeting the conditions described in subsection (b).

(b) CONDITIONS.—The conditions referred to in subsection (a) are the following:

(1) Agreement on a lasting settlement in Kosovo.

(2) Compliance with the General Framework Agreement for Peace in Bosnia and Herzegovina.

(3) Implementation of internal democratic reform.

(4) Settlement of all succession issues with the other republics that emerged from the break-up of the Socialist Federal Republic of Yugoslavia.

(5) Cooperation with the International Criminal Tribunal for the former Yugoslavia, including the transfer of all indicted war criminals in Yugoslavia to the Hague.

(c) INTERNATIONAL FINANCIAL INSTITUTIONS.—The Secretary of the Treasury shall instruct the United States executive directors of the international financial institutions to oppose, and vote against, any extension by those institutions of any financial assistance (including any technical assistance or grant) of any kind to the Government of Yugoslavia.

(d) ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE.—The Secretary of State should instruct the United States Ambassador to the Organization for Security and Cooperation in Europe (OSCE) to oppose and block any consensus to allow the participation of Yugoslavia in the OSCE or any organization affiliated with the OSCE.

(e) UNITED NATIONS.—The Secretary of State should instruct the United States Permanent Representative to the United Nations—

(1) to oppose and vote against any resolution in the United Nations Security Council to admit

Yugoslavia to the United Nations or any organization affiliated with the United Nations; and

(2) to actively oppose and, if necessary, veto any proposal to allow Yugoslavia to assume the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations General Assembly or any other organization affiliated with the United Nations.

(f) NATO.—The Secretary of State should instruct the United States Permanent Representative to the North Atlantic Council to oppose and vote against the extension to Yugoslavia of membership or participation in the Partnership for Peace program or any other organization affiliated with NATO.

(g) SOUTHEAST EUROPEAN COOPERATION INITIATIVE.—The Secretary of State should instruct the United States Representatives to the Southeast European Cooperation Initiative (SECI) to actively oppose the participation of Yugoslavia in SECI.

(h) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the President should not restore full diplomatic relations with Yugoslavia until the President has determined and so reported to the appropriate congressional committees that the Government of Yugoslavia has met the conditions described in subsection (b); and

(2) the President should encourage all other European countries to diminish their level of diplomatic relations with Yugoslavia.

(i) INTERNATIONAL FINANCIAL INSTITUTION DEFINED.—In this section, the term ''international financial institution'' includes the International Monetary Fund, the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guaranty Agency, and the European Bank for Reconstruction and Development.

SEC. 302. INTERNATIONAL FINANCIAL INSTITUTIONS NOT IN COMPLIANCE WITH "OUTER WALL" SANCTIONS.

It is the sense of Congress that, if any international financial institution (as defined in section 301(i)) approves a loan or other financial assistance to the Government of Yugoslavia over opposition of the United States, then the Secretary of the Treasury should withhold from payment of the United States share of any increase in the paid-in capital of such institution an amount equal to the amount of the loan or other assistance.

TITLE IV—OTHER MEASURES AGAINST YUGOSLAVIA

SEC. 401. BLOCKING YUGOSLAVIA ASSETS IN THE UNITED STATES.

(a) BLOCKING OF ASSETS.—All property and interests in property, including all commercial, industrial, or public utility undertakings or entities, of or in the name of the Government of Serbia or the Government of Yugoslavia that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons, including their overseas branches, are hereby blocked.

(b) EXERCISE OF AUTHORITIES.—The Secretary of the Treasury, in consultation with the Secretary of State, shall take such actions, including the promulgation of regulations, orders, directives, rulings, instructions, and licenses, and employ all powers granted to the President by the International Emergency Economic Powers Act, as may be necessary to carry out the purpose of this section, including taking such steps as may be necessary to continue in effect the measures contained in Executive Order No. 13088 of June 9, 1998, and Executive Order No. 13121 of May 1, 1999, and any rule, regulation, license, or order issued thereunder.

(c) PROHIBITED TRANSFERS.—Transfers prohibited under subsection (b) shall include payments or transfers of any property or any transactions involving the transfer of anything of economic value by any United States person to the Government of Serbia, the Government of Yugoslavia, or any person or entity acting for or on behalf of, or owned or controlled, directly or indirectly, by any of those governments, persons, or entities.

(d) PAYMENT OF EXPENSES.—All expenses incident to the blocking and maintenance of property blocked under subsection (a) shall be charged to the owners or operators of such property, which expenses shall not be met from blocked funds.

(e) PROHIBITIONS.—The following shall be prohibited as of the date of enactment of this Act:

(1) Any transaction within the United States or by a United States person relating to any vessel in which a majority or controlling interest is held by a person or entity in, or operating from, Serbia regardless of the flag under which the vessel sails.

(2) The exportation to Serbia or to any entity operated from Serbia or owned and controlled by the Government of Serbia or the Government of Yugoslavia, directly or indirectly, of any goods, technology, or services, either—

(A) from the United States;

(B) requiring the issuance of a license by a Federal agency; or

(C) involving the use of United States registered vessels or aircraft, or any activity that promotes or is intended to promote such exportation.

(3) Any dealing by a United States person in—

(A) property originating in Serbia or exported from Serbia;

(B) property intended for exportation from Serbia to any country or exportation to Serbia from any country; or

(C) any activity of any kind that promotes or is intended to promote such dealing.

(4) The performance by any United States person of any contract, including a financing contract, in support of an industrial, commercial, public utility, or governmental project in Serbia.

(f) EXCEPTIONS.—Nothing in this section shall apply to—

(1) the transshipment through Serbia of commodities and products originating outside Yugoslavia and temporarily present in the territory of Yugoslavia only for the purpose of such transshipment;

(2) assistance provided under section 102 or section 203 of this Act; or

(3) those materials described in section 203(b)(3) of the International Emergency Economic Powers Act relating to informational materials.

SEC. 402. SUSPENSION OF ENTRY INTO THE UNITED STATES.

(a) PROHIBITION.—The President shall use his authority under section 212(f) of the Immigration and Nationality Act (8 U.S.C. 1182(f)) to suspend the entry into the United States of any alien who—

(1) holds a position in the senior leadership of the Government of Yugoslavia or the Government of Serbia; or

(2) is a spouse, minor child, or agent of a person inadmissible under paragraph (1).

(b) SENIOR LEADERSHIP DEFINED.—In subsection (a)(1), the term ''senior leadership''—

(1) includes—

(A) the President, Prime Minister, Deputy Prime Ministers, and government ministers of Yugoslavia;

(B) the Governor of the National Bank of Yugoslavia; and

(C) the President, Prime Minister, Deputy Prime Ministers, and government ministers of the Republic of Serbia; and

(2) does not include the President, Prime Minister, Deputy Prime Ministers, and government ministers of the Republic of Montenegro.

SEC. 403. PROHIBITION ON STRATEGIC EXPORTS TO YUGOSLAVIA.

(a) PROHIBITION.—No computers, computer software, or goods or technology intended to manufacture or service computers may be exported to or for use by the Government of Yugoslavia or by the Government of Serbia, or by any of the following entities of either government:

(1) The military.

(2) The police.

(3) The prison system.

(4) The national security agencies.

(b) STATUTORY CONSTRUCTION.—Nothing in this section prevents the issuance of licenses to ensure the safety of civil aviation and safe operation of United States-origin commercial passenger aircraft and to ensure the safety of ocean-going maritime traffic in international waters.

SEC. 404. PROHIBITION ON LOANS AND INVESTMENT.

(a) UNITED STATES GOVERNMENT FINANCING.—No loan, credit guarantee, insurance, financing, or other similar financial assistance may be extended by any agency of the United States Government (including the Export-Import Bank and the Overseas Private Investment Corporation) to the Government of Yugoslavia or the Government of Serbia.

(b) TRADE AND DEVELOPMENT AGENCY.—No funds made available by law may be available for activities of the Trade and Development Agency in or for Serbia.

(c) THIRD COUNTRY ACTION.—The Secretary of State is urged to encourage all other countries, particularly European countries, to suspend any of their own programs providing support similar to that described in subsection (a) or (b) to the Government of Yugoslavia or the Government of Serbia, including by rescheduling repayment of the indebtedness of either government under more favorable conditions.

(d) PROHIBITION ON PRIVATE CREDITS.—

(1) IN GENERAL.—Except as provided in paragraph (2), no national of the United States may make or approve any loan or other extension of credit, directly or indirectly, to the Government of Yugoslavia or to the Government of Serbia or to any corporation, partnership, or other organization that is owned or controlled by either the Government of Yugoslavia or the Government of Serbia.

(2) EXCEPTION.—Paragraph (1) shall not apply to a loan or extension of credit for any housing, education, or humanitarian benefit to assist the victims of repression in Kosovo.

SEC. 405. PROHIBITION OF MILITARY-TO-MILITARY COOPERATION.

The United States Government (including any agency or entity of the United States) shall not provide assistance under the Foreign Assistance Act of 1961 or the Arms Export Control Act (including the provision of Foreign Military Financing under section 23 of the Arms Export Control Act or international military education and training under chapter 5 of part II of the Foreign Assistance Act of 1961) or provide any defense articles or defense services under those Acts, to the armed forces of the Government of Yugoslavia or of the Government of Serbia.

SEC. 406. MULTILATERAL SANCTIONS.

It is the sense of Congress that the President should continue to seek to coordinate with other countries, particularly European countries, a comprehensive, multilateral strategy to further the purposes of this Act, including, as appropriate, encouraging other countries to take measures similar to those described in this title.

SEC. 407. EXEMPTIONS.

(a) EXEMPTION FOR KOSOVO.—None of the restrictions imposed by this Act shall apply with respect to Kosovo, including with respect to governmental entities or administering authorities or the people of Kosovo.

(b) EXEMPTION FOR MONTENEGRO.—None of the restrictions imposed by this Act shall apply with respect to Montenegro, including with respect to governmental entities of Montenegro, unless the President determines and so certifies to the appropriate congressional committees that

the leadership of the Government of Montenegro is not committed to, or is not taking steps to promote, democratic principles, the rule of law, or respect for internationally recognized human rights.

SEC. 408. WAIVER; TERMINATION OF MEASURES AGAINST YUGOSLAVIA.

(a) GENERAL WAIVER AUTHORITY.—Except as provided in subsection (b), the requirement to impose any measure under this Act may be waived for successive periods not to exceed 12 months each, and the President may provide assistance in furtherance of this Act notwithstanding any other provision of law, if the President determines and so certifies to the appropriate congressional committees in writing 15 days in advance of the implementation of any such waiver that—

(1) it is important to the national interest of the United States; or

(2) significant progress has been made in Yugoslavia in establishing a government based on democratic principles and the rule of law, and that respects internationally recognized human rights.

(b) EXCEPTION.—The President may implement the waiver under subsection (a) for successive periods not to exceed 3 months each without the 15 day advance notification under that subsection—

(1) if the President determines that exceptional circumstances require the implementation of such waiver; and

(2) the President immediately notifies the appropriate congressional committees of his determination.

(c) TERMINATION OF RESTRICTIONS.—The restrictions imposed by this Act shall be terminated if the President determines and so certifies to the appropriate congressional committees that the Government of Yugoslavia is a government that is committed to democratic principles and the rule of law, and that respects internationally recognized human rights.

SEC. 409. STATUTORY CONSTRUCTION.

(a) IN GENERAL.—None of the restrictions or prohibitions contained in this Act shall be construed to limit humanitarian assistance (including the provision of food and medicine), or the commercial export of agricultural commodities or medicine and medical equipment, to Yugoslavia.

(b) SPECIAL RULE.—Nothing in subsection (a) shall be construed to permit the export of an agricultural commodity or medicine that could contribute to the development of a chemical or biological weapon.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA.

(a) FINDINGS.—Congress finds the following:

(1) United Nations Security Council Resolution 827, which was adopted May 25, 1993, established the International Criminal Tribunal for the former Yugoslavia to prosecute persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since January 1, 1991.

(2) United Nations Security Council Resolution 827 requires full cooperation by all countries with the Tribunal, including the obligation of countries to comply with requests of the Tribunal for assistance or orders.

(3) The Government of Yugoslavia has disregarded its international obligations with regard to the Tribunal, including its obligation to transfer or facilitate the transfer to the Tribunal of any person on the territory of Yugoslavia who has been indicted for war crimes or other crimes against humanity under the jurisdiction of the Tribunal.

(4) The Government of Yugoslavia publicly rejected the Tribunal's jurisdiction over events in Kosovo and has impeded the investigation of representatives from the Tribunal, including denying those representatives visas for entry into Yugoslavia, in their efforts to gather information about alleged crimes against humanity in Kosovo under the jurisdiction of the Tribunal.

(5) The Tribunal has indicted President Slobodan Milosevic for—

(A) crimes against humanity, specifically murder, deportations, and persecutions; and

(B) violations of the laws and customs of war.

(b) POLICY.—It shall be the policy of the United States to support fully and completely the investigation of President Slobodan Milosevic by the International Criminal Tribunal for the former Yugoslavia for genocide, crimes against humanity, war crimes, and grave breaches of the Geneva Convention.

(c) IN GENERAL.—Subject to subsection (b), it is the sense of Congress that the United States Government should gather all information that the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)) collects or has collected to support an investigation of President Slobodan Milosevic for genocide, crimes against humanity, war crimes, and grave breaches of the Geneva Convention by the International Criminal Tribunal for the former Yugoslavia (ICTY) and that the Department of State should provide all appropriate information to the Office of the Prosecutor of the ICTY under procedures established by the Director of Central Intelligence that are necessary to ensure adequate protection of intelligence sources and methods.

(d) REPORT TO CONGRESS.—Not less than 180 days after the date of enactment of this Act, and every 180 days thereafter, the President shall submit a report, in classified form if necessary, to the appropriate congressional committees that describes the information that was provided by the Department of State to the Office of the Prosecutor of the International Criminal Tribunal for the former Yugoslavia for the purposes of subsection (c).

SEC. 502. SENSE OF CONGRESS WITH RESPECT TO ETHNIC HUNGARIANS OF VOJVODINA.

(a) FINDINGS.—Congress finds that—

(1) approximately 350,000 ethnic Hungarians reside in the province of Vojvodina, part of Serbia, in traditional settlements in existence for centuries;

(2) this community has taken no side in any of the Balkan conflicts since 1990, but has maintained a consistent position of nonviolence, while seeking to protect its existence through the meager opportunities afforded under the existing political system;

(3) the Serbian leadership deprived Vojvodina of its autonomous status at the same time as it did the same to the province of Kosovo;

(4) this population is subject to continuous harassment, intimidation, and threatening suggestions that they leave the land of their ancestors; and

(5) during the past 10 years this form of ethnic cleansing has already driven 50,000 ethnic Hungarians out of the province of Vojvodina.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President should—

(1) condemn harassment, threats, and intimidation against any ethnic group in Yugoslavia as the usual precursor of violent ethnic cleansing;

(2) express deep concern over the reports on recent threats, intimidation, and even violent incidents against the ethnic Hungarian inhabitants of the province of Vojvodina;

(3) call on the Secretary of State to regularly monitor the situation of the Hungarian ethnic group in Vojvodina; and

(4) call on the NATO allies of the United States, during any negotiation on the future status of Kosovo, also to pay substantial attention to establishing satisfactory guarantees for the rights of the ethnic Hungarian community of Vojvodina, and of other ethnic minorities in the province, including consulting with elected leaders about their proposal for self-administration.

SEC. 503. OWNERSHIP AND USE OF DIPLOMATIC AND CONSULAR PROPERTIES.

(a) FINDINGS.—Congress finds the following:

(1) The international judicial system, as currently structured, lacks fully effective remedies for the wrongful confiscation of property and for unjust enrichment from the use of wrongfully confiscated property by governments and private entities at the expense of the rightful owners of the property.

(2) Since the dissolution of the Socialist Federal Republic of Yugoslavia, the Government of Yugoslavia has exclusively used, and benefited from the use of, properties located in the United States that were owned by the Socialist Federal Republic of Yugoslavia.

(3) The Governments of Bosnia and Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia, and Slovenia have been blocked by the Government of Yugoslavia from using, or benefiting from the use of, any property located in the United States that was previously owned by the Socialist Federal Republic of Yugoslavia.

(4) The continued occupation and use by officials of Yugoslavia of that property without prompt, adequate, and effective compensation under the applicable principles of international law to the Governments of Bosnia and Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia, and Slovenia are unjust and unreasonable.

(b) POLICY ON NEGOTIATIONS REGARDING PROPERTIES.—It is the policy of the United States to insist that the Government of Yugoslavia has a responsibility to, and should, actively and cooperatively engage in good faith negotiations with the Governments of Bosnia and Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia, and Slovenia for resolution of the outstanding property issues resulting from the dissolution of the Socialist Federal Republic of Yugoslavia, including the disposition of the following properties located in the United States:

(1) 2222 Decatur Street, NW, Washington, DC.

(2) 2410 California Street, NW, Washington, DC.

(3) 1907 Quincy Street, NW, Washington, DC.

(4) 3600 Edmonds Street, NW, Washington, DC.

(5) 2221 R Street, NW, Washington, DC.

(6) 854 Fifth Avenue, New York, NY.

(7) 730 Park Avenue, New York, NY.

(c) SENSE OF CONGRESS ON RETURN OF PROPERTIES.—It is the sense of Congress that, if the Government of Yugoslavia refuses to engage in good faith negotiations on the status of the properties listed in subsection (b), the President should take steps to ensure that the interests of the Governments of Bosnia and Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia, and Slovenia are protected in accordance with international law.

SEC. 504. TRANSITION ASSISTANCE.

(a) SENSE OF CONGRESS.—It is the sense of Congress that once the regime of President Slobodan Milosevic has been replaced by a government that is committed to democratic principles and the rule of law, and that respects internationally recognized human rights, the President of the United States should support the transition to democracy in Yugoslavia by providing immediate and substantial assistance, including facilitating its integration into international organizations.

(b) AUTHORIZATION OF ASSISTANCE.—The President is authorized to furnish assistance to Yugoslavia if he determines, and so certifies to the appropriate congressional committees that the Government of Yugoslavia is committed to democratic principles and the rule of law and respects internationally recognized human rights.

(c) REPORT TO CONGRESS.—

(1) DEVELOPMENT OF PLAN.—The President shall develop a plan for providing assistance to Yugoslavia in accordance with this section.

Such assistance would be provided at such time as the President determines that the Government of Yugoslavia is committed to democratic principles and the rule of law and respects internationally recognized human rights.

(2) STRATEGY.—The plan developed under paragraph (1) shall include a strategy for distributing assistance to Yugoslavia under the plan.

(3) DIPLOMATIC EFFORTS.—The President shall take the necessary steps—

(A) to seek to obtain the agreement of other countries and international financial institutions and other multilateral organizations to provide assistance to Yugoslavia after the President determines that the Government of Yugoslavia is committed to democratic principles, the rule of law, and that respects internationally recognized human rights; and

(B) to work with such countries, institutions, and organizations to coordinate all such assistance programs.

(4) COMMUNICATION OF PLAN.—The President shall take the necessary steps to communicate to the people of Yugoslavia the plan for assistance developed under this section.

(5) REPORT.—Not later than 120 days after the date of enactment of this Act, the President shall transmit to the appropriate congressional committees a report describing in detail the plan required to be developed by paragraph (1).

Mr. HELMS. Mr. President, the Senate is today considering the Serbia Democratization Act, which I introduced on March 25 with eleven other Senators, and which was approved by the Foreign Relations Committee on August 5.

The purpose of the legislation is clear: to undermine and ultimately eradicate the murderous regime of the Yugoslav President, Slobodan Milosevic.

Just one day before I introduced this legislation, NATO began its air campaign against Yugoslavia in response to that country's brutal treatment of the ethnic Albanian population in Kosovo. After NATO bombs started falling, Yugoslav army, police, and paramilitary forces controlled by Mr. Milosevic slaughtered thousands more Kosovar Albanians. More than one million were forced to flee Kosovo to neighboring counties. And hundreds of thousands more Kosovars eluded Serb forces by hiding in the hills.

This brutality was conceived, directed, and carried out under the orders of Slobodan Milosevic. As you know, Mr. President, the International Criminal Tribunal for the former Yugoslavia indicted this madman as a war criminal for his activities in Kosovo. And if I might add, I have no doubt of his culpability for the ethnic cleansing and mass murder in Bosnia during the war there.

Now that the NATO bombs have stopped falling and there is hope for a peaceful future for the people of Kosovo, we must look to the next step. A ''Marshall Plan'' for the Balkans has been proposed. The European Union, the United States, and other allies have negotiated a so-called ''Stability Pact'' for Southeastern Europe, designed to encourage cooperation between countries in the region and target foreign assistance most effectively.

But no matter what kind of proposals put forth by the United States and our allies for this region, I am convinced that until the Balkans is rid of the dictatorial rule of Mr. Milosevic, we will be forced to confront crises that he manufactures well into the future. There is but one hope for stability in the Balkans, and that is the removal of Milosevic from power.

To achieve that objective is why I encourage the Senate to pass this legislation today. The United States should provide extensive support for democratic forces, including independent media, and non-governmental organizations in Serbia. Just as the United States did during the days of the cold war, it is in our interests to identify and give aid to those forces in Serbia that share our values and our goals. We should make clear that unless and until the government of Yugoslavia is based on democratic principles and the rule of law and respects internationally recognized human rights, the United States will maintain the sanctions regime that we have in place today.

But Mr. President, when the Serbian people have a government in Belgrade based on these important principles—the government that they deserve—this legislation calls for substantial support by the United States to assist their transition to democracy, including by helping Yugoslavia integrate into international institutions.

I am pleased that the Clinton administration agrees with me on the importance of assisting the democratic opposition in Serbia. Let me emphasize, however, that we need to act quickly. We missed an opportunity to encourage democratic change in Serbia three years ago, when tens of thousands of Serbian citizens took to the streets, demanding political change. We must not lose another chance to help those in Serbia who are trying to help themselves.

I urge my colleagues to support the Serbia Democratization Act.

Mr. BIDEN. Mr. President, I rise today to support, along with the senior Senator from North Carolina and several other colleagues, the Serbia Democratization Act of 1999.

Mr. President, the last year has removed any lingering doubt that Slobodan Milosevic, rather than being part of the solution of the problems in the Balkans, is the problem. Milosevic has started, and lost, four wars during this decade: first with Slovenia, then with Croatia, then with Bosnia and Herzegovina, and finally with NATO over Kosovo. I would not be surprised if he were soon to make Montenegro, with its democratic-reformist government, the fifth target of his aggression.

Earlier this year, Milosevic was indicted as a war criminal by the International Tribunal at The Hague. As my colleagues have heard me recount, I told Milosevic to his face way back in 1993 in Belgrade that he was a war criminal and should be tried at The Hague. So in one sense I am gratified that he finally has been officially charged. On the other hand, I know that as long as Milosevic remains in power in Serbia and Yugoslavia, there is no chance for lasting peace and reconstruction in the Balkans.

In short, Milosevic must be replaced by a democratic government. This is no small order. Serbia is not exactly overflowing with genuine democrats, although there certainly are some. The problem is that many of them squabble among themselves, thereby wasting precious energy that should be devoted to unseating Milosevic.

Moreover, Milosevic runs an authoritarian state, ruthlessly suppressing dissent, threatening his opponents—even sometimes attempting to assassinate them, purging the army and police, and cynically dominating the electronic media so as to misinform the Serbian public.

Clearly it is in the national interest of the United States to use every legal means to undercut Milosevic and to assist the democratic opposition in Serbia.

With that in mind, we have introduced S. 720, the ''Serbia Democratization Act of 1999.'' The following are the major provisions of the legislation.

The Act supports the democratic opposition by authorizing one hundred million dollars for fiscal years 2000 and 2001 for the purpose of promoting democracy and civil society in Serbia and for assisting the Government of Montenegro. It also authorizes increased broadcasting to Yugoslavia by the Voice of America and by Radio Free Europe/Radio Liberty.

The Act offers assistance to the victims of Serbian oppression by authorizing the President to use authorities in the Foreign Assistance Act of 1961 to provide humanitarian assistance to individuals living in Kosovo and to refugees currently residing in surrounding countries.

The legislation codifies the so-called ''outer wall'' of sanctions against Yugoslavia by multilateral organizations, including international financial institutions.

It also authorizes other measures against Yugoslavia, including blocking Yugoslavia's assets in the United States; prohibiting the issuance of visas and admission to the United States; and prohibiting strategic exports to Yugoslavia, loans and investment, and military-to-military cooperation.

The legislation also contains miscellaneous provisions, including requiring cooperation by Yugoslavia with the International Criminal Tribunal for the former Yugoslavia, and a sense of the Congress declaration on the ownership and use of diplomatic and consular properties in the United States.

Mr. President, a good deal has been written in recent days about possibly easing the sanctions regime against Yugoslavia out of concern for its people. I do not believe that such a move would be in the interest either of the Yugoslav people, or of the United States.

A look at the precedent set in the Republika Srpska in Bosnia and Herzegovina is instructive. After the Dayton Accords were signed in late 1995, the Congress passed legislation in which no assistance could be given to the Republika Srpska, which was then ruled by the war criminal Radovan Karadzic and his gangster clique in Pale. Meanwhile the Muslim-Croat Federation could receive assistance.

Within two years a majority of the population of the Republika Srpska had observed the modest, but real economic recovery in the Federation and realized the futility of sticking with Karadzic and company. The result was, first the presidency of Mrs. Biljana Plavsic, and later the reformist government of Prime Minister Milorad Dodik, which is still clinging to power in the new capital of Banja Luka.

I believe that if we keep up the pressure on the indicted war criminal Milosevic, a similar process will eventually occur in Serbia. Conversely, if we were to loosen the legitimate sanctions on Yugoslavia, it would constitute a stunning triumph for Milosevic.

Mr. President, this week a delegation of leaders of the Alliance for Change, an umbrella organization representing more than forty democratic political parties and groups in Serbia, has been visiting Washington. I met with this group. They asked only that we lift sanctions against Serbia after a free and fair election results in Milosevic's fall from power. They are confident of victory in such an election; I hope they are right.

It is in this spirit, Mr. President, that we must hold out carrots to the potential democratic successors of Milosevic. Therefore, in a move to facilitate the transition to democracy, the Act authorizes the President to furnish assistance to Yugoslavia if he determines and certifies to the appropriate Congressional committees that the Government of Yugoslavia is ''committed to democratic principles, the rule of law, and is committed to respect internationally recognized human rights.''

The Act also contains a national interest waiver for the President. The President may also waive the Act's provisions if he certifies that ''significant progress has been made in Yugoslavia in establishing a government based on democratic principles and the rule of law, and that respects internationally recognized human rights.''

In the meantime, I approve of our government's political support of a pilot program run by the European Union whereby emergency heating oil shipments are made to two Serbian cities that are governed by opponents of Milosevic. If the project succeeds—that is, if the oil is delivered and Milosevic does not succeed in taking credit for the shipments—the United States might join in financing the program, which would be extended to other cities.

With regard to direct, material help to the anti-Milosevic forces, there are many genuine democratic organizations at the grassroots level and in the media in Serbia who could make a measurable difference if they had the means to spread their message. The United States Agency for International Development is already modestly supporting some of these organizations, and it has drawn up a list of additional potential recipients.

In addition, through the SEED Act our State Department has recently made funds available through non-governmental organizations in Slovakia—a novel and promising approach. I believe that we can also utilize the democratic government in Romania to assist the democratic opposition in Serbia.

I believe the time is ripe for simultaneously maintaining the pressure on the criminal Milosevic regime, and for increasing our material support to the democratic opposition.

The Serbia Democratication Act of 1999 does just that, and I urge my colleagues to vote for its adoption.

I thank the Chair and yield the floor.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the committee substitute amendment be agreed to, the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 720), as amended, was read the third time and passed, as follows:

S. 720

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 ''Serbia Democratization Act of 1999''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—SUPPORT FOR THE DEMOCRATIC OPPOSITION

Sec. 101. Findings and policy.
Sec. 102. Assistance to promote democracy and civil society in Yugoslavia.
Sec. 103. Authority for radio and television broadcasting.

TITLE II—ASSISTANCE TO THE VICTIMS OF SERBIAN OPPRESSION

Sec. 201. Findings.
Sec. 202. Sense of Congress.
Sec. 203. Assistance.

TITLE III—''OUTER WALL'' SANCTIONS

Sec. 301. ''Outer wall'' sanctions.
Sec. 302. International financial institutions not in compliance with ''outer wall'' sanctions.

TITLE IV—OTHER MEASURES AGAINST YUGOSLAVIA

Sec. 401. Blocking Yugoslavia assets in the United States.
Sec. 402. Suspension of entry into the United States.
Sec. 403. Prohibition on strategic exports to Yugoslavia.
Sec. 404. Prohibition on loans and investment.
Sec. 405. Prohibition of military-to-military cooperation.
Sec. 406. Multilateral sanctions.
Sec. 407. Exemptions.
Sec. 408. Waiver; termination of measures against Yugoslavia.
Sec. 409. Statutory construction.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. The International Criminal Tribunal for the former Yugoslavia.
Sec. 502. Sense of Congress with respect to ethnic Hungarians of Vojvodina.
Sec. 503. Ownership and use of diplomatic and consular properties.
Sec. 504. Transition assistance.

SEC. 2. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(2) COMMERCIAL EXPORT.—The term ''commercial export'' means the sale of a farm product or medicine by a United States seller to a foreign buyer in exchange for cash payment on market terms without benefit of concessionary financing, export subsidies, government or government-backed credits or other nonmarket financing arrangements.

(3) INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA OR TRIBUNAL.—The term ''International Criminal Tribunal for the former Yugoslavia'' or the ''Tribunal'' means the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia Since 1991, as established by United Nations Security Council Resolution 827 of May 25, 1993.

(4) YUGOSLAVIA.—The term ''Yugoslavia'' means the so-called Federal Republic of Yugoslavia (Serbia and Montenegro), and the term ''Government of Yugoslavia'' means the central government of Yugoslavia.

TITLE I—SUPPORT FOR THE DEMOCRATIC OPPOSITION

SEC. 101. FINDINGS AND POLICY.

(a) FINDINGS.—Congress finds the following:

(1) The President of Yugoslavia, Slobodan Milosevic, has consistently engaged in undemocratic methods of governing.

(2) Yugoslavia has passed and implemented a law strictly limiting freedom of the press and has acted to intimidate and prevent independent media from operating inside Yugoslavia.

(3) Although the Yugoslav and Serbian constitutions provide for the right of citizens to change their government, citizens of Serbia in practice are prevented from exercising that right by the Milosevic regime's domination of the mass media and manipulation of the electoral process.

(4) The Yugoslav government has orchestrated attacks on academics at institutes and universities throughout the country in an effort to prevent the dissemination of opinions that differ from official state propaganda.

(5) The Yugoslav government prevents the formation of nonviolent, democratic opposition through restrictions on freedom of assembly and association.

(6) The Yugoslav government uses control and intimidation to control the judiciary and manipulates the country's legal framework to suit the regime's immediate political interests.

(7) The Government of Serbia and the Government of Yugoslavia, under the direction of President Milosevic, have obstructed the efforts of the Government of Montenegro to pursue democratic and free-market policies.

(8) At great risk, the Government of Montenegro has withstood efforts by President Milosevic to interfere with its government and supported the goals of the United States in the conflict in Kosovo.

(9) The people of Serbia who do not endorse the undemocratic actions of the Milosevic government should not be the target of criticism that is rightly directed at the Milosevic regime.

(b) POLICY.—

(1) It is the policy of the United States to encourage the development of a government in Yugoslavia based on democratic principles and the rule of law and that respects internationally recognized human rights.

(2) It is the sense of Congress that—

(A) the United States should actively support the democratic opposition in Yugoslavia, including political parties and independent trade unions, to develop a legitimate and viable alternative to the Milosevic regime;

(B) all United States Government officials, including individuals from the private sector acting on behalf of the United States Government, should attempt to meet regularly with representatives of democratic opposition organizations of Yugoslavia and minimize to the extent practicable any direct contacts with government officials from Yugoslavia, particularly President Slobodan Milosevic, who perpetuate the nondemocratic regime in Yugoslavia; and

(C) the United States should emphasize to all political leaders in Yugoslavia the importance of respecting internationally recognized human rights for all individuals residing in Yugoslavia.

SEC. 102. ASSISTANCE TO PROMOTE DEMOCRACY AND CIVIL SOCIETY IN YUGOSLAVIA.

(a) ASSISTANCE.—

(1) PURPOSE OF ASSISTANCE.—The purpose of assistance under this subsection is to promote and strengthen institutions of democratic government and the growth of an independent civil society in Yugoslavia, including ethnic tolerance and respect for internationally recognized human rights.

(2) AUTHORIZATION FOR ASSISTANCE.—To carry out the purpose of paragraph (1), the President is authorized to furnish assistance and other support for the activities described in paragraph (3).

(3) ACTIVITIES SUPPORTED.—Activities that may be supported by assistance under paragraph (2) include the following:

(A) Democracy building.

(B) The development of nongovernmental organizations.

(C) The development of independent media working within Serbia if possible, but, if that is not feasible, from locations in neighboring countries.

(D) The development of the rule of law, to include a strong, independent judiciary, the impartial administration of justice, and transparency in political practices.

(E) International exchanges and advanced professional training programs in skill areas central to the development of civil society and a market economy.

(F) The development of all elements of the democratic process, including political parties and the ability to administer free and fair elections.

(G) The development of local governance.

(H) The development of a free-market economy.

(4) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—There is authorized to be appropriated to the President $100,000,000 for the period beginning October 1, 1999, and ending September 30, 2001, to carry out this subsection.

(B) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subparagraph (A) are authorized to remain available until expended.

(b) PROHIBITION ON ASSISTANCE TO GOVERNMENT OF SERBIA.—In carrying out subsection (a), the President should take all necessary steps to ensure that no funds or other assistance is provided to the Government of Yugoslavia or to the Government of Serbia, except for purposes permitted under this Act.

(c) ASSISTANCE TO GOVERNMENT OF MONTENEGRO.—In carrying out subsection (a), the President may provide assistance to the Government of Montenegro, unless the President determines, and so reports to the appropriate congressional committees, that the leadership of the Government of Montenegro is not committed to, or is not taking steps to promote, democratic principles, the rule of law, or respect for internationally recognized human rights.

SEC. 103. AUTHORITY FOR RADIO AND TELEVISION BROADCASTING.

(a) IN GENERAL.—The Broadcasting Board of Governors shall further the open communication of information and ideas through the increased use of radio and television broadcasting to Yugoslavia in both the Serbo-Croatian and Albanian languages.

(b) IMPLEMENTATION.—Radio and television broadcasting under subsection (a) shall be carried out by the Voice of America and, in addition, radio broadcasting under that subsection shall be carried out by RFE/RL, Incorporated. Subsection (a) shall be carried out in accordance with all the respective Voice of America and RFE/RL, Incorporated, standards to ensure that radio and television broadcasting to Yugoslavia serves as a consistently reliable and authoritative source of accurate, objective, and comprehensive news.

(c) STATUTORY CONSTRUCTION.—The implementation of subsection (a) may not be construed as a replacement for the strengthening of indigenous independent media called for in section 102(a)(3)(C). To the maximum extent practicable, the two efforts (strengthening independent media and increasing broadcasts into Serbia) shall be carried out in such a way that they mutually support each other.

TITLE II—ASSISTANCE TO THE VICTIMS OF SERBIAN OPPRESSION

SEC. 201. FINDINGS.

The Congress finds the following:

(1) Beginning in February 1998 and ending in June 1999, the armed forces of Yugoslavia and the Serbian Interior Ministry police force engaged in a brutal crackdown against the ethnic Albanian population in Kosovo.

(2) As a result of the attack by Yugoslav and Serbian forces against the Albanian population of Kosovo, more than 10,000 individuals have been killed and 1,500,000 individuals were displaced from their homes.

(3) The majority of the individuals displaced by the conflict in Kosovo was left homeless or was forced to find temporary shelter in Kosovo or outside the country.

(4) The activities of the Yugoslav armed forces and the police force of the Serbian Interior Ministry resulted in the widespread destruction of agricultural crops, livestock, and property, as well as the poisoning of wells and water supplies, and the looting of humanitarian goods provided by the international community.

SEC. 202. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) humanitarian assistance to the victims of the conflict in Kosovo, including refugees and internally displaced persons, and all assistance to rebuild damaged property in Kosovo, should be the responsibility of the Government of Yugoslavia and the Government of Serbia;

(2) under the direction of President Milosevic, neither the Government of Yugoslavia nor the Government of Serbia has provided the resources to assist innocent, civilian victims of oppression in Kosovo; and

(3) because neither the Government of Yugoslavia nor the Government of Serbia has fulfilled the responsibilities of a sovereign government toward the people in Kosovo, the international community offers the only recourse for humanitarian assistance to victims of oppression in Kosovo.

SEC. 203. ASSISTANCE.

(a) AUTHORITY.—The President is authorized to furnish assistance under section 491 of the Foreign Assistance Act of 1961 (22 U.S.C. 2292) and the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601 et seq.), as appropriate, for—

(1) relief, rehabilitation, and reconstruction in Kosovo; and

(2) refugees and persons displaced by the conflict in Kosovo.

(b) PROHIBITION.—No assistance may be provided under this section to any group that has been designated as a terrorist organization under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189).

(c) USE OF ECONOMIC SUPPORT FUNDS.—Any funds that have been allocated under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.) for assistance described in subsection (a) may be used in accordance with the authority of that subsection.

TITLE III—"OUTER WALL" SANCTIONS

SEC. 301. "OUTER WALL" SANCTIONS.

(a) APPLICATION OF MEASURES.—The sanctions described in subsections (c) through (g) shall apply with respect to Yugoslavia until the President determines and certifies to the appropriate congressional committees that the Government of Yugoslavia has made significant progress in meeting the conditions described in subsection (b).

(b) CONDITIONS.—The conditions referred to in subsection (a) are the following:

(1) Agreement on a lasting settlement in Kosovo.

(2) Compliance with the General Framework Agreement for Peace in Bosnia and Herzegovina.

(3) Implementation of internal democratic reform.

(4) Settlement of all succession issues with the other republics that emerged from the break-up of the Socialist Federal Republic of Yugoslavia.

(5) Cooperation with the International Criminal Tribunal for the former Yugoslavia, including the transfer of all indicted war criminals in Yugoslavia to the Hague.

(c) INTERNATIONAL FINANCIAL INSTITUTIONS.—The Secretary of the Treasury shall instruct the United States executive directors of the international financial institutions to oppose, and vote against, any extension by those institutions of any financial assistance (including any technical assistance or grant) of any kind to the Government of Yugoslavia.

(d) ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE.—The Secretary of State should instruct the United States Ambassador to the Organization for Security and Cooperation in Europe (OSCE) to oppose and block any consensus to allow the participation of Yugoslavia in the OSCE or any organization affiliated with the OSCE.

(e) UNITED NATIONS.—The Secretary of State should instruct the United States Permanent Representative to the United Nations—

(1) to oppose and vote against any resolution in the United Nations Security Council

to admit Yugoslavia to the United Nations or any organization affiliated with the United Nations; and

(2) to actively oppose and, if necessary, veto any proposal to allow Yugoslavia to assume the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations General Assembly or any other organization affiliated with the United Nations.

(f) NATO.—The Secretary of State should instruct the United States Permanent Representative to the North Atlantic Council to oppose and vote against the extension to Yugoslavia of membership or participation in the Partnership for Peace program or any other organization affiliated with NATO.

(g) SOUTHEAST EUROPEAN COOPERATION INITIATIVE.—The Secretary of State should instruct the United States Representatives to the Southeast European Cooperation Initiative (SECI) to actively oppose the participation of Yugoslavia in SECI.

(h) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the President should not restore full diplomatic relations with Yugoslavia until the President has determined and so reported to the appropriate congressional committees that the Government of Yugoslavia has met the conditions described in subsection (b); and

(2) the President should encourage all other European countries to diminish their level of diplomatic relations with Yugoslavia.

(i) INTERNATIONAL FINANCIAL INSTITUTION DEFINED.—In this section, the term ''international financial institution'' includes the International Monetary Fund, the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guaranty Agency, and the European Bank for Reconstruction and Development.

SEC. 302. INTERNATIONAL FINANCIAL INSTITUTIONS NOT IN COMPLIANCE WITH "OUTER WALL" SANCTIONS.

It is the sense of Congress that, if any international financial institution (as defined in section 301(i)) approves a loan or other financial assistance to the Government of Yugoslavia over opposition of the United States, then the Secretary of the Treasury should withhold from payment of the United States share of any increase in the paid-in capital of such institution an amount equal to the amount of the loan or other assistance.

TITLE IV—OTHER MEASURES AGAINST YUGOSLAVIA

SEC. 401. BLOCKING YUGOSLAVIA ASSETS IN THE UNITED STATES.

(a) BLOCKING OF ASSETS.—All property and interests in property, including all commercial, industrial, or public utility undertakings or entities, of or in the name of the Government of Serbia or the Government of Yugoslavia that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons, including their overseas branches, are hereby blocked.

(b) EXERCISE OF AUTHORITIES.—The Secretary of the Treasury, in consultation with the Secretary of State, shall take such actions, including the promulgation of regulations, orders, directives, rulings, instructions, and licenses, and employ all powers granted to the President by the International Emergency Economic Powers Act, as may be necessary to carry out the purpose of this section, including taking such steps as may be necessary to continue in effect the measures contained in Executive Order No. 13088 of June 9, 1998, and Executive Order No. 13121 of May 1, 1999, and any rule, regulation, license, or order issued thereunder.

(c) PROHIBITED TRANSFERS.—Transfers prohibited under subsection (b) shall include payments or transfers of any property or any transactions involving the transfer of anything of economic value by any United States person to the Government of Serbia, the Government of Yugoslavia, or any person or entity acting for or on behalf of, or owned or controlled, directly or indirectly, by any of those governments, persons, or entities.

(d) PAYMENT OF EXPENSES.—All expenses incident to the blocking and maintenance of property blocked under subsection (a) shall be charged to the owners or operators of such property, which expenses shall not be met from blocked funds.

(e) PROHIBITIONS.—The following shall be prohibited as of the date of enactment of this Act:

(1) Any transaction within the United States or by a United States person relating to any vessel in which a majority or controlling interest is held by a person or entity in, or operating from, Serbia regardless of the flag under which the vessel sails.

(2) The exportation to Serbia or to any entity operated from Serbia or owned and controlled by the Government of Serbia or the Government of Yugoslavia, directly or indirectly, of any goods, technology, or services, either—

(A) from the United States;

(B) requiring the issuance of a license by a Federal agency; or

(C) involving the use of United States registered vessels or aircraft, or any activity that promotes or is intended to promote such exportation.

(3) Any dealing by a United States person in—

(A) property originating in Serbia or exported from Serbia;

(B) property intended for exportation from Serbia to any country or exportation to Serbia from any country; or

(C) any activity of any kind that promotes or is intended to promote such dealing.

(4) The performance by any United States person of any contract, including a financing contract, in support of an industrial, commercial, public utility, or governmental project in Serbia.

(f) EXCEPTIONS.—Nothing in this section shall apply to—

(1) the transshipment through Serbia of commodities and products originating outside Yugoslavia and temporarily present in the territory of Yugoslavia only for the purpose of such transshipment;

(2) assistance provided under section 102 or section 203 of this Act; or

(3) those materials described in section 203(b)(3) of the International Emergency Economic Powers Act relating to informational materials.

SEC. 402. SUSPENSION OF ENTRY INTO THE UNITED STATES.

(a) PROHIBITION.—The President shall use his authority under section 212(f) of the Immigration and Nationality Act (8 U.S.C. 1182(f)) to suspend the entry into the United States of any alien who—

(1) holds a position in the senior leadership of the Government of Yugoslavia or the Government of Serbia; or

(2) is a spouse, minor child, or agent of a person inadmissible under paragraph (1).

(b) SENIOR LEADERSHIP DEFINED.—In subsection (a)(1), the term ''senior leadership''—

(1) includes—

(A) the President, Prime Minister, Deputy Prime Ministers, and government ministers of Yugoslavia;

(B) the Governor of the National Bank of Yugoslavia; and

(C) the President, Prime Minister, Deputy Prime Ministers, and government ministers of the Republic of Serbia; and

(2) does not include the President, Prime Minister, Deputy Prime Ministers, and government ministers of the Republic of Montenegro.

SEC. 403. PROHIBITION ON STRATEGIC EXPORTS TO YUGOSLAVIA.

(a) PROHIBITION.—No computers, computer software, or goods or technology intended to manufacture or service computers may be exported to or for use by the Government of Yugoslavia or by the Government of Serbia, or by any of the following entities of either government:

(1) The military.

(2) The police.

(3) The prison system.

(4) The national security agencies.

(b) STATUTORY CONSTRUCTION.—Nothing in this section prevents the issuance of licenses to ensure the safety of civil aviation and safe operation of United States-origin commercial passenger aircraft and to ensure the safety of ocean-going maritime traffic in international waters.

SEC. 404. PROHIBITION ON LOANS AND INVESTMENT.

(a) UNITED STATES GOVERNMENT FINANCING.—No loan, credit guarantee, insurance, financing, or other similar financial assistance may be extended by any agency of the United States Government (including the Export-Import Bank and the Overseas Private Investment Corporation) to the Government of Yugoslavia or the Government of Serbia.

(b) TRADE AND DEVELOPMENT AGENCY.—No funds made available by law may be available for activities of the Trade and Development Agency in or for Serbia.

(c) THIRD COUNTRY ACTION.—The Secretary of State is urged to encourage all other countries, particularly European countries, to suspend any of their own programs providing support similar to that described in subsection (a) or (b) to the Government of Yugoslavia or the Government of Serbia, including by rescheduling repayment of the indebtedness of either government under more favorable conditions.

(d) PROHIBITION ON PRIVATE CREDITS.—

(1) IN GENERAL.—Except as provided in paragraph (2), no national of the United States may make or approve any loan or other extension of credit, directly or indirectly, to the Government of Yugoslavia or to the Government of Serbia or to any corporation, partnership, or other organization that is owned or controlled by either the Government of Yugoslavia or the Government of Serbia.

(2) EXCEPTION.—Paragraph (1) shall not apply to a loan or extension of credit for any housing, education, or humanitarian benefit to assist the victims of repression in Kosovo.

SEC. 405. PROHIBITION OF MILITARY-TO-MILITARY COOPERATION.

The United States Government (including any agency or entity of the United States) shall not provide assistance under the Foreign Assistance Act of 1961 or the Arms Export Control Act (including the provision of Foreign Military Financing under section 23 of the Arms Export Control Act or international military education and training under chapter 5 of part II of the Foreign Assistance Act of 1961) or provide any defense articles or defense services under those Acts, to the armed forces of the Government of Yugoslavia or of the Government of Serbia.

SEC. 406. MULTILATERAL SANCTIONS.

It is the sense of Congress that the President should continue to seek to coordinate with other countries, particularly European countries, a comprehensive, multilateral

strategy to further the purposes of this Act, including, as appropriate, encouraging other countries to take measures similar to those described in this title.

SEC. 407. EXEMPTIONS.

(a) EXEMPTION FOR KOSOVO.—None of the restrictions imposed by this Act shall apply with respect to Kosovo, including with respect to governmental entities or administering authorities or the people of Kosovo.

(b) EXEMPTION FOR MONTENEGRO.—None of the restrictions imposed by this Act shall apply with respect to Montenegro, including with respect to governmental entities of Montenegro, unless the President determines and so certifies to the appropriate congressional committees that the leadership of the Government of Montenegro is not committed to, or is not taking steps to promote, democratic principles, the rule of law, or respect for internationally recognized human rights.

SEC. 408. WAIVER; TERMINATION OF MEASURES AGAINST YUGOSLAVIA.

(a) GENERAL WAIVER AUTHORITY.—Except as provided in subsection (b), the requirement to impose any measure under this Act may be waived for successive periods not to exceed 12 months each, and the President may provide assistance in furtherance of this Act notwithstanding any other provision of law, if the President determines and so certifies to the appropriate congressional committees in writing 15 days in advance of the implementation of any such waiver that—

(1) it is important to the national interest of the United States; or

(2) significant progress has been made in Yugoslavia in establishing a government based on democratic principles and the rule of law, and that respects internationally recognized human rights.

(b) EXCEPTION.—The President may implement the waiver under subsection (a) for successive periods not to exceed 3 months each without the 15 day advance notification under that subsection —

(1) if the President determines that exceptional circumstances require the implementation of such waiver; and

(2) the President immediately notifies the appropriate congressional committees of his determination.

(c) TERMINATION OF RESTRICTIONS.—The restrictions imposed by this Act shall be terminated if the President determines and so certifies to the appropriate congressional committees that the Government of Yugoslavia is a government that is committed to democratic principles and the rule of law, and that respects internationally recognized human rights.

SEC. 409. STATUTORY CONSTRUCTION.

(a) IN GENERAL.—None of the restrictions or prohibitions contained in this Act shall be construed to limit humanitarian assistance (including the provision of food and medicine), or the commercial export of agricultural commodities or medicine and medical equipment, to Yugoslavia.

(b) SPECIAL RULE.—Nothing in subsection (a) shall be construed to permit the export of an agricultural commodity or medicine that could contribute to the development of a chemical or biological weapon.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA.

(a) FINDINGS.—Congress finds the following:

(1) United Nations Security Council Resolution 827, which was adopted May 25, 1993, established the International Criminal Tribunal for the former Yugoslavia to prosecute persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since January 1, 1991.

(2) United Nations Security Council Resolution 827 requires full cooperation by all countries with the Tribunal, including the obligation of countries to comply with requests of the Tribunal for assistance or orders.

(3) The Government of Yugoslavia has disregarded its international obligations with regard to the Tribunal, including its obligation to transfer or facilitate the transfer to the Tribunal of any person on the territory of Yugoslavia who has been indicted for war crimes or other crimes against humanity under the jurisdiction of the Tribunal.

(4) The Government of Yugoslavia publicly rejected the Tribunal's jurisdiction over events in Kosovo and has impeded the investigation of representatives from the Tribunal, including denying those representatives visas for entry into Yugoslavia, in their efforts to gather information about alleged crimes against humanity in Kosovo under the jurisdiction of the Tribunal.

(5) The Tribunal has indicted President Slobodan Milosevic for—

(A) crimes against humanity, specifically murder, deportations, and persecutions; and

(B) violations of the laws and customs of war.

(b) POLICY.—It shall be the policy of the United States to support fully and completely the investigation of President Slobodan Milosevic by the International Criminal Tribunal for the former Yugoslavia for genocide, crimes against humanity, war crimes, and grave breaches of the Geneva Convention.

(c) IN GENERAL.—Subject to subsection (b), it is the sense of Congress that the United States Government should gather all information that the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)) collects or has collected to support an investigation of President Slobodan Milosevic for genocide, crimes against humanity, war crimes, and grave breaches of the Geneva Convention by the International Criminal Tribunal for the former Yugoslavia (ICTY) and that the Department of State should provide all appropriate information to the Office of the Prosecutor of the ICTY under procedures established by the Director of Central Intelligence that are necessary to ensure adequate protection of intelligence sources and methods.

(d) REPORT TO CONGRESS.—Not less than 180 days after the date of enactment of this Act, and every 180 days thereafter, the President shall submit a report, in classified form if necessary, to the appropriate congressional committees that describes the information that was provided by the Department of State to the Office of the Prosecutor of the International Criminal Tribunal for the former Yugoslavia for the purposes of subsection (c).

SEC. 502. SENSE OF CONGRESS WITH RESPECT TO ETHNIC HUNGARIANS OF VOJVODINA.

(a) FINDINGS.—Congress finds that—

(1) approximately 350,000 ethnic Hungarians reside in the province of Vojvodina, part of Serbia, in traditional settlements in existence for centuries;

(2) this community has taken no side in any of the Balkan conflicts since 1990, but has maintained a consistent position of nonviolence, while seeking to protect its existence through the meager opportunities afforded under the existing political system;

(3) the Serbian leadership deprived Vojvodina of its autonomous status at the same time as it did the same to the province of Kosovo;

(4) this population is subject to continuous harassment, intimidation, and threatening suggestions that they leave the land of their ancestors; and

(5) during the past 10 years this form of ethnic cleansing has already driven 50,000 ethnic Hungarians out of the province of Vojvodina.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President should—

(1) condemn harassment, threats, and intimidation against any ethnic group in Yugoslavia as the usual precursor of violent ethnic cleansing;

(2) express deep concern over the reports on recent threats, intimidation, and even violent incidents against the ethnic Hungarian inhabitants of the province of Vojvodina;

(3) call on the Secretary of State to regularly monitor the situation of the Hungarian ethnic group in Vojvodina; and

(4) call on the NATO allies of the United States, during any negotiation on the future status of Kosovo, also to pay substantial attention to establishing satisfactory guarantees for the rights of the ethnic Hungarian community of Vojvodina, and of other ethnic minorities in the province, including consulting with elected leaders about their proposal for self-administration.

SEC. 503. OWNERSHIP AND USE OF DIPLOMATIC AND CONSULAR PROPERTIES.

(a) FINDINGS.—Congress finds the following:

(1) The international judicial system, as currently structured, lacks fully effective remedies for the wrongful confiscation of property and for unjust enrichment from the use of wrongfully confiscated property by governments and private entities at the expense of the rightful owners of the property.

(2) Since the dissolution of the Socialist Federal Republic of Yugoslavia, the Government of Yugoslavia has exclusively used, and benefited from the use of, properties located in the United States that were owned by the Socialist Federal Republic of Yugoslavia.

(3) The Governments of Bosnia and Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia, and Slovenia have been blocked by the Government of Yugoslavia from using, or benefiting from the use of, any property located in the United States that was previously owned by the Socialist Federal Republic of Yugoslavia.

(4) The continued occupation and use by officials of Yugoslavia of that property without prompt, adequate, and effective compensation under the applicable principles of international law to the Governments of Bosnia and Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia, and Slovenia are unjust and unreasonable.

(b) POLICY ON NEGOTIATIONS REGARDING PROPERTIES.—It is the policy of the United States to insist that the Government of Yugoslavia has a responsibility to, and should, actively and cooperatively engage in good faith negotiations with the Governments of Bosnia and Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia, and Slovenia for resolution of the outstanding property issues resulting from the dissolution of the Socialist Federal Republic of Yugoslavia, including the disposition of the following properties located in the United States:

(1) 2222 Decatur Street, NW, Washington, DC.

(2) 2410 California Street, NW, Washington, DC.

(3) 1907 Quincy Street, NW, Washington, DC.

(4) 3600 Edmonds Street, NW, Washington, DC.

(5) 2221 R Street, NW, Washington, DC.

(6) 854 Fifth Avenue, New York, NY.

(7) 730 Park Avenue, New York, NY.

(c) SENSE OF CONGRESS ON RETURN OF PROPERTIES.—It is the sense of Congress that, if

the Government of Yugoslavia refuses to engage in good faith negotiations on the status of the properties listed in subsection (b), the President should take steps to ensure that the interests of the Governments of Bosnia and Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia, and Slovenia are protected in accordance with international law.

SEC. 504. TRANSITION ASSISTANCE.

(a) SENSE OF CONGRESS.—It is the sense of Congress that once the regime of President Slobodan Milosevic has been replaced by a government that is committed to democratic principles and the rule of law, and that respects internationally recognized human rights, the President of the United States should support the transition to democracy in Yugoslavia by providing immediate and substantial assistance, including facilitating its integration into international organizations.

(b) AUTHORIZATION OF ASSISTANCE.—The President is authorized to furnish assistance to Yugoslavia if he determines, and so certifies to the appropriate congressional committees that the Government of Yugoslavia is committed to democratic principles and the rule of law and respects internationally recognized human rights.

(c) REPORT TO CONGRESS.—

(1) DEVELOPMENT OF PLAN.—The President shall develop a plan for providing assistance to Yugoslavia in accordance with this section. Such assistance would be provided at such time as the President determines that the Government of Yugoslavia is committed to democratic principles and the rule of law and respects internationally recognized human rights.

(2) STRATEGY.—The plan developed under paragraph (1) shall include a strategy for distributing assistance to Yugoslavia under the plan.

(3) DIPLOMATIC EFFORTS.—The President shall take the necessary steps—

(A) to seek to obtain the agreement of other countries and international financial institutions and other multilateral organizations to provide assistance to Yugoslavia after the President determines that the Government of Yugoslavia is committed to democratic principles, the rule of law, and that respects internationally recognized human rights; and

(B) to work with such countries, institutions, and organizations to coordinate all such assistance programs.

(4) COMMUNICATION OF PLAN.—The President shall take the necessary steps to communicate to the people of Yugoslavia the plan for assistance developed under this section.

(5) REPORT.—Not later than 120 days after the date of enactment of this Act, the President shall transmit to the appropriate congressional committees a report describing in detail the plan required to be developed by paragraph (1).

FREEDOM TO E-FILE ACT

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Agriculture Committee be discharged from further consideration of S. 777, and the Senate then proceed to its immediate consideration.

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

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 777) to require the Department of Agriculture to establish an electronic filing and retrieval system to enable the public to file all required paperwork electronically with the Department and to have access to public information on farm programs, quarterly trade, economic, and production reports, and other similar information.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2513

(Purpose: To provide a complete substitute)

Mr. GRASSLEY. Mr. President, there is a substitute amendment at the desk submitted by Senator FITZGERALD.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa (Mr. GRASSLEY), FOR MR. FITZGERALD, proposes an amendment numbered 2513.

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Freedom to E-File Act''.

SEC. 2. ELECTRONIC FILING AND RETRIEVAL.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, in accordance with subsection (c), the Secretary of Agriculture (referred to in this Act as the ''Secretary'') shall, to the maximum extent practicable, establish an Internet-based system that enables agricultural producers to access all forms of the agencies of the Department of Agriculture specified in subsection (b).

(b) APPLICABILITY.—The agencies referred to in subsection (a) are—

(1) the Farm Service Agency;

(2) the Rural Utilities Service;

(3) the Rural Housing Service;

(4) the Rural Business-Cooperative Service; and

(5) the Natural Resources Conservation Service.

(c) IMPLEMENTATION.—In carrying out subsection (a), the Secretary shall—

(1) provide a method by which agricultural producers may—

(A) download forms from the Internet; and

(B) submit completed forms via electronic facsimile, mail, or similar means;

(2) redesign forms of the agencies of the Department of Agriculture by incorporating into the forms user-friendly formats and self-help guidance materials.

(d) PROGRESS REPORTS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the progress made toward implementing the Internet-based system required under this section.

SEC. 3. ACCESSING INFORMATION AND FILING OVER THE INTERNET.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, in accordance with subsection (b), the Secretary shall expand implementation of the Internet-based system established under section 2 by enabling agricultural producers to access and file all forms and, at the option of the Secretary, selected records and information of the agencies of the Department specified in section 2(b).

(b) IMPLEMENTATION.—In carrying out subsection (a), the Secretary shall ensure that an agricultural producer is able—

(1) to file electronically or in paper form, at the option of the agricultural producer, all forms required by agencies of the Department specified in section 2(b);

(2) to file electronically or in paper form, at the option of the agricultural producer, all documentation required by agencies of the Department specified in section 2(b) and determined appropriate by the Secretary; and

(3) to access information concerning farm programs, quarterly trade, economic, and production reports, and other similar production agriculture information that is readily available to the public in paper form.

SEC. 4. FEDERAL CROP INSURANCE CORPORATION AND RISK MANAGEMENT AGENCY.

(a) IN GENERAL.—Not later than December 1, 2000, the Federal Crop Insurance Corporation and the Risk Management Agency shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a plan, that is consistent with this Act, to allow agricultural producers to—

(1) obtain, over the Internet, from approved insurance providers all forms and other information concerning the program under the jurisdiction of the Corporation and Agency in which the agricultural producer is a participant; and

(2) file electronically all paperwork required for participation in the program.

(b) ADMINISTRATION.—The plan shall—

(1) conform to sections 2(c) and 3(b); and

(2) prescribe—

(A) the location and type of data to be made available to agricultural producers;

(B) the location where agricultural producers can electronically file their paperwork; and

(C) the responsibilities of the applicable parties, including agricultural producers, the Risk Management Agency, the Federal Crop Insurance Corporation, approved insurance providers, crop insurance agents, and brokers.

(c) IMPLEMENTATION.—Not later than December 1, 2001, the Federal Crop Insurance Corporation and the Risk Management Agency shall complete implementation of the plan submitted under subsection (a).

SEC. 5. CONFIDENTIALITY.

In carrying out this Act, the Secretary—

(1) may not make available any information over the Internet that would otherwise not be available for release under section 552 or 552a of title 5, United States Code; and

(2) shall ensure, to the maximum extent practicable, that the confidentiality of persons is maintained.

Mr. FITZGERALD. Mr. President, I rise today to urge passage of S. 777, the Freedom to E-File Act. I appreciate Agriculture Secretary Glickman, Agriculture Committee Chairman LUGAR and my other Colleagues on the Agriculture Committee for their hard work in helping craft the consensus substitute amendment being offered on the floor today. This legislation will streamline the process our farmers follow when filing paper work with the Department of Agriculture (USDA). Currently, when farmers are required to fill out USDA paper work, they are required to travel to their local USDA county offices, complete the paper work, wait in long lines and file these documents in paper form. This process is very inefficient and time consuming.

This bill simply requires USDA to develop a system for farmers to access and file this information over the internet. The ''Freedom to E-file Act'' simply makes good common sense. As our society has become more technologically advanced so have our farmers. In fact, a 1998 Novartis survey found that over 72 percent of all farmers with 500 acres or more had personal computers. Overall, over fifty percent of all farmers surveyed had computers.

According to a Farm Journal study entitled, ''AgWeb 1999: Internet and e-Commerce in Production Agriculture,'' farmer internet usage will have more than doubled by the end of 1999 compared to 1997. The author concluded, ''the computer and the internet have become just as important to farmers as the tractor and good weather.'' The bill we pass today clearly recognizes this reality. The study also notes that over two-thirds of all commercial farmers own at least one computer and these farmers spend at least two hours per week on average utilizing the internet for agricultural purposes.

Our agriculturists use computers not only for financial management and market information but for sophisticated precision agriculture management systems. These sophisticated small business owners could easily file necessary farm program paperwork from their homes and offices if only this option was available.

Farmers are often frustrated with the long lines at county USDA offices, especially during their most hectic times such as harvest season. Our nation's farmers are clearly overburdened by government-mandated paperwork. This bill is the first step in the right direction toward regulatory reform for our U.S. food producers.

The Freedom to E-File Act has been popular among agricultural groups and within the United States Senate. The American Farm Bureau Federation, our nation's largest farm organization, stated that while S. 777 is a simple bill, ''the impact it will have on farmers and ranchers should be immense.'' The bill has approximately twenty bipartisan co-sponsors, including Agriculture Committee Chairman LUGAR and Minority Leader DASCHLE. The Secretary of Agriculture also supports the Freedom to E-File Act.

I commend my colleague, Congressman RAY LAHOOD, for championing the companion to this bill in the House of Representatives. I hope that the House will pass this important legislation prior to the end of this session, and look forward to the President's signature. I thank the presiding officer and I yield the floor.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the amendment be agreed to, the bill be read a third time and passed, as amended, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 777), as amended, was read the third time and passed, as follows:

S. 777

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 ''Freedom to E-File Act''.

SEC. 2. ELECTRONIC FILING AND RETRIEVAL.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, in accordance with subsection (c), the Secretary of Agriculture (referred to in this Act as the ''Secretary'') shall, to the maximum extent practicable, establish an Internet-based system that enables agricultural producers to access all forms of the agencies of the Department of Agriculture specified in subsection (b).

(b) APPLICABILITY.—The agencies referred to in subsection (a) are—

(1) the Farm Service Agency;

(2) the Rural Utilities Service;

(3) the Rural Housing Service;

(4) the Rural Business-Cooperative Service; and

(5) the Natural Resources Conservation Service.

(c) IMPLEMENTATION.—In carrying out subsection (a), the Secretary shall—

(1) provide a method by which agricultural producers may—

(A) download forms from the Internet; and

(B) submit completed forms via electronic facsimile, mail, or similar means;

(2) redesign forms of the agencies of the Department of Agriculture by incorporating into the forms user-friendly formats and self-help guidance materials.

(d) PROGRESS REPORTS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the progress made toward implementing the Internet-based system required under this section.

SEC. 3. ACCESSING INFORMATION AND FILING OVER THE INTERNET.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, in accordance with subsection (b), the Secretary shall expand implementation of the Internet-based system established under section 2 by enabling agricultural producers to access and file all forms and, at the option of the Secretary, selected records and information of the agencies of the Department specified in section 2(b).

(b) IMPLEMENTATION.—In carrying out subsection (a), the Secretary shall ensure that an agricultural producer is able—

(1) to file electronically or in paper form, at the option of the agricultural producer, all forms required by agencies of the Department specified in section 2(b);

(2) to file electronically or in paper form, at the option of the agricultural producer, all documentation required by agencies of the Department specified in section 2(b) and determined appropriate by the Secretary; and

(3) to access information concerning farm programs, quarterly trade, economic, and production reports, and other similar production agriculture information that is readily available to the public in paper form.

SEC. 4. FEDERAL CROP INSURANCE CORPORATION AND RISK MANAGEMENT AGENCY.

(a) IN GENERAL.—Not later than December 1, 2000, the Federal Crop Insurance Corporation and the Risk Management Agency shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a plan, that is consistent with this Act, to allow agricultural producers to—

(1) obtain, over the Internet, from approved insurance providers all forms and other information concerning the program under the jurisdiction of the Corporation and Agency in which the agricultural producer is a participant; and

(2) file electronically all paperwork required for participation in the program.

(b) ADMINISTRATION.—The plan shall—

(1) conform to sections 2(c) and 3(b); and

(2) prescribe—

(A) the location and type of data to be made available to agricultural producers;

(B) the location where agricultural producers can electronically file their paperwork; and

(C) the responsibilities of the applicable parties, including agricultural producers, the Risk Management Agency, the Federal Crop Insurance Corporation, approved insurance providers, crop insurance agents, and brokers.

(c) IMPLEMENTATION.—Not later than December 1, 2001, the Federal Crop Insurance Corporation and the Risk Management Agency shall complete implementation of the plan submitted under subsection (a).

SEC. 5. CONFIDENTIALITY.

In carrying out this Act, the Secretary—

(1) may not make available any information over the Internet that would otherwise not be available for release under section 552 or 552a of title 5, United States Code; and

(2) shall ensure, to the maximum extent practicable, that the confidentiality of persons is maintained.

TO AMEND THE IMMIGRATION AND NATIONALITY ACT

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate now proceed to consideration of Calendar No. 340, S. 1753.

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

The legislative clerk read as follows:

A bill (S. 1753) to amend the Immigration and Nationality Act to provide that an adopted alien who is less than 18 years of age may be considered a child under such Act if adopted with or after a sibling who is a child under such Act.

There being no objection, the Senate proceeded to consider the bill.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the bill be read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 1753) was read the third time and passed, as follows:

S. 1753

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROVIDING THAT AN ADOPTED ALIEN WHO IS LESS THAN 18 YEARS OF AGE MAY BE CONSIDERED A CHILD UNDER THE IMMIGRATION AND NATIONALITY ACT IF ADOPTED WITH OR AFTER A SIBLING WHO IS A CHILD UNDER SUCH ACT.

(a) IN GENERAL.—Section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)) is amended—

(1) in subparagraph (E)—

(A) by inserting ''(i)'' after ''(E)''; and

(B) by adding at the end the following:

''(ii) subject to the same proviso as in clause (i), a child who (I) is a natural sibling of a child described in clause (i) or subparagraph (F)(i); (II) was adopted by the adoptive parent or parents of the sibling described in such clause or subparagraph; and (III) is otherwise described in clause (i), except that the child was adopted while under the age of eighteen years; or''; and

(2) in subparagraph (F)—

(A) by inserting ''(i) after ''(F)'';

(B) by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(ii) subject to the same provisos as in clause (i), a child who (I) is a natural sibling

of a child described in clause (i) or subparagraph (E)(i); (II) has been adopted abroad, or is coming to the United States for adoption, by the adoptive parent (or prospective adoptive parent) or parents of the sibling described in such clause or subparagraph; and (III) is otherwise described in clause (i), except that the child is under the age of eighteen at the time a petition is filed in his or her behalf to accord a classification as an immediate relative under section 201(b).''.

(b) CONFORMING AMENDMENTS RELATING TO NATURALIZATION.—

(1) DEFINITION OF CHILD.—Section 101(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(c)) is amended by striking ''sixteen years,'' and inserting ''sixteen years (except to the extent that the child is described in subparagraph (E)(ii) or (F)(ii) of subsection (b)(1)),''.

(2) CERTIFICATE OF CITIZENSHIP.—Section 322(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1433(a)(4)) is amended—

(A) by striking ''16 years'' and inserting ''16 years (except to the extent that the child is described in clause (ii) of subparagraph (E) or (F) of section 101(b)(1))''; and

(B) by striking ''subparagraph (E) or (F) of section 101(b)(1).'' and inserting ''either of such subparagraphs.''.

RECOGNIZING AND COMMENDING THE PERSONNEL OF EGLIN AIR FORCE BASE, FLORIDA

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Armed Services Committee be discharged from consideration of and the Senate proceed to the immediate consideration of S. Res. 185, commending the personnel of Eglin Air Force Base.

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

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 185) recognizing and commending the personnel of Eglin Air Force Base, Florida, for their participation and efforts in support of the North Atlantic Treaty Organization's (NATO) Operation Allied Force in the Balkan Region.

There being no objection, the Senate proceeded to consider the resolution.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 185) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 185

Whereas the personnel of the Air Armament Center at Eglin Air Force Base, Florida, developed and provided many of the munitions, technical orders, expertise, and support equipment utilized by NATO during the Operation Allied Force air campaign;

Whereas the 2,000-pound Joint Direct Attack Munition (JDAM) developed at the Air Armament Center was the very first weapon dropped in Operation Allied Force;

Whereas the Air to Ground 130 (AGM 130) standoff missile, developed at the Air Armament Center, enabled the F–15E Strike Eagle aircrews to standoff approximately 40 nautical miles from targets and attack with very high precision; and

Whereas the reliable performance of the JDAM and AGM 130 enabled the combat air crews to complete bombing missions accurately, effectively, and with reduced risk to crews, resulting in no casualties among NATO air personnel, thereby making these munitions the ordinance favored most by combat air crews: Now, therefore, be it

Resolved, That the Senate—

(1) commends the men and women of Eglin Air Force Base, Florida, for their contributions to the unqualified success of Operation Allied Force;

(2) recognizes that the efforts of the men and women of the Air Armament Center, Eglin Air Force Base, Florida, helped NATO conduct the air war with devastating effect on our adversaries, entirely without American casualties in the air combat operations;

(3) expresses deep gratitude for the sacrifices made by those men and women and their families in their support of American efforts in Operation Allied Force; and

(4) commits to maintaining the technological superiority of American air armament as a critical component of our Nation's capability to conduct and prevail in warfare while minimizing casualties.

COLLEGE SCHOLARSHIP FRAUD PREVENTION ACT OF 1999

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 357, bill S. 1455.

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

The legislative clerk read as follows:

A bill (S. 1455) to enhance protections against fraud in the offering of financial assistance for college education, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''College Scholarship Fraud Prevention Act of 1999''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) A substantial amount of fraud occurs in the offering of college education financial assistance services to consumers.

(2) Such fraud includes the following:

(A) Misrepresentations regarding the provision of sources from which consumers may obtain financial assistance (including scholarships, grants, loans, tuition, awards, and other assistance) for purposes of financing a college education.

(B) Misrepresentations regarding the provision of portfolios of such assistance tailored to the needs of specific consumers.

(C) Misrepresentations regarding the pre-selection of students as eligible to receive such assistance.

(D) Misrepresentations that such assistance will be provided to consumers who purchase specified services from specified entities.

(E) Misrepresentations regarding the business relationships between particular entities and entities that award or may award such assistance.

(F) Misrepresentations regarding refunds of processing fees if consumers are not provided specified amounts of such assistance, and other misrepresentations regarding refunds.

(3) In 1996, the Federal Trade Commission launched ''Project Scholarscam'', a joint law enforcement and consumer education campaign directed at fraudulent purveyors of so-called ''scholarship services''.

(4) Despite the efforts of the Federal Trade Commission, colleges and universities, and non-governmental organizations, the continued lack of awareness about scholarship fraud permits a significant amount of fraudulent activity to occur.

SEC. 3. SENTENCING ENHANCEMENT FOR HIGHER EDUCATION FINANCIAL ASSISTANCE FRAUD.

Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines in order to provide for enhanced penalties for any offense involving fraud or misrepresentation in connection with the obtaining or providing of, or the furnishing of information to a consumer on, any scholarship, grant, loan, tuition, discount, award, or other financial assistance for purposes of financing an education at an institution of higher education, such that those penalties are comparable to the base offense level for misrepresentation that the defendant was acting on behalf of a charitable, educational, religious, or political organization, or a government agency.

SEC. 4. EXCLUSION OF DEBTS RELATING TO COLLEGE FINANCIAL ASSISTANCE SERVICES FRAUD FROM PERMISSIBLE EXEMPTIONS OF PROPERTY FROM ESTATES IN BANKRUPTCY.

Section 522(c) of title 11, United States Code, is amended—

(1) by striking ''or'' at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting ''; or''; and

(3) by adding at the end the following:

''(4) a debt in connection with fraud in the obtaining or providing of any scholarship, grant, loan, tuition, discount, award, or other financial assistance for purposes of financing an education at an institution of higher education (as that term is defined in section 101 of the Higher Education Act of 1954 (20 U.S.C. 1001)).''.

SEC. 5. SCHOLARSHIP FRAUD ASSESSMENT AND AWARENESS ACTIVITIES.

(a) ANNUAL REPORT ON SCHOLARSHIP FRAUD.—

(1) REQUIREMENT.—The Attorney General and the Secretary of Education, in conjunction with the Federal Trade Commission, shall jointly submit to Congress each year a report on fraud in the offering of financial assistance for purposes of financing an education at an institution of higher education. Each report shall contain an assessment of the nature and quantity of incidents of such fraud during the one-year period ending on the date of such report.

(2) INITIAL REPORT.—The first report under paragraph (1) shall be submitted not later than 18 months after the date of the enactment of this Act.

(b) NATIONAL AWARENESS ACTIVITIES.—The Secretary of Education shall, in conjunction with the Federal Trade Commission, maintain a scholarship fraud awareness site on the Internet web site of the Department of Education. The scholarship fraud awareness site may include the following:

(1) Appropriate materials from the Project Scholarscam awareness campaign of the Commission, including examples of common fraudulent schemes.

(2) A list of companies and individuals who have been convicted of scholarship fraud in Federal or State court.

(3) An Internet-based message board to provide a forum for public complaints and experiences with scholarship fraud.

(4) An electronic comment form for individuals who have experienced scholarship fraud or have questions about scholarship fraud, with appropriate mechanisms for the transfer of comments

received through such forms to the Department and the Commission.

(5) Internet links to other sources of information on scholarship fraud, including Internet web sites of appropriate nongovernmental organizations, colleges and universities, and government agencies.

(6) An Internet link to the Better Business Bureau in order to assist individuals in assessing the business practices of other persons and entities.

(7) Information on means of communicating with the Federal Student Aid Information Center, including telephone and Internet contact information.

Mr. LEAHY. Mr. President, one of the singular most important issues facing us today is education. Affordable higher education is an opportunity that must be made available to all of our young people. To that end, public and private scholarships, grants and loans have long assisted our nation's students in pursuing college degrees.

Phony scholarship offerings, scams and frauds do great harm to our nation's students. No student seeking to attend a college or university should have to worry about whether a scholarship offering is legitimate or wonder whether the business to which he or she has mailed an application fee actually exists. I am glad to join in the effort of Senators ABRAHAM and FEINGOLD to add to the arsenal of our current laws to combat these types of frauds.

I commented at a Judiciary Committee hearing on this bill earlier this month that the goals of this legislation are laudable. We need to do more to combat scholarship scams and promote the dissemination of information about legitimate sources of higher education funding. Nevertheless, I raised questions about whether the original bill reflected the most effective way to pursue the goals we all share. I am pleased to join as a cosponsor of the substitute amendment that addresses the concerns I raised.

For instance, the original bill proposed raising the long-standing statutory maximum punishment of five years for mail and wire fraud to ten years in cases of scholarship scams. In light of the fact that scholarship scams often involve more than one victim and may result in multiple charges, raising the statutory penalties may not be necessary to effectuate punishment goals. I suggested that a more appropriate and effective solution to ensure adequate punishment may be to direct the Sentencing Commission to consider a guideline enhancement for cases involving fraudulent scholarship offerings. The substitute amendment makes this change and directs the Sentencing Commission to amend the sentencing guidelines to provide enhanced penalties for any offenses involving scholarship scams such that those penalties are comparable to the base offense level for misrepresentation that the defendant was acting on behalf of a charitable, educational, religious, or political organization, or a government agency. In effect, this amendment directs the Sentencing Commission to increase the guideline offense levels by 2 levels.

The substitute amendment is an improvement since it avoids complicating the wire and mail fraud statutes with different penalties depending on the nature of the underlying fraud.

The substitute amendment directs the Attorney General and the Secretary of Education, in consultation with the Federal Trade Commission to report to Congress on the nature and quantity of incidents of scholarship scams. This report will assist the Judiciary Committee in monitoring whether additional legislative steps are needed in this area.

The substitute amendment makes important improvements in the original bill, and I urge the Congress to pass this legislation promptly.

Mr. GRASSLEY. I ask unanimous consent the committee amendment be agreed to, the bill be considered read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1455) as amended, was read the third time and passed, as follows:

S. 1455

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 ''College Scholarship Fraud Prevention Act of 1999''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) A substantial amount of fraud occurs in the offering of college education financial assistance services to consumers.

(2) Such fraud includes the following:

(A) Misrepresentations regarding the provision of sources from which consumers may obtain financial assistance (including scholarships, grants, loans, tuition, awards, and other assistance) for purposes of financing a college education.

(B) Misrepresentations regarding the provision of portfolios of such assistance tailored to the needs of specific consumers.

(C) Misrepresentations regarding the preselection of students as eligible to receive such assistance.

(D) Misrepresentations that such assistance will be provided to consumers who purchase specified services from specified entities.

(E) Misrepresentations regarding the business relationships between particular entities and entities that award or may award such assistance.

(F) Misrepresentations regarding refunds of processing fees if consumers are not provided specified amounts of such assistance, and other misrepresentations regarding refunds.

(3) In 1996, the Federal Trade Commission launched ''Project Scholarscam'', a joint law enforcement and consumer education campaign directed at fraudulent purveyors of so-called ''scholarship services''.

(4) Despite the efforts of the Federal Trade Commission, colleges and universities, and nongovernmental organizations, the continued lack of awareness about scholarship fraud permits a significant amount of fraudulent activity to occur.

SEC. 3. SENTENCING ENHANCEMENT FOR HIGHER EDUCATION FINANCIAL ASSISTANCE FRAUD.

Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines in order to provide for enhanced penalties for any offense involving fraud or misrepresentation in connection with the obtaining or providing of, or the furnishing of information to a consumer on, any scholarship, grant, loan, tuition, discount, award, or other financial assistance for purposes of financing an education at an institution of higher education, such that those penalties are comparable to the base offense level for misrepresentation that the defendant was acting on behalf of a charitable, educational, religious, or political organization, or a government agency.

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(3) An Internet-based message board to provide a forum for public complaints and experiences with scholarship fraud.

(4) An electronic comment form for individuals who have experienced scholarship fraud or have questions about scholarship fraud, with appropriate mechanisms for the transfer of comments received through such forms to the Department and the Commission.

(5) Internet links to other sources of information on scholarship fraud, including Internet web sites of appropriate nongovernmental organizations, colleges and universities, and government agencies.

(6) An Internet link to the Better Business Bureau in order to assist individuals in assessing the business practices of other persons and entities.

(7) Information on means of communicating with the Federal Student Aid Information Center, including telephone and Internet contact information.

TO PERMIT ENROLLMENT IN HOUSE OF REPRESENTATIVES CHILD CARE CENTER OF CHILDREN OF FEDERAL EMPLOYEES

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Rules Committee be discharged from further consideration of H.R. 3122, and that the Senate then proceed to the immediate consideration of H.R. 3122.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3122) to permit the enrollment in the House of Representatives Child Care Center of children of Federal employees who are not employees of the legislative branch.

There being no objection, the Senate proceeded to consider the bill.

Mr. GRASSLEY. I ask unanimous consent that the bill be read three times, passed, and the motion to reconsider be laid upon the table with no intervening action, and that any statements relating thereto be printed in the RECORD.

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

The bill (H.R. 3122) was read the third time and passed.

ORDERS FOR FRIDAY, NOVEMBER 5, 1999

Mr. GRASSLEY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m. on Friday, November 5. I further ask consent that on Friday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of S. 625, the bankruptcy reform bill.

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

PROGRAM

Mr. GRASSLEY. For the information of all Senators, at 9:30 a.m. on Friday, the Senate will immediately resume debate on the bankruptcy reform legislation. As under the agreement, first-degree amendments to the bill must be relevant and filed by 5 p.m. tomorrow. Senators who have amendments are encouraged to work with the bill managers on a time to come to the floor to offer and debate those amendments. The leader has announced that votes could occur tomorrow on amendments or any appropriations bills that become available.

The leader also announces that votes will occur on Monday at 5:30 p.m. and on Tuesday morning at 10:30. The votes on Tuesday will be on the minimum wage issue and the business cost amendment.

As a reminder, the Senate passed the continuing resolution to continue Government funding until November 10. It is hoped that all Senators will give their full cooperation as the final days of the first session of the 106th Congress come to a close.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. GRASSLEY. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:15 p.m., adjourned until Friday, November 5, 1999, at 9:30 a.m.