The House met at 2 p.m. and was called to order by the Speaker pro tempore (Mr. THORNBERRY).

DESIGNATION OF THE SPEAKER PRO TEMPORE
The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,

I hereby appoint the Honorable MAC THORNBERY to act as Speaker pro tempore on this day.

J. DENNIS HASTERT, Speaker of the House of Representatives.

PRAYER
The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, we trust You will resolve our uncertainties and bring about true healing. We know You can recreate greatness in this Nation and raise up leaders in our day who will guide us with courage and wisdom. Through the prophet Isaiah You have told us You are our redeemer. Breathe the breath of lasting freedom in Your people. Make us confident that You will lead us now and forever. Amen.

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

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

PLEDGE OF ALLEGIANCE
The SPEAKER pro tempore. Will the gentleman from New York (Mr. McNULTY) come forward and lead the House in the Pledge of Allegiance?

Mr. McNULTY 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.

MESSAGE FROM THE SENATE
A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate has passed without amendment bills of the House of the following titles:

H.R. 3514. An act to amend the Public Health Service Act to provide for a system for sanctuaries for chimpanzees that have been designated as being no longer needed in research conducted or supported by the Public Health Service, and for other purposes.

H.R. 4281. An act to establish, wherever feasible, guidelines, recommendations, and regulations that promote the regulatory acceptance of new or revised scientifically valid toxicological tests that protect human and animal health and the environment while reducing, refining, or replacing animal tests and ensuring human safety and product effectiveness.

H.R. 4827. An act to amend title 18, United States Code, to prevent the entry by false pretenses to any real property, vessel, or aircraft of the United States or secure area of any airport, to prevent the misuse of genuine and counterfeit police badges by those seeking to commit a crime, and for other purposes.

H.R. 5640. An act to expand homeownership in the United States, and for other purposes.

The message also announced that the Senate has passed with amendments bills of the House of the following titles:

H.R. 4493. An act to establish grants for drug treatment alternative to prison programs administered by State or local prosecutors.

H.R. 4640. An act to make grants to States for carrying out DNA analyses for use in the Combined DNA Index System of the Federal Bureau of Investigation, to provide for the collection and analysis of DNA samples from certain violent and sexual offenders for use in such system, and for other purposes.

H.R. 5638. An act to authorize appropriations for fiscal year 2001 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The message also announced that the Senate recedes from its amendments numbered 2 and 4 to the bill (H.R. 3048) "An Act to amend section 879 of title 18, United States Code, to provide clearer coverage over threats against former Presidents and members of their families, and for other purposes"; and agrees to the amendment of the House to the amendment of the Senate numbered 5 to the above-entitled bill.

The message also announced that pursuant to Public Law 96-114, as amended, the Chair, on behalf of the Majority Leader, announces the appointment of the following individuals to the Congressional Award Board—Galen J. Reser, of Connecticut; and Rex B. Wackerle, of Virginia.

The message also announced that pursuant to Public Law 105-341, the Chair, on behalf of the Democratic Leader, announces the appointment of the following individuals to the Women’s Progress Commemoration Commission: Ann F. Lewis, of Maryland; Vice Joan Doran Hedrick, of Connecticut.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE
The SPEAKER pro tempore. The Chair announces that 1-minute speeches will be postponed until the end of the day.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 2001
Mr. YOUNG of Florida. Mr. Speaker, pursuant to the order of the House of December 6, 2000, I call up the joint resolution (H.J. Res. 127) making further continuing appropriations for the fiscal year 2001, and for other purposes, and ask for its immediate consideration in the House.

This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.
The Clerk read the title of the joint resolution:

The text of House Joint Resolution 127 is as follows:

H.J. RES. 127

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 106-275, is further amended by striking the date specified in section 106(c) and inserting "December 8, 2000 favoring in the history of the House under both parties."

The SPEAKER pro tempore. Pursuant to the order of the House of Representatives (Mr. YOUNG) and the gentleman from Wisconsin (Mr. OBSBY) each will control 30 minutes. The Chair recognizes the gentleman from Florida (Mr. YOUNG).

GENERAL LEAVE

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that all Members may have five minutes in which to revise and extend their remarks on House Joint Resolution 127, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida? There was no objection.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker. House Joint Resolution 127 is one more continuing resolution that is required, inasmuch as several of the appropriations bills have not been concluded. I might say that these bills basically conclude that because of extraneous issues that in my opinion do not even belong in an appropriations bill. But nevertheless, these issues are there, and they are causing some problems.

So I would point out to our colleagues, Mr. Speaker, that we have set a record. This is the largest number of continuing resolutions that any Congress to my knowledge has ever considered. It is not the longest number of days covered by CRs, but this one is No. 18.

The reason that we have had to present so many continuing resolutions is because we cannot get agreement to go beyond 1 day at a time, in most of the cases, so we are here with a one-day CR. Tomorrow, we will have to do another CR. Saturday, we may have to do another CR. Saturday, we may have to do another one-day CR, unless the negotiations that are taking place at the White House as we speak with the President produce some concrete decisions.

If that is the case, then we will be able to present to the Members a final package of appropriations measures by the middle of next week. But at this point,Mr. Speaker, it remains to be seen what comes from the White House meeting between our leaders, the bicameral and bipartisan leadership, and the President of the United States.

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

Mr. OBEX. Mr. Speaker, this is indeed Groundhog Day over and over and over again. As I think most Members understand, we were supposed to have our budget work done by October 1. It is not rare that we do not. That has often happened in the history of the House under both parties.

What is rare is this difference. In the past, in the main, continuing resolutions which keep the government open after the expiration of the previous fiscal year are passed for the purpose of giving leadership on both parties, and those involved in negotiations an opportunity to have more time to complete their work by resolving their differences.

Instead, I am forced to conclude that continuing resolutions in this situation are being used as a tool to shield this institution from doing its work resolving our differences and completing the work needed on the budget for the coming year but the year that we have been in since October 1.

Continuing resolutions are supposed to be used to buy time to find compromises. Yet, we see gross evidence that in fact there are other plans afoot, of which we do not know if we take a look at the Wall Street Journal or if we take a look at the New York Times or if we take a look at the AP report, which I have seen today, we see that the deficit is running at such a high rate on the majority side of the aisle, the gentleman from Texas (Mr. DELAY), is in essence counseling that what the majority party ought to do is to push the President into a position where he is forced to choose between cutting down governmental agencies and accepting what he describes as Republican priorities, including a very large scale-back of education funding which was in the budget agreement which was negotiated and agreed upon before the elections but was never brought to the floor by the leadership of the House.

I deeply believe that there are the votes to pass that proposal if it can ever reach the floor of the House, but permission to bring the floor of the House is being withheld.

We are being told that what must happen in order for us to complete our work is that many billions of dollars in education funding which were agreed to in that conference report should now be stripped out of that bill as a price for its passage. Until that happens, we are being asked to pass a series of continuing resolutions a day at a time or two days at a time.

I would ask whether they really do believe that we ought to back away from what I regard as one of the best achievements of this Congress, a negotiated agreement that provided a 22 percent increase in support for education over the previous year.

If Members do not like those increases, I would ask, which ones do they want to cut back? Do they want to see the class size reduction program cut back, so we can slack off on our effort to reduce the size of classes? They want to reduce the after-school learning programs that we are trying to ramp up so that children from families with two parents working outside the household can spend the after-school hours in a meaningful learning experience with adult supervision rather than playing in the streets or going home to an empty house?

Would they prefer that we eliminate some of the funding for the Title I program under which 900,000 disadvantaged students are supposed to receive extra help in reading and math, for instance?

Would they propose that we scale back the hard-won increase of $500 per child in the Pell grant program in the maximum grant?

Would they propose that we scale back the work study program?

Which of these education programs is in the national interest to scale back on from the amounts that were negotiated in a bipartisan level between both houses of the Congress and the administration?

Should we scale back on the efforts to improve the quality of teacher instruction in some 15,000 school districts in this country?

Do we really want to have physical education teachers continuing to teach math and English teachers continuing to teach science? I do not think so. Do we really want to scale back on the effort to help huge, humongous-sized high schools redesign themselves into smaller, more intimate learning centers? I do not think we want to do that.

It seems to me that we have a majority in both parties that would support that agreement if it were brought to the floor. I would urge the leadership of the House to allow that agreement to come to the floor. It was negotiated in good faith, and that apparently is what is preventing us from completing our appropriations work.

I cannot address the other non-appropriation items that are still at issue in this Congress, but I really believe that if the committee were allowed to do so, we could reach a reasonable compromise on the immigration issue in a very short period of time, and I think that we could produce a majority of votes for an agreed-upon compromise on education funding.

But if we are to be confronted by ultimatums such as that suggested by the distinguished minority whip, suggesting that the President should be backed into a corner where he has to accept what the gentleman from Texas (Mr. DELAY) defines as Republican priorities or else see a shut-down of an agency's ability to perform, then I think we are in a most destructive atmosphere.
I find it ironical that the majority party campaigned and their standard-bearer campaigned on the theme that they would pursue a course of bipartisanship, and yet the very first act they are asking us to engage in is to back out of the so-called appropriations bill that was negotiated shortly before the election but never brought to the floor for a vote.

I would urge that that approach be reconsidered. I, for one, have supported all of these continuing resolutions in the hope that we would give us more time to resolve differences.

Mr. Speaker, but when they are simply provided as a tool by which those differences are shielded from being resolved, then I see no purpose in voting for further continuing resolutions.

Mr. Speaker, I will vote for this one, but I see no reason to vote for any continuing resolution beyond tomorrow, because we ought to be able to wrap this up in a day or a day and a half.

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

Mr. YOUNG of Florida. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I want to advise the gentleman from Wisconsin (Mr. OBEY) that I will have two speakers for brief periods of time. After that, then the gentleman may wish to respond; and then I will have a closing statement and that will be the extent of our debate for today.

Mr. Speaker, I would suggest to the gentleman that if, in fact, the President of the United States would be agreeable to a compromise package that will be presented to him today, the gentleman from Wisconsin is correct, we can finish this in a day and a half. But that has not been too easy to get that agreement.

As matter of fact, on July 27 of this year, we concluded the conference on the Labor, HHS appropriations bill, and then October 29, we finally came to an agreement on a bipartisan fashion in a sort of a conference agreement, but the next morning, that agreement fell apart not because of something that had to do with appropriations, but something that was not related to appropriations. And that is one of the problems that we are facing.

Mr. Speaker, that is one of the problems that have been faced with on appropriations bills through this whole season. The appropriations part of the process was the easy part of the job. Where we found great difficulty was on those riders that were attached to appropriations bills.

Why is that the case? Because appropriations bills, Mr. Speaker, have to pass. Congress has to pass appropriations bills. Members, whether they are rank and file Members or whether they are leadership Members, see a vehicle out here that they have to pass. And since a regular authorizing vehicle might not be available, they say hey, here is a good chance to do what I want to do on the appropriations bill that has to pass.

Those are the kind of controversies that have caused us time problems. And I say again, the appropriations part of these bills have not created most of the controversies that we have experienced.

Mr. Speaker, I yield 3 minutes to the very distinguished gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Speaker, I may ask a question of the gentleman from Florida (Mr. YOUNG), chairman of the Committee on Appropriations, but there are those of us who are rank and file Republicans who frankly were somewhat alarmed by what we saw in the newspapers of the statement by the distinguished majority whip that we should have a 1-year continuing resolution. Agreeing with what I think the gentleman from Wisconsin (Mr. OBEY) has said and what the gentleman from Florida (Mr. YOUNG) has said, it is the judgment of a lot of us that this has been worked on very hard by both parties, a lot of good input has gone into it, a lot of progress has been made. We are pretty close to the end.

These various programs would be good for the rank and file and we would try to do it as rapidly as possible. Let me point out, we are, I think, 2 months and a week beyond the beginning of the fiscal year for which this should have been done. I think personally it should be done before this Congress adjourns, and this particularly President and not by the next President and the next Congress.

I would glean from the comments of the gentleman from Florida (Mr. YOUNG) that the gentleman is in agreement with this and that is the direction which the gentleman continues to go, in spite of what I read of the statements of the majority whip.

I assume that the gentleman from Illinois (Mr. CASTLE), the Speaker of the House, is still in that position, and just the comfort to us who feel this is what we are waiting for and that we are having continuing resolutions for and we have been waiting for, I would like to get the gentleman’s view of that.

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. CASTLE. I yield to the gentleman from Florida.

Mr. YOUNG. Mr. Speaker, I yield.

I would say that the gentleman is exactly correct. I agree with the statement that he made. I believe that the 106th Congress should complete the business of the 106th Congress. I think it will be a tragic mistake to try to run this continuing resolution until the end of the fiscal year. I would strongly object to that, and I certainly cannot speak for the gentleman from Illinois (Mr. HASTERT), the Speaker of the House, that gentleman can speak for himself. And if far from the majority whip, I might tell you that he enjoys the same frustrations that we all experience, but the gentleman is trying to find a way to get things moving, just like all of us are.

Why he said what he said certainly is in his own mind, but I can tell the gentleman that his motives are to get this work concluded. And if he uses the tactics to get our attention, that may be what he is doing. I am not sure, but I know that he wants this job concluded.

Mr. Speaker, I have to say that regardless of all of that, I agree. It is our obligation to get the business of the 106th Congress, and we must do it as expeditiously as possible. But I must remind everyone that we are not only dealing with ourselves here in the House, Republicans and Democrats. We are also dealing with the United States Senate, Republicans and Democrats. We are also dealing with someone with a very big stick, a veto pen, who resides at 1600 Pennsylvania Avenue.

It is not easy to bring these very divergent groups together, but that is what we are trying to do. And I agree with the gentleman from Wisconsin (Mr. OBEY), one day CRs, in my opinion, are ridiculous.

We ought not be wasting the time of the Congress doing that. We should be using the time to conclude our business, but I am definitely opposed to a year-long continuing resolution.

Mr. CASTLE. Mr. Speaker, the comments of the gentleman give me comfort, and I thank the gentleman a great deal.

Mr. YOUNG of Florida. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York (Mr. HOUGHTON).

Mr. HOUGHTON. Mr. Speaker, I have not been in negotiations in the White House. I am not a Member of the Republican leadership, but I am a concerned citizen, and I also am a Member of a bipartisan group which met with the gentleman from Indiana (Mr. ROEMER) yesterday and Members from both sides to try to find a way to bring our two parties together.

We have gone over and over the issues. We have gone over and over the dollar amounts. We have had things on the table and off the table and back on the table, and it just seems to me that we do a job in the amount of time we allow ourselves to do it in, and we are about at that point.

Mr. Speaker, I would like to ask the gentleman from Florida (Mr. YOUNG), chairman of the Committee on Appropriations, because I think he has done an extraordinary job in bringing issues such that we can, within a reasonable period of time, I say 24, 48 hours, solve these things and vote on them?

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. HOUGHTON. I yield to the gentleman from Florida.

Mr. YOUNG. Mr. Speaker, the issues are serious, and the issues are dealing with numbers that are very high to get our attention, and Members, very low with another group of Members, also with the President, but some of the issues as I mentioned are not even related to appropriations.
The gentleman will recall we had the argument over the ergonomics issue, and then we had quite an argument over the question of granting blanket amnesty to those who are here in the United States illegally.

There are two big issues that are not appropriations issues, but are being considered using the appropriations bill as a vehicle for their enactment. So things like that are causing us problems.

Can we get together? I do not see why we cannot get together. What needs to happen is everybody needs to realize that no one is going to get their way exactly the way they wanted it.

I am chairman of the Committee on Appropriations, but I cannot get my way all the time, and chairmen of our subcommittees cannot get their way all the time, but what we all have to recognize is there has to be a consensus.

We are almost evenly divided in this House and in the other body, so it is time to recognize each side has to give a little. If you want to get something, you have to give something, and that is what it is going to take to conclude our business.

Mr. HOUGHTON. Mr. Speaker, I thank the gentleman for his comments.

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

Mr. OBEY. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. ROEMER).

Mr. ROEMER. Mr. Speaker, I thank my friend, the gentleman from Wisconsin (Mr. OBEY) for yielding me the time.

Mr. Speaker, I want to associate myself with the, I think, thoughtful and bipartisan comments made by the gentleman from Florida (Mr. YOUNG), chairman of the Committee on Appropriations, my good friends in a new bipartisan coalition that we have recently been working on. The gentleman from New York (Mr. HOUGHTON), the gentleman from Delaware (Mr. CASTLE), and certainly with I think the wise remarks of the gentleman from Wisconsin (Mr. OBEY) that he made to start this debate.

It seems to me that we have two questions here: A question of process and a question of bipartisanship.

On the question of process, the American people have hired us in the 106th Congress to do a job and to finish a job and to not shirk, to not neglect, to not ignore those responsibilities for either reasons of politics and Presidential elections or reasons of convenience and push off those decisions to the 107th Congress.

We have been paid to make those decisions. We should make those decisions in this 106th Congress.

Mr. Speaker, the second question that I think is important is a question of bipartisanship. We have one individual, a Speaker or a President, that can stand up and say either stand down and I want it my way 100 percent or shut down the government? That is not the way this process and this body works. Nobody is going to get exactly what they want nor should they.

A number of bipartisan Members of this body, Democrats and Republicans, have signed on to a letter stating that "we urge you to ensure that the FY 2001 budget is finalized and approved before the 106th Congress adjourns. We strongly believe that the passage of a continuing resolution in the next year would only serve to provide this Congress with an excuse to shirk its duty to the American people." That is signed by the gentleman from New York (Mr. HOUGHTON), the gentleman from Delaware (Mr. CASTLE), the gentleman from Michigan (Mr. UPTON), the gentleman from Wisconsin (Mr. KIND), the gentleman from Tennessee (Mr. FORD), the gentleman from Florida (Mr. DAVIS), the gentleman from Pennsylvania (Mr. GREENWOOD).

We want to see this process work. If we can make this final process on two of the most important bills that the gentleman from Tennessee (Mr. PORTER) and the gentleman from Wisconsin (Mr. OBEY) have worked in a bipartisan way, if we can make this work in a bipartisan way, we can then have a steppingstone to the 107th Congress to begin the needed and necessary and vital bipartisan work that we are going to require to get the people's business done.

Mr. Speaker, I would hope that we would sit back down together in a Democratic and Republican way and finish the job of the 106th Congress on education and health issues.

Mr. Speaker, I include for the RECORD, the following letter:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, D.C.

Hon. RICHARD C. GEPHARD, Minority Leader, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER AND MR. LEADER: We applaud your recent efforts at the highest levels of our congressional leadership to reach across the aisle and renew a meaningful dialogue. As you know, our group of rank-and-file Republicans and Democrats is also dedicated to fostering the bipartisan solutions to the issues facing the Congress.

Accordingly, we urge you to insure the FY 2001 budget is finalized and approved before the 106th Congress adjourns. We strongly believe that the passage of a continuing resolution into next year would serve only to provide this Congress with an excuse to shirk their duty to the American people.

Today we offer the support and encouragement of our membership in whatever ways might be helpful in realizing this important goal. We look forward to working with you on a common agenda in the 107th Congress.

Sincerely,

TIM ROEMER.
MICHEAL CASTLE.
HAROLD E. FORD, J. F.
RON KIND.
AMO HOUGHTON.
JIM DAVIS.
JAMES C. GREENWOOD.
FRED UPTON.

Mr. Speaker. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Tennessee (Mr. FORD).

Mr. FORD. Mr. Speaker, I thank my friend, the gentleman from Wisconsin (Mr. OBEY) for yielding the time to me and I thank all of you.

As I listen to the gentleman from New York (Mr. HOUGHTON), as I have listened to the gentleman from Florida (Chairman YOUNG), I would hope that we can deal with what some of the realities are here.

There is going to be a closing statement where some of these matters will be discussed, but we cannot reach a compromise nor can we advance government if leaders on both sides are not willing to work together, nor can the other side expect this side to believe we can reach an agreement if top leaders on your side can scuttle a deal if they go back to their office and learn the media.

The gentleman from Texas (Mr. DELAY), it seems fitting that the majority whip's name is DELAY, because that is what is happening here.

And I have great respect for the gentleman from Texas (Mr. DELAY). And I certainly do not mean to cast aspersions on his position or him. But we have to deal with this reality.

I say to my friends on the other side, if you can bring the gentleman from Texas (Mr. DELAY) to the table to agree to work to compromise and to reach some agreement for both Republicans or Democrats, but for the people, then we can all go home.

We are willing to deal. The President is willing to deal. From the newspaper accounts, Mr. LOTI is willing to deal. The gentleman from Illinois, Illinois, Mr. HASTERT (Mr. HASTERT) is willing to deal. The gentleman from Texas (Mr. ARMY) is willing to work to try to find agreement, but if the gentleman from Texas (Mr. DELAY) is going to make these decisions, then perhaps he ought to be the only one in the room when an agreement is trying to be reached.

Mr. Speaker, I say to all of my friends on the other side, I am proud to be a part of any organization that seeks to move government forward. I say to all of my friends, bring the gentleman from Texas (Mr. DELAY) to the table, let him lay out what it is exactly he wants, other than blaming Mr. Clinton for shutting down government and, perhaps, we can start from there, move from there, and conclude from that point.

Mr. YOUNG of Florida. Mr. Speaker, I reserve the balance of my time.
There are only two real problems left. One is to find some reasonable language to compromise on the immigration question, which the gentleman from Florida (Mr. YOUNG) points out correctly, is not an appropriating issue.

The other is to deal with the Labor, Health and Education appropriation conference report.

I would remind Members that, when that bill came back from conference, there were objections raised on both sides of the aisle to one language provision in that bill, namely, the language provision that related to ergonomics. I was highly unsatisfied with the results, from my perspective. A number of Members on that side of the aisle were highly unsatisfied with the results from their perspective.

But with that exception, I do not recall a single stated objection to any of the dollar agreements in the bill. I do not recall any arguments about any of the appropriation decisions on funding levels. To me, education ought to be the top priority of both parties.

I had said consistently in this debate that, if a number of different programs were increased as they moved through the process of the education area, that there were some areas such as special education which were Republican priorities. There were other areas that were Democratic priorities.

It seems to me, given the realities of the changes in the economic circumstances that we have seen with these larger surpluses available, that the one area that deserves top priority for funding is education; and that if we truly are going to deal in a bipartisan manner, there ought to be room for the education priorities of both parties within the same bill.

I think that is the kind of bill that was agreed to with the help of the gentleman from Illinois (Mr. PORTER) and the gentleman from Florida (Mr. YOUNG) in that conference report. I would still renew my request to the House leadership to allow that bill to come to the floor. I am confident that if they did, there would be enough votes on both sides of the aisle to pass it in a truly bipartisan fashion, and we could, at least so far as appropriation items are concerned, conclude our business and get ready for the 107th Congress.

I would like to note that I have heard a lot of talk about so many things in that period of time. The way the "Groundhog Day" was concluded and the day and the way that he got back into a cycle was he fell in love with the producer of his program who he was very hostile with. I do not know how long this went on, but for this newscaster, it went on a long time. But he learned so much about so many things in that period of time. The way the "Groundhog Day" was concluded and the day and the way that he got back into a cycle was he fell in love with the producer of his program who he was very hostile with in the beginning.

So if he and that producer could fall in love and end this cycle of continuous Groundhog Days day after day after day, the gentleman from Wisconsin (Mr. OBEY) and I can talk about it. We can all love each other. The Congress can love the President. We can have our differences. But if we could just show a little love and compassion here and some understanding, we can conclude this business and finish the work of the 106th Congress.

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

Mr. Young of Florida. I am happy to yield the gentleman from Wisconsin (Mr. OBEY). Mr. Speaker, I would simply like to note that I have heard a number of Members come up to me and say about this impasse, this cannot go on. I remember Herb Stein, who was the head of the council on economic advisors to President Nixon. I remember Herb Stein saying once in testimony before the Joint Economic Committee, "People say this cannot go on." He said, "But eventually it is going to stop." I would hope that this incessant number of continuing resolutions would stop and that the sparring would stop, and tomorrow we can bring a bill to the floor reflecting the bipartisan negotiations which we have already begun and pass it and end this session.

Mr. Young of Florida. Well, Mr. Speaker, I would say that I hope that happens. It could happen. A lot of it is going to depend on what comes out of the meeting that is taking place at the White House as we speak.

Mr. Speaker, today, some time after the election on November 7, the Nation is pretty much divided right down the middle. In the House, the political differences are almost zero. In the Senate, they are 50/50. In the country on popular vote for President, 50/50. The Nation is politically pretty much divided.

But I want to remind my colleagues that this is America. This is the United States of America. There is something special about that. Remember, 59 years ago today, Pearl Harbor was attacked. The Nation did not have any real direction. We were an emerging industrial Nation. But, then Pearl Harbor was attacked. Americans came together with such a powerful statement, such a profound statement, and put together one of the most fantastic military capabilities in the world eventually.

It took a while, but we came together. We overcame all kinds of differences, different opinions, different challenges, different industrial challenges, different political challenges. We came together as a strong and powerful Nation. Ever since that day, we have been an example for the rest of the world of freedom, of justice, of the ability to work together in the best interest of the people of the United States and for those in the world that we are called upon to help. If that could happen in America, it can happen here in this Congress. If we all settle down and recognize we have got to come together, we do not necessarily have the opportunity to go our own individual ways, but we have got to come together. If we do that, we will come together, and we will conclude the business of the 106th Congress and get ready for the 107th Congress, which is going to begin in just a few short days.

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

The SPEAKER pro tempore (Mr. THORNBERRY). All time for debate has expired.

The joint resolution is considered as having been read for amendment.

Pursuant to the order of the House of Wednesday, December 6, 2000, the previous question is ordered.
The SPEAKER pro tempore. The question is on the engrossment of the joint resolution.

Mr. SCOTT. Mr. Speaker, I ask unanimous consent to discharge the engrossment of the joint resolution and allow for its immediate consideration in the House.

Mr. KIND. Mr. Speaker, on rollcall No. 601, unfortunately, due to an unavoidable weather delay I missed today's rollcall vote. Had I been present, I would have voted "yea."

PAUL COVERDELL NATIONAL FORENSIC SCIENCES IMPROVEMENT ACT OF 2000

Mr. MCCOLLUM. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 3045) to improve the quality, timeliness, and credibility of forensic science services for criminal justice purposes, and for other purposes, and ask for its immediate consideration in the House.

The Speaker reads the title of the Senate bill.

The SPEAKER pro tempore (Mr. THORNBERRY). Is there objection to the request of the gentleman from Florida?

Mr. SCOTT. Mr. Speaker, pursuant to the gentleman's request.

Mr. SPEAKER. The Speaker pro tempore. The gentleman from Florida (Mr. McCOLLUM) asked unanimous consent to discharge the engrossment of the joint resolution and pass the bill in the House.

Is there objection to the request of the gentleman from Florida?

Mr. SCOTT. Mr. Speaker, reserving the right to object, I yield to the gentleman from Florida (Mr. McCOLLUM) to explain the purpose of his motion.

Mr. MCCOLLUM. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 3045) to improve the quality, timeliness, and credibility of forensic science services for criminal justice purposes, and for other purposes, and ask for its immediate consideration in the House.

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Mr. SCOTT. Mr. Speaker, reserving the right to object, I yield to the gentleman from Florida (Mr. McCOLLUM) to explain the purpose of his motion.

Mr. MCCOLLUM. Mr. Speaker, I ask unanimous consent to discharge the engrossment of the joint resolution and allow for its immediate consideration in the House.

Mr. KIND. Mr. Speaker, on rollcall No. 601, unfortunately, due to an unavoidable weather delay I missed today's rollcall vote. Had I been present, I would have voted "yea."

The Speaker reads the title of the Senate bill.

The SPEAKER pro tempore (Mr. THORNBERRY). Is there objection to the request of the gentleman from Florida?

Mr. SCOTT. Mr. Speaker, pursuant to the gentleman's request.

Mr. SPEAKER. The Speaker pro tempore. The gentleman from Florida (Mr. McCOLLUM) asked unanimous consent to discharge the engrossment of the joint resolution and pass the bill in the House.

Is there objection to the request of the gentleman from Florida?

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Mr. KIND. Mr. Speaker, on rollcall No. 601, unfortunately, due to an unavoidable weather delay I missed today's rollcall vote. Had I been present, I would have voted "yea."

The Speaker reads the title of the Senate bill.

The SPEAKER pro tempore (Mr. THORNBERRY). Is there objection to the request of the gentleman from Florida?
that a defendant who is innocent has to wait longer to prove their innocence. In cases where DNA evidence from a crime where there is no suspect can be matched to an offender in the national database of DNA samples from convicted criminals delays in testing and to conduct forensic testing and to hire and train more people to do this work. The Coverdell Act authorizes $512 million over 6 years to fund facilities, equipment, training, and accreditation for State and local crime labs across America. Seventy-five percent of the funds will be distributed to the States based on population, and 25 percent will be distributed by the Attorney General to high crime areas. To ensure that small States get their fair share of the funding, the act requires that each State receive a minimum of at least 0.6 percent of the total appropriated each year.

The bill expands the list of permitted uses of the Federal crime-fighting Byrne grants to allow States to use those funds to improving the quality, timeliness, and credibility of forensic science services, including DNA, blood, and ballistic tests. The act requires States to develop a plan outlining the manner in which the grants will be used to improve forensic services provided by State and local crime labs and limits administrative expenditures to 10 percent of the grant amount. And the act adds a reporting requirement so that the backlog reduction can be documented and tracked. We need to know how these grants are impacting backlogs in each State.

The bill also includes two provisions unrelated to forensic science grants. One clarifies a provision of the Civil Asset Forfeiture Act passed into law earlier this Congress. The other provision expresses a sense of the Congress regarding the use of DNA samples in certain cases. I support both provisions.

Mr. Speaker, numerous law enforcement organizations support the bill, including the American Society of Crime Laboratory Directors, the American Academy of Forensic Sciences, the National Association of Medical Examiners, the International Association of Police Chiefs, the Fraternal Order of Police, the National Organization of Black Law Enforcement Executives, and the National Association of Counties.

This act will clear the crippling backlogs in the forensic labs. In turn, it will help exonerate the innocent, convict the guilty, and restore confidence in our criminal justice system. It is an important bill, and I certainly urge my colleagues to support it.

Mr. SCOTT. Mr. Speaker, further revision of the request of the gentleman from Georgia (Mr. BISHOP) would be premature to declare victory. Although the crime rate is falling; it is true that one out of every four American families is still victimized every year by one or more serious crimes. One out of every four. The monetary losses are still huge, $19 billion or more a year. The suffering that many people experience continues to be incalculable.

Again, I commend Senator Sessions and everyone involved in this initiative to finish the task that meant so much to Senator Coverdell. I thank the Democratic members of the committee in the Senate, and especially thank the subcommittee chairman, the gentleman from Florida (Mr. MCCOLLUM), and the ranking member, the gentleman from Virginia (Mr. SCOTT), who have worked diligently to keep this legislation alive for over a year. I support the bill and ask my colleagues to support it, also.

Mr. SCOTT. Mr. Speaker, reclaiming my time and under my reservation, I just want to thank the Commonwealth of Virginia for its excellent crime labs under the leadership of Paul Ferrara. Virginia has done an excellent job in forensic technology.

Mr. Speaker, based on the comments made by the gentleman from Florida (Mr. MCCOLLUM) and the gentleman from Georgia (Mr. BISHOP), I withdraw my reservation of objection. The SPEAKER pro tempore (Mr. THORNBERRY). Is there objection to the request of the gentleman from Florida? There was no objection.

The Clerk read the Senate bill, as follows:

S. 305
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE. This Act may be cited as the "Paul Coverdell National Forensic Sciences Improvement Act of 2000."

SEC. 2. IMPROVING THE QUALITY, TIMELINESS, AND CREDIBILITY OF FORENSIC SCIENCE SERVICES FOR CRIMINAL JUSTICE PURPOSES. (a) DESCRIPTION OF DRUG CONTROL AND SYSTEM IMPROVEMENT GRANT PROGRAM—Section
(1) I N GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 375(b)) is amended—

(1) in paragraph (25), by striking “and” at the end and inserting “; and”;

(2) in paragraph (26), by striking the period at the end and inserting “; and”;

(3) by adding at the end the following:

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(27) improving the quality, timeliness, and credibility of forensic science services for criminal justice purposes.```

(2) STATE APPLICATIONS.—Section 503(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 375(a)) is amended by adding at the end the following:

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(12) the amount of the grant awarded under this paragraph is initially awarded under this paragraph.```

(3) for purposes of the allocation under paragraph (3), the Attorney General shall reduce payments under paragraph (3) for such payment period to the extent of such insufficiency.

(4) The Attorney General shall reduce payments under the preceding sentence shall be allocated among the States (other than States whose payment is determined under paragraph (3)) in the same proportions as amounts would be allocated under paragraph (3) without regard to paragraph (3).

(b) STATE DEFINED.—In this section, the term ‘State’ means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands, except that—

(1) for purposes of the allocation under this section, American Samoa and the Commonwealth of the Northern Mariana Islands shall be considered 1 State; and

(2) for purposes of paragraph (1), 67 percent of the amount allocated shall be allocated to American Samoa, and 33 percent shall be allocated to the Commonwealth of the Northern Mariana Islands.

SEC. 2804. USE OF GRANTS.

(a) IN GENERAL.—A State that receives a grant under this part shall use the grant to carry out, or to a substantial part of a program intended to improve the quality and timeliness of forensic science or medical examiner services in the State, including such services provided by the laboratories operated by the State and those operated by units of local government within the State.

(b) PERMITTED CATEGORIES OF FUNDING.—Subject to subsections (c) and (d), a grant awarded under this part—

(1) may only be used for program expenses relating to the operation, maintenance, and activities of forensic science laboratories, or any other laboratories operated or directed by a forensic laboratory system in that State operated by the State or by a unit of local government, for the costs of any new facility constructed as part of a program described in subsection (a), and

(2) may not be used for any general law enforcement or nonforensic investigatory function.

SEC. 2805. ADMINISTRATIVE COSTS.—The Attorney General may promulgate such guidelines, regulations, and procedures as may be necessary to carry out this part, including guidelines, regulations, and procedures with respect to the submission and review of applications for grants under paragraph (1).

(b) EXPENDITURE RECORDS.—Each State, or unit of local government within the State, that receives a grant under this part shall maintain such records as the Attorney General may require.

SEC. 2806. REPORTS.

(a) REPORTS TO ATTORNEY GENERAL.—For each fiscal year for which a grant is awarded under this part, each State that receives such a grant shall submit to the Attorney General a report, at such time and in such manner as the Attorney General may reasonably require, which report shall include—

(1) a summary and assessment of the program carried out with the grant; and

(2) the average number of days between submission of a sample to a forensic science laboratory or forensic laboratory system in that State operated by the State or by a unit of local government and the delivery of test results to the requesting office agency; and

(3) such other information as the Attorney General may require.

(b) REPORTS TO CONGRESS.—Not later than 90 days after the last day of each fiscal year for which 1 or more grants are awarded under this part, the Attorney General shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report, which shall include—

(1) the aggregate amount of grants awarded under this part for that fiscal year;

(2) a summary of the information provided under subsection (a); and

(3) such other information as the Attorney General may require.
(2) AUTHORIZATION OF APPROPRIATIONS.—

(a) IN GENERAL.—Section 1003(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 375a(a)) is amended—

(2) by striking the end of the following sentence: ‘‘(a) There are authorized to be appropriated $30,000,000 for fiscal year 2001; (b) $85,400,000 for fiscal year 2002; (c) $134,733,000 for fiscal year 2003; (d) $128,067,000 for fiscal year 2004; (e) $65,400,000 for fiscal year 2005; and (f) $42,067,000 for fiscal year 2006.’’

(b) BACKLOG ELIMINATION.—There is authorized to be appropriated $30,000,000 for fiscal year 2001 for the elimination of DNA convicted offender database sample backlogs and for other related purposes, as provided in the Departments of Commerce, Justice, and State Appropriations Act, 2001.


(4) REPEAL OF 20 PERCENT FLOOR FOR CITATION LAB GRANTS.—Section 102(e)(2) of the Crime Lab Technology Act of 1998 (42 U.S.C. 14601(e)(2)) is amended—

(a) in subparagraph (B), by adding ‘‘and’’ at the end; and

(b) by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C).

SEC. 3. CLARIFICATION REGARDING CERTAIN CLARIFICATION CONSIDERED UNNECESSARY.

(a) IN GENERAL.—Section 983(a)(2)(C)(ii) of title 18, United States Code, is amended by striking ‘‘(and provide customary documentary evidence, if available)’’ and state that the claim is frivolous.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendment made by section 2(a) of title II of the Crime Control and Safe Streets Act of 1990.

SEC. 4. SENSE OF CONGRESS REGARDING THE OBLIGATION OF GRANTEE STATES TO ENSURE ACCESS TO POST-CONVICTION DNA TESTING AND COMPETENT COUNSEL IN CAPITAL CASES.

(a) FINDINGS.—Congress finds that—

(1) over the past decade, deoxyribonucleic acid testing (referred to in this section as ‘‘DNA testing’’) has emerged as the most reliable evidence available for identifying criminals when biological material is left at a crime scene;

(2) because of its scientific precision, DNA testing can, in some cases, conclusively establish guilt or innocence, but may have significant probative value to a finder of fact;

(3) DNA testing is not widely available in cases tried prior to 1994;

(4) new forensic DNA testing procedures have made it possible to get results from minute samples that could not previously be tested, and to obtain more informative and accurate results than earlier forms of forensic DNA testing could produce, resulting in some cases of convicted inmates being exonerated by new DNA testing after earlier tests had failed to produce definitive results;

(5) DNA testing can and has resulted in the post-conviction exoneration of more than 75 innocent men and women, including some under sentence of death;

(6) in more than a dozen cases, post-conviction DNA testing has exonerated an innocent person who has also enhanced public safety by providing evidence that led to the apprehension of the actual perpetrator;

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) Congress should condition forensic science-related grants to a State or State forensic facility on the State’s agreement to ensure post-conviction DNA testing in appropriate cases; and

(2) Congress should work with the States to improve the quality of legal representation in capital cases through the establishment of mechanisms to ensure the timely appointment of competent counsel with adequate resources to represent defendants in capital cases at each stage of the proceedings.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DNA ANALYSIS BACKLOG ELIMINATION ACT OF 2000

Mr. MCCOLLUM. Mr. Speaker, I ask unanimous consent to take from the Speaker’s table the bill (H.R. 4640) to make grants to States for carrying out DNA analyses for use in the Combined DNA Index System, to be deposited in the Federal Bureau of Investigation, to provide for the collection and analysis of DNA samples from certain violent and sexual offenders for use in such system, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendment as follows:

Senate amendment:

Page 26, after line 6, insert:

(a) FINDINGS.—Congress finds that—

(1) over the past decade, deoxyribonucleic acid testing (referred to in this section as ‘‘DNA testing’’) has emerged as the most reliable forensic technique for identifying criminals when biological material is left at a crime scene;

(2) because of its scientific precision, DNA testing can, in some cases, conclusively establish the guilt or innocence of a criminal defendant;

(3) in other cases, DNA testing may not conclusively establish guilt or innocence, but may have significant probative value to a finder of fact;

(4) DNA testing was not widely available in cases tried prior to 1994;

(5) new forensic DNA testing procedures have made it possible to get results from minute samples that could not previously be tested, and to obtain more informative and accurate results than earlier forms of forensic DNA testing could produce, resulting in some cases of convicted inmates being exonerated by new DNA testing after earlier tests had failed to produce definitive results;

(6) DNA testing can and has resulted in the post-conviction exoneration of more than 75 innocent men and women, including some under sentence of death;

(7) in more than a dozen cases, post-conviction DNA testing that has exonerated an innocent person has also enhanced public safety by providing evidence that led to the apprehension of the actual perpetrator;

(8) experience has shown that it is not unduly burdensome to make DNA testing available to inmates in appropriate cases;

(9) under current Federal and State law, it is difficult to obtain post-conviction DNA testing because of time limits on introducing newly discovered evidence;

(10) the National Commission on the Future of DNA Evidence, a Federal panel established by the Department of Justice and comprised of law enforcement, judicial, and scientific experts, has urged that post-conviction DNA testing be permitted in the relatively small number of cases in which it is appropriate, notwithstanding procedural rules that could be invoked to preclude such testing, and notwithstanding the inability of an inmate to pay for the testing;

(11) only a few States have adopted post-conviction DNA testing procedures;

(12) States have received millions of dollars in DNA-related grants, and more funding is needed to improve State forensic facilities and to reduce the nationwide backlog of DNA samples from convicted offenders and crime scenes that need to be tested or retested using upgraded methods;

(13) States that accept such financial assistance should not deny the promise of truth and justice for both sides of our adversarial system that DNA testing offers;

(14) post-conviction DNA testing and other post-conviction investigative techniques have shown that innocent people have been sentenced to death in this country;

(15) a constitutional error in capital cases is incompetency defense lawyers who fail to present important evidence that the defendant may have been innocent or does not deserve to be sentenced to death; and

(16) providing quality representation to defendants facing loss of liberty or life is essential to fundamental due process and the speedy final resolution of judicial proceedings.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) Congress should condition forensic science-related grants to a State or State forensic facility on the State’s agreement to ensure post-conviction DNA testing in appropriate cases; and

SEC. 11. SENSE OF CONGRESS REGARDING THE OBLIGATION OF GRANTEE STATES TO ENSURE ACCESS TO POST-CONVICTION DNA TESTING AND COMPETENT COUNSEL IN CAPITAL CASES.

(a) FINDINGS.—Congress finds that—

(1) over the past decade, deoxyribonucleic acid testing (referred to in this section as ‘‘DNA testing’’) has emerged as the most reliable forensic technique for identifying criminals when biological material is left at a crime scene;

(2) because of its scientific precision, DNA testing can, in some cases, conclusively establish the guilt or innocence of a criminal defendant;

(3) in other cases, DNA testing may not conclusively establish guilt or innocence, but may have significant probative value to a finder of fact;

(4) DNA testing was not widely available in cases tried prior to 1994;

(5) new forensic DNA testing procedures have made it possible to get results from minute samples that could not previously be tested, and to obtain more informative and accurate results than earlier forms of forensic DNA testing could produce, resulting in some cases of convicted inmates being exonerated by new DNA testing after earlier tests had failed to produce definitive results;

(6) DNA testing can and has resulted in the post-conviction exoneration of more than 75 innocent men and women, including some under sentence of death;

(7) in more than a dozen cases, post-conviction DNA testing that has exonerated an innocent person has also enhanced public safety by providing evidence that led to the apprehension of the actual perpetrator;

(8) experience has shown that it is not unduly burdensome to make DNA testing available to inmates in appropriate cases;

(9) under current Federal and State law, it is difficult to obtain post-conviction DNA testing because of time limits on introducing newly discovered evidence;

(10) the National Commission on the Future of DNA Evidence, a Federal panel established by the Department of Justice and comprised of law enforcement, judicial, and scientific experts, has urged that post-conviction DNA testing be permitted in the relatively small number of cases in which it is appropriate, notwithstanding procedural rules that could be invoked to preclude such testing, and notwithstanding the inability of an inmate to pay for the testing;

(11) only a few States have adopted post-conviction DNA testing procedures;

(12) States have received millions of dollars in DNA-related grants, and more funding is needed to improve State forensic facilities and to reduce the nationwide backlog of DNA samples from convicted offenders and crime scenes that need to be tested or retested using upgraded methods;

(13) States that accept such financial assistance should not deny the promise of truth and justice for both sides of our adversarial system that DNA testing offers;

(14) post-conviction DNA testing and other post-conviction investigative techniques have shown that innocent people have been sentenced to death in the United States;

(15) a constitutional error in capital cases is incompetency defense lawyers who fail to present important evidence that the defendant may have been innocent or does not deserve to be sentenced to death; and

(16) providing quality representation to defendants facing loss of liberty or life is essential to fundamental due process and the speedy final resolution of judicial proceedings.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) Congress should condition forensic science-related grants to a State or State forensic facility on the State’s agreement to ensure post-conviction DNA testing in appropriate cases; and
Mr. MCCOLLUM. I thank the gentleman from Virginia (Mr. SCOTT) for yielding.

Mr. Speaker, I introduced the bill, H.R. 4640, which is the subject of this request, the DNA Analysis Backlog Elimination Act, together with the gentleman from Virginia (Mr. SCOTT) as the ranking minority member, the gentleman from Ohio (Mr. CHABOT), the gentleman from New York (Mr. WEINER), and the gentleman from New York (Mr. GILMAN) to address a very important problem, the massive backlog of biological samples awaiting DNA analysis in the States. This bill will authorize the appropriation of Federal funds to be awarded to States in order to clear this backlog. It also gives the Federal Government much needed authority to take DNA samples from certain Federal offenders and include them in the FBI's national database of convicted offender samples that matches known offenders to crimes where the perpetrator is yet to be discovered.

The bill was first passed by the House by voice vote on October 2. The other body passed the bill by unanimous consent yesterday. In the other body, the bill was slightly amended in one regard: It added a sense of the Congress concerning the use of DNA evidence in certain cases. The sense of the Congress is identical to that contained in S. 3045, the bill just passed by the House. So I see no problem with it at all. I think it is a very important bill that the gentleman and I have worked on for some time. I would urge my colleagues to support it.

Mr. SCOTT. Mr. Speaker, this is the bill we passed, and the Senate amendment improved the bill.

Mr. GILMAN. Mr. Speaker, I would like to express my gratitude to Chairman M. C. MCCOLLUM for his dedication and diligence in bringing H.R. 4640, the DNA Analysis Backlog Elimination Act, to the floor today, and am pleased that this legislation reflects many of the provisions outlined in my measure, H.R. 3375, the Convicted Offender DNA Index System Support Act, and the pleasure I have working closely with him, Ranking Member SCOTT, and Representatives RAMSTAD, STUPAK, KENNEDY, WEINER, and CHABOT, in developing this legislation, which will meet the needs of prosecutors, law enforcement, and victims throughout our Nation.

Mr. Speaker, in 1994, the Congress passed the DNA Identification Act, which authorized the construction of the combined DNA index system. This system, maintained by the FBI and local law enforcement agencies in fighting violent crime throughout the Nation. CODIS is a master database for all law enforcement agencies to submit and retrieve DNA samples of convicted offenders. Since beginning its operation in 1998, the system has worked extremely well. It has revolutionized law enforcement by matching DNA evidence with possible suspects and has accounted for the capture of over 200 suspects in unsolved violent crimes. However, because of the high volume of convicted offender samples needed to be analyzed, a nationwide backlog of approximately 600,000 unanalyzed convicted offender DNA samples has formed. Furthermore, because the program has been so vital in assisting crime fighting and prevention efforts, our States are expanding their collection efforts. Recently, New York State Governor George Pataki enacted legislation to expand the State's collection of DNA samples to require all violent felons and a number of non-violent felons offenders, and, earlier this year, the use of the expanded system resulted in charges being filed in a 20-year-old Westchester County murder.

State forensic laboratories have also accumulated a backlog of evidence for cases for which there are no suspects. These are evidence "kits" for unsolved violent crimes which are stored away in the State forensic laboratories do not have the support necessary to analyze them and compare the evidence to our nationwide data bank. Presently, there are approximately 12,000 rape cases in New York City alone, and, it is estimated, approximately 180,000 rape cases nationwide, which are unsolved and unanalyzed. This number represents a dismal future for the success of CODIS and reflects the growing problem of violence within our law enforcement community.

The DNA Analysis Backlog Elimination Act will provide States with the support necessary to combat these growing backlogs. The successful elimination of both convicted violent offender backlog and the unsolved casework backlog will play a major role in the future of our State's crime prevention and law enforcement efforts.

The DNA Analysis Backlog Elimination Act will also provide funding to the Federal Bureau of Investigation to eliminate their unsolved casework backlog and close a loophole created by the original legislation. Although all 50 States are required to maintain DNA collection from designated convicted offenders, for some inexplicable reason, convicted Federal, District of Columbia and military offenders are exempt. H.R. 4640 closes that loophole by requiring the collection of samples from any Federal, Military, or D.C. offender convicted of a violent crime.

Mr. Speaker, as you are aware, our Nation's fight against crime is never over. Everyday, the use of DNA evidence is becoming a more important tool to our Nation's law enforcement in solving crimes, convicting the guilty and exonerating the innocent. The Justice Department estimates that erasing the convicted offender backlog nationwide could resolve at least 600 cases. The true amount of unsolved cases, both State and Federal, which may be concluded through the elimination of both backlogs is unknown. However, if one more case is solved and one more offender is detained because of our efforts, we have succeeded.

In conclusion, we must ensure that our Nation's law enforcement has the equipment and support necessary to fight violent crime and protect our communities. The DNA Analysis Backlog Elimination Act will assist our local, State and Federal law enforcement personnel by ensuring that crucial resources are provided to our DNA data-banks and crime laboratories.

Accordingly, I urge full support for the measure.

Mr. SCOTT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

A motion to reconsider was laid on the table.

Mr. MCCOLLUM. I thank the gentleman from Florida (Mr. SCOTT) for yielding.

Mr. Speaker, this bill, S. 1998, is the Interstate Transportation of Dangerous Criminals Act of 2000, also known as Jeanne's Act, which passed the other body by unanimous consent on October 25 of this year.

Every year thousands of violent felons are moved from prison to prison on our Nation's highways. Many of these criminals are transported by the U.S. Marshals Service and the Federal Bureau of Prisons. However, as the number of criminals in State prisons continues to rise, many States now rely heavily on private prison transport companies to move prisoners from State to State. Because there is no uniform set of standards and procedures for these prisoner transport companies to follow, the results are sometimes disastrous when prisoners escape.

A major reason for escapes from prison transport companies is the lack of approved standards for the private transport of dangerous prisoners. Any one with a vehicle and a driver's license can engage in this business and
with very little accountability when things go wrong.

S. 1988 seeks to increase public safety by requiring the Attorney General to establish minimum standards and requirements for companies engaging in the business of transporting violent offenders. S. 1988 provides that any person who violates the regulations to be promulgated by the Attorney General shall be liable for a civil penalty in an amount not to exceed $10,000 for each violation and shall make restitution to the person for any loss sustained as a result of the violation.

Mr. Speaker, it is absolutely essential that we put in place minimum standards for the transport of prisoners by private transport companies. S. 1988 will do that. I certainly urge my colleagues to support this legislation.

I might add that this is probably the final bill, I would assume it will be, of this Congress that comes forward to address the transport of violent prisoners.

Let me congratulate the gentleman from Florida for his tireless efforts over the past 6 years, I have been privileged to work constructively with the gentleman from Florida for his tireless efforts and, and passed, and a motion to recommit the bill was agreed to by the voice vote, and the bill was ordered to pass.

Mr. Speaker, I want to thank the gentleman for his service and wish him well.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?
REMEMBERING PEARL HARBOR DAY AND OUR NATION’S HEROES

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

Mr. GIBBONS. Mr. Speaker, on this day in 1941, Japan attacked and launched a sudden stealth attack on the United States by bombing the naval base in Pearl Harbor, Hawaii. This sneak attack on Pearl Harbor caused widespread destruction and death, similar to the devastation and destruction that would become an all too unfortunate characteristic of World War II.

This day, which will live in infamy, began our Nation’s involvement in a war which Americans will never forget. Our World War II veterans served our Nation proudly and made great sacrifices to protect our country and our future. As a veteran myself, I greatly admire the courage and fortitude of those who served in World War II.

The United States is the leader of the world today because of their valiant contributions. On this solemn day, Mr. Speaker, I encourage every Member to take a moment and recognize the service and sacrifice of our veterans, especially those Americans who had to witness two world wars in one century.

You made our Nation what it is today. We all thank you.

TRIBUTE TO HIGHER EDUCATION IN NEW JERSEY

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

Mr. PASCRELL. Mr. Speaker, it is with great pride that I rise today and bring attention to a report that was recently released by the National Center for Public Policy and Higher Education. The report entitled “Measuring Up 2000” and New Jersey is among the country’s best places to live for families that have college-bound students in their household.

One reason is that New Jersey’s elementary and secondary education rates are among the top in the Nation which is what prepares our college-bound students. In fact, New Jersey students have a 92 percent high school graduation rate and high SAT and advanced placement scores. Fifty-four percent of high school freshmen enrolled in college after completion of high school and 39 percent of 18- to 24-year-olds enrolled in college.

New Jersey’s institutions of higher learning also achieved high scores in categories such as preparation, participation, benefits, and affordability.

As a former teacher and Congressman for the Eighth Congressional District, I am very proud of this report. I ask all the Members to read it. I think it would be very worthwhile.

WORKING TOGETHER ON ENERGY POLICY

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

Mr. KNOLLENBERG. Mr. Speaker, despite years of record economic expansion, there are storm clouds gathering on the horizon. One of those dark clouds is American energy policy, which for the last 8 years has been, in effect, an anti-energy policy, thwarting domestic energy supplies and driving up costs with endless regulations.

As winter sets in, natural gas and crude oil prices are at record levels and it is the American worker who must shoulder these increases. As Governor Bush points out, we need to unite across party lines and work together for the American people. Formulating a new domestic energy policy is a perfect place to start.

Together we can ensure that new energy technologies receive proper R&D funding and we can reduce our over-reliance on foreign oil through environmentally sound domestic production. We can reduce pollution without resorting to flawed emissions trading schemes; and we can combine forces to see that clean coal, natural gas, nuclear, and hydro continue to provide the reliable and safe energy that drives the U.S. economy.

ON ELECTORAL COLLEGE REFORM

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

Mr. ENGEL. Mr. Speaker, the election of 2000 and the closeness of the election throughout the Nation has cemented the fact that we must reform the electoral college.

Today, I have introduced legislation to amend the Constitution to provide two middle-of-the-road options. Neither will totally scrap the system, yet both will allow the voters more of a voice in electing the President.

The first resolution, or the proportional plan, will change the electoral college system by awarding electoral votes in each State based on the percentage of the popular vote gained by each ticket in that State. For instance, if one candidate got 60 percent of the popular vote in a State, he would get 60 percent of the electoral votes of that State and the other candidate getting 40 percent would get 40 percent of the votes in that State.

The second bill, or the district plan, will award one electoral vote to the candidate who wins in each congressional district with the additional two electoral votes of each State awarded to the winner of the popular vote in each State.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The SPEAKER pro tempore (Mr. THORNBERY). The Chair will proceed to recognize Members for Special Order speeches without prejudice to the possible resumption of legislative business.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker’s announced policy of January 6, 1999 and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. METCALF) is recognized for 5 minutes.

Mr. METCALF. Mr. Speaker, I rise today to support the Governor of Florida, who has been submerged in the world of

COMMENDING SOUTH DAKOTA’S WILL MERCEN AND JOSH HEUPEL

The SPEAKER pro tempore. Under the Speaker’s announced policy of January 6, 1999, the gentleman from South Dakota (Mr. THUNE) is recognized for 60 minutes as the designee of the majority leader.

Mr. THUNE. Mr. Speaker, I come to the well of the House today to pay special tribute and recognition to two incredible South Dakotans.

Mr. Speaker, I would like to share with you and my colleagues the stories of two great young men from my great State. Both men have very different lives; but their actions, leadership and talents are far reaching, and I would like all of us to recognize them today.

First, Mr. Speaker, I would like to share with you the body of the story, the amazing story, about a young man from Aberdeen, South Dakota. Josh Heupel is the son of Ken and Cindy Heupel. Josh attends Oklahoma University in Norman, Oklahoma. This is the home district of my friend and colleague, our conference cochair, the gentleman from Oklahoma (Mr. WATTS). I point this out because I believe that the gentleman from Oklahoma (Mr. WATTS) and I share the same appreciation for the type of person that Josh Heupel is.

You see, Mr. Speaker, Josh Heupel is not your ordinary student. From age 4, he has been submerged in the world of
He would go with his father, Ken, then assistant coach at Aberdeen's Northern State University, to watch hours of football game film with other coaches.

After playing football in high school, Josh discovered he was good enough for Weber State in Ogden, Utah. There he red-shirted in 1996 and suffered a knee injury in 1997. He threw himself into two-a-day workouts, hoping to win the starting spot at Weaver, but injured his hand.

Josh moved on to Snow Junior College in Ephraim, Utah, where he shared the starting quarterback position with the leading juco passer in the Nation. In just 10 first halves that season, Josh completed 153 of 258 passes for 2,308 yards and 28 touchdowns. That was more than good enough for the University of Oklahoma. They took on Josh Heupel. And today, as leading quarterback "Hype" as his teammates call him, Josh has led Oklahoma to a 12 and 0 record and a trip to the Orange Bowl for the national championship showdown. He has completed 280 of 433 passes for 3,392 yards and 20 touchdowns at least one touchdown pass in all 24 of his career games at Oklahoma, and has passed for more than 300 yards in 14 of them.

He has already been named the Big 12 Conference Player of the Year, the Walter Camp Player of the Year, and the Sporting News College Football Player of the Year, and today he was named the Associated Press College Player of the Year.

With his mom, Cindy, his dad, Ken, and his sister, Andrea, spend the day at ceremonies. Josh is in the running for the Maxwell Award, which goes to the best player in college football, and the Davey O'Brien National Quarterback Award.

It is not surprising that Josh Heupel is one of the four finalists for the naming of the best quarterback in the country. This Saturday, Heupel will be accompanied by his family and will be awarded a well-deserved time off with his wife, Andrea, spend the day at ceremonies. Josh is in the running for the Maxwell Award, which goes to the best player in college football, and the Davey O'Brien National Quarterback Award.

Will Merchen was a specialist at putting out fires and stopping flooding at sea. But he never dreamed that his skills and determination would be needed to save lives and to prevent a disaster.

Will was in a compartment 15 feet from the site of the explosion. After being thrown to the floor, Will and his crewmates raced to retrieve their emergency equipment and began looking for others. Donned in scuba gear, knives and fire helmets with headlamps, they worked with damage controlmen worked their way toward the site.

Amidst the screams, the men helped friends and officers, many of them wounded, to safety. They could not stop for respirators; they lasted seconds alive with the men. Will and his team used the Jaws of Life to cut half a dozen wounded sailors from wreckage and debris. Then they began the task of removing bodies of their shipmates. In his words Will said, "We called it search and rescue, but that was optimistic. Everyone knows what we were doing. I will never, ever, forget..."
grateful. We are honored to have you continue in serving our great country in the United States Navy.

Mr. Speaker, Will Merchen and Josh Heupel are young men that have already accomplished much, and they have served our country in the military, and I congratulate them; and they are an example of the type of character, the type of values, the type of principled commitment to action that I believe is reflective and represented in my great State of South Dakota. For these young men’s efforts in the United States Navy, we are grateful. We are honored to have you ready accomplished much, and they continue in serving our great country.

Dear Congressman Ganske . . . after completing a University of Iowa study on 1,000 prescription drugs for arthritis, I got a prescription from my M.D. and picked it up at the hospital pharmacy. My cost was $2.43 per pill with a volunteer discount!

Mr. Speaker, when James Weinman from Altoona, Iowa. He is a constituent in my district whose savings vanished in the last 6 years.

Mr. Speaker, I am going to talk today about the high cost of prescription drugs, and a little bit about what happened on this issue this year, both here in Congress and why this issue became an important issue in the presidential election, and talk about some proposed solutions to this problem as we look forward to the 107th Congress next year, because, Mr. Speaker, I am afraid we will end up this 106th Congress without addressing at least in a major way the high cost of prescription drugs. We have done something on this which I will talk about a little bit later.

Mr. Speaker, what is the problem? Why do we have such high prescription drug costs? How are those high prescription drug costs affecting people in the country?

Mr. Speaker, this is a photo of William Newton, who is 74 years old. He is from Altoona, Iowa. He is a constituent in my district whose savings vanished when his late wife, Juanita, whose picture he is holding, needed prescription drugs. We have done some-thing on this which I will talk about a little bit later.

Mr. Speaker, when James Weinman of Indiana, who has hypertension, asthma, arthritis, and osteoporosis, has paying for her prescription drugs is a problem. For example, that drug Prilosec for acid reflux disease, we can see that one drug alone even at this income represents about 8.7 percent of her total income. My friend from Des Moines, the Iowa Lutheran hospital volunteer senior citizen, as do the Weinmans from Indiana from their shopping trips in Mexico for prescription drugs, know that drug prices are much higher in the United States than they are in other countries.

A recent report by the World Health Organization showed 2 to 2 1/2 times as expensive in the United States. Prozac was 2 to 2 1/2 times as expensive. Lipitor was 90 to 92 percent more expensive. Prevacid was as much as four times more expensive. Only one drug, Epogen, was cheaper in the United States than in the other countries.

Mr. Speaker, I want to make it very clear, I am in favor of prescription drugs being more affordable, not just for senior citizens but for all Americans. Let us look at the facts of the problem, and then we will discuss some solutions.

There is no question that prices for drugs are rising rapidly. A recent report found that the prices of the 50 top-selling drugs are higher in the United States than overseas. The prices of the 50 top-selling drugs are higher in the United States.

I urge you, Dr. Ganske, to pursue the reform of medical costs and stop the outlandish plundering by pharmaceutical companies.

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A story from USA Today comparing U.S. drug prices to prices in Canada, Great Britain, and Australia for the 10 best-selling drugs verified that drug prices were higher in the United States than overseas.

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increase in research and development, especially in comparison with significant increases in advertising and marketing by the pharmaceutical companies.

Since 1997, the FDA reform bill, advertising by drug companies has gotten so frequent that Healthline recently reported that consumers watch, on the average, nine prescription drug commercials on TV every day.

Look at the 1998 figures for the big drug companies. An industry case, marketing, advertising, sales, and administrative costs exceeded research and development costs. In 1999, four of the five companies with the highest revenues spent at least twice as much on marketing, advertising, and administration as they did on research and development. Only one of the top ten drugs companies spent more on research and development than on marketing, advertising, and administration. Administration costs have not increased that much, so we know that the real increase in drug company spending has been in advertising.

For the manufacturers of the top 50 drugs sold to seniors, profit margins are much higher than the profit rates of other Fortune 500 companies. The drug manufacturers have profit rates of 18 percent compared to approximately 5 percent for other Fortune 500 companies.

Furthermore, as recently cited in the New York Times, of the 14 most medically significant drugs developed in the last 25 years, 11 had significant government-funded research. For example, Taxol is a drug developed from government-funded research which earns its manufacturer, Bristol-Myers-Squib, millions of dollars each year.

Mr. Speaker, as I said at the start of this special order speech, I think the high cost of drugs is a problem for all Americans, not just the elderly. But many are in employer plans, and they get prescription drug discounts from their HMOs. In addition, there is no doubt that the older one is, the more likely the need for prescription drugs. So let us look at what type of drug coverage is available to senior citizens today.

Medicare pays for drugs that are part of treatment when a senior citizen is a patient in a hospital or in a skilled nursing facility. Medicare pays doctors for drugs that cannot be self-administered by patients, like drugs that require intramuscular or intravenous administration. Medicare also pays for a few other outpatient drugs, such as drugs to prevent rejection of organ transplants, medicine to prevent anemia in dialysis patients, and oral anticancer drugs. The program also covers pneumonia, hepatitis, and influenza vaccines. The beneficiary is responsible for 20 percent of co-insurance on those drugs.

About 90 percent of Medicare beneficiaries have some form of private or public coverage to supplement Medicare, but many with supplementary coverage have either limited or no protection against prescription drug costs, those drugs that you buy in a pharmacy with a prescription from your doctor, as compared to those drugs that you would get if you are a patient in the hospital.

Since the early 1980s, Medicare beneficiaries in some parts of the country have been able to enroll in HMOs which provide prescription drug benefits. Medicare pays the HMOs a monthly dollar amount for each enrollee; but some areas like Iowa have had such low payment rates that no HMOs with drug coverage are available. That is typically a rural problem, but also a problem in some metropolitan areas that have iniquitously low reimbursements.

I must say that I have led the fight to try to "even up" that. This is one of the things I think we ought to look at when we are talking about solutions.

Employers can offer their retirees health benefits that include prescription drugs, but fewer employers are doing that. From 1993 through 1997, prescription drug coverage of Medicare-eligible retirees dropped from 63 percent to 48 percent. Beneficiaries with MediGap insurance typically have coverage for Medicare's deductibles and coinsurance, but only three of 10 standard plans offer drug coverage.

All three have $250 deductibles. Plans H and I cover 50 percent of the charges up to a maximum benefit of $1,250. Plan J covers 50 percent of the charges up to a maximum benefit of $3,000. The premiums for those plans are significantly higher than the other seven MediGap plans because of the costs of that drug benefit.

This chart shows the difference in annual costs to a 65-year-old woman for a MediGap policy with or without a drug benefit. For a MediGap policy of moderate size, she pays $1,250 for a plan without prescription drug coverage; but if she wants prescription drug coverage, she is going to pay $1,917. If she wants extensive coverage without drugs, her premium is $1,524 a year, with drugs her premium would be $3,252 to insurance.

Why is there such a price gap? Well, because the drug benefit is voluntary. Only those people who expect to actually use a significant quantity of prescription drugs would get some policy with drug coverage; but because only those with high costs choose that option, the premiums have to be high to cover the costs of a higher average expenditure of drugs.

So what is the lesson that we learn from the current Medicare program? The lesson is adverse selection tends to drive up the per capita costs of coverage unless the Federal Treasury simply subsidizes lower premiums.

WebElement have a large and disabled Medicare beneficiaries are also eligible for payments of their deductibles and coinsurance by their State's Medicaid program. These beneficiaries are called dual eligibles, and the most important service paid for entirely by Medicaid is frequently the prescription drug plans offered by all States under their Medicaid plans. There are several groups of Medicare beneficiaries who have more limited Medicaid protections.

Qualified Medicare beneficiaries called Q-MBs or QMBs have incomes below the poverty line, so it is less than $6,240 for a single person or $11,660 for a couple. And they have assets below $4,000 for a single person or $6,000 for a couple. Medicaid pays their deductibles and premiums. Specified low-income Medicare beneficiaries, S-L-I-M-Bs, or SLIMBs, have incomes up to 120 percent of poverty, and Medicaid pays their Medicare part B premium.

Qualifying individuals have income between 120 percent and 135 percent of poverty, Medicaid pays part of their part B premium, but not deductibles. In the second group, individuals have income between 135 percent and 175 percent of poverty, and Medicaid pays part of the part B premium.

Now, the QMBs and the SLIMBs are not eligible for Medicaid's prescription drug benefit unless they are also eligible for full Medicaid coverage under their State Medicaid plan. Q1s and 2s are never entitled to Medicaid drug coverage.

A 1999 Health Care Financing Administration report showed that despite a variety of potential sources of coverage for prescription drug costs, beneficiaries still pay a significant proportion of drug costs out of pocket and about one-third of Medicare beneficiaries had no coverage at all.

Mr. Speaker it is also important to look at the distribution of Medicare enrollees by total annual prescription drug costs, because it will make a difference in terms of what kind of plan we devise and how successful it is and how much we will need to subsidize such a plan.

This chart from the Medicare Payment Advisory Commission, MIPAC, Report to Congress shows that in 1999, 14 percent of those in Medicare had no drug expenditures, 36 percent had less than $500, 19 percent had less than $1,000, 12 percent less than $1,500 and down the line.

Please note that if you add up those who have no drug expenditures at 14 percent and those who have drug expenditures of $500 to $1 at 36 percent, 50 percent of Medicare enrollees, then, 14 percent, or 14 percent, had drug expenditures of less than $500 per year. Then if you add in the next group, 69 percent had drug expenditures of less than $1,000 a year. The problem is with those who have much higher drug costs.

Now, as we look at plans to change Medicare to better cover the costs of prescription drugs, we are going to have to face some difficult choices. Mr. Speaker, there is currently no public consensus or, for that matter, policy consensus among the policymakers on how we do that. There are a lot of questions we have to answer.
Here are a few: First, should coverage be extended to the entire Medicare population or targeted towards the elderly widow who is not so important that she is in Medicaid, but is having to choose between her rent, her food, and her drugs? The benefit is perhaps comprehensible or catastrophic? Should the drug benefit be defined? What is the right level of beneficiary costs-sharing? Should the subsidies be given to the beneficiaries or to the insurers? How much money can the Federal Treasury devote to this problem? Can we really predict the future costs of this new benefit?

These are all really important questions, Mr. Speaker. Maybe we can learn something from what has happened in the past.

I want to talk a little bit about what happened in 1988 and then what happened earlier this year on prescription drug benefits. The prescription drug benefit has been discussed since the start of the 1980s. One of the questions is why adding a prescription drug benefit is now such a hot issue is that there has been an explosion in new drugs available, huge increases in demands for those drugs, largely fueled by all of the ads by the pharmaceutical companies and a significant increase in the costs of those drugs in the last few years.

I will tell you what. It is great that we have a lot of these new drugs. My parents are on some of these drugs. My dad is very well alive today because he is on some of those drugs. Well, let us look at what happened when Congress tried to do something about prescription drugs in 1988 and again this year.

That is because the outcome of reform in 1988 made a big difference with what happened here in Congress in the year 2000. The Medicare Catastrophic Coverage Act of 1988 would have phased in catastrophic prescription drug coverage as part of a larger package of benefit improvements.

Under the Medicare Catastrophic Coverage Act, catastrophic prescription drug coverage would have been available in 1991 for all outpatient drugs subject to a $600 deductible and 50 percent coinsurance. The benefit was to be financed through a mandatory combination of an increase in the part B premium and a portion of the new supplemental premium, which was to be imposed on higher income enrollees.

It is important to note that the Congressional Budget Office estimated the costs at that time as $5.7 billion. Well, only 6 months after the cost estimates, only 6 months later, the cost estimates had more than doubled, because both the average number of prescriptions used by enrollees and the average price had risen more than previously estimated. That plan passed this House by a margin of 328-72.

President Reagan enthusiastically signed into law the largest expansion of Medicare in history. The only problem was that once seniors learned their premiums were going up, they hated the bill. They even started demonstrating against it. Scenes of gray panthers hurling themselves on to the chairman of the Ways and Means Committee, Mr. Rostenkowski, were broadcast to the Nation; angry phone calls from senior citizens flooded the Capitol switch boards.

The very next year, the House voted 360-66 to repeal the Medical Catastrophic Coverage Act of 1988, and President Bush then signed the largest cut in Medicare benefits in history. The reason he gave was a combination of scads on the political process that became evident earlier this year when the Democrats and the Republicans made their proposals on prescription drugs.

What was the lesson? Well, Dan Rostenkowski wrote an article for the Wall Street Journal on January 20, early this year, that I think a lot of Members from Congress read. His most important point was this: the 1988 plan was financed by a premium increase for all Medicare beneficiaries. He said in his piece: We adopted a principle universally accepted by the private insurance industry. People pay premiums today for benefits they may receive tomorrow.

He went on to say apparently the voters did not agree with those principles. By the way, the title of his Op-Ed piece was "Seniors Will Not Swallow Medicare Drug Benefits." Former chairman of the Committee on Ways and Means Rostenkowski did not think that had changed much since 1988. And apparently the drafters of this year's Democratic and Republican bills agreed with him, because the key point that the spokesman for each of those bills made to Congress and to senior citizens was that their bill would be voluntary.

There were shortcomings in both plans this year, but before I briefly describe each plan, let me acknowledge the hard work that a lot of Members on both sides of the aisle put in working on those bills. The House Republican plan this year was estimated to cost seniors $35 to $40 a month by the year 2003, with possible projected rises in 15 percent a year. Premiums could vary among plans.

There would be no defined benefit plan and insurers could cover alternatives of "equivalent value." There would be a $250 deductible, and the plan would then pay half of the next $2,100 in drug costs. After that expense, patients were on their own until their out-of-pocket expenses hit $6,000 a year. At that time a catastrophic provision would kick in and the Government would pay the rest.

The GOP plan would have paid subsidies to insurance companies for people with high drug costs. If subscribers did not have a choice of at least two private plans, then a "government plan" would have been available.

Now, the premiums under the Clinton-Gore plan were estimated to cost those seniors who signed up, remember it was a voluntary plan like the GOP plan, $50 a month in 2003, rising to $51 a month in 2010. But then the Clinton administration talked about adding $35 billion in expenses for a catastrophic component like the GOP plan, which would have made the premiums higher, but similar, in my assessment, to what the Republicans were proposing.

Under the Clinton plan, Medicare would have paid half of the cost of each prescription, and there would have been no deductibles. The maximum Federal payment would have been $1,000 for $2,000 worth of drugs in 2003, rising to $2,500 for $5,000 worth of drugs by 2009.

The Government would have assumed the financial risk for prescription drug insurance, but it would have hired private companies to administer the benefits and negotiate discounts from drug manufacturers. That was pretty similar in both the Clinton-Gore and the Republican plans.

But, and here is the crucial point, in order to cushion the costs of the sicker with premiums from the healthier, both the Clinton-Gore plan and the Republican plan included a provision that said this is the most important point, they calculated those premiums based on the assurance that 80 percent of all of the people in Medicare would sign up for the plan. In other words, one has got to have a lot of people who are healthy in the plan paying their premiums to keep the premiums lower for those who have higher drug costs.

Well, right away the partisan attacks started on both plans. The Democrats and Republicans are putting seniors into HMOs. HMOs provide terrible care. This is not fair to seniors. The Republicans said the Democratic plan is a one-size-fits-all plan, it is too restrictive, it puts politicians and Washington bureaucrats in control. Now, tell me, anyone who has watched TV and saw all the political ads in this last campaign knows that is exactly what each side was saying about the other.

We did criticize each plan in depth, but I do not have that much time. Sufficient to say that the details of each of those plans was very important to how they would work.
I believe that if one lets plans design all sorts of benefit packages, as did the GOP plan, it becomes very difficult for seniors to be able to compare apples to apples, to compare equivalency of plans in terms of value. It always seems that plans can tailor benefits to cherry-pick healthier, less expensive seniors, and to gain the system. Representatives of the insurance industry shared that opinion in a hearing before my committee. In my opinion, a defined benefit package would have to be better.

I had concerns about the financial incentives that the House Republican bill would offer insurers to enter markets in which no drug plans were available. Would those incentives encourage insurers to hold out for a better deal? I had doubts that the private insurance industry would ever offer drug-only plans. In testimony before my committee, Chip Kahn, the president of the Health Insurance Association of America, testified that drug-only plans would not work.

In testimony before the Committee on Commerce on June 13, this year, Mr. Kahn said, "Private drug-only coverage would have to clear insurability--finance, regulatory, and administrative hurdles simply to get to the market. Assuming that it did, the pressures of ever-increasing drug costs, the predictability of drug expenses, and the likelihood that people most likely to purchase this coverage would be the people anticipating the highest drug claims," that adverse selection problem, "would make drug-only coverage virtually impossible for insurers to offer a plan to seniors at an affordable premium."

Mr. Kahn predicted that few, if any, insurers would offer that type of product. I could similarly criticize several particulars of the Clinton-Gore bill in the spirit of bipartisanship; but I think we should call the fundamental flaw of both plans, and that is that "adverse risk selection" problem.

If the Clinton plan had comparable costs for a stop-loss provision on catastrophic expenses, the premiums would have been comparable to the GOP plan. Under those bills, a plan who signed up for drug insurance would have paid about $40 per month or roughly $500 per year.

After the first $250 out-of-pocket drug cost, the enrollee would have needed to have twice $500 in drug costs, or $1,000, in order to be getting a benefit that was worth more than the cost of the premiums for the year. But another way, the enrollee must have had $250 for that deductible plus $1,000 in drug expenses or $1,250 in annual drug costs in order to get half of the rest of his drug expenses up to a maximum of $2,100 paid for by the plan.

Now, look at this chart again. Look at the older people in Medicare in 1999 had less than a thousand dollars. If the cost of the plan, signing up for the plan was going to be more than $1,000, would they sign up for something that was going to cost them more than what they were already paying? I do not think so. In fact, I know they would not.

How do I know they would not be? Because we already have those options in the current system, the three of those three options that I talked about earlier where one can voluntarily sign up for a drug benefit. But most people do not because the premiums are higher than what their drug costs are. They may not need it. They would have to be paid more for an insurance premium than what the premium is going to give them if it is voluntary. This is just the mindset that people have.

I think Republicans have asked, who would have signed up for those plans? The final answer would have been those seniors with over $1,250 in annual drug expenses. Well, remember also that the premiums were premised on that 80 percent participation rate. I think it is highly doubtful that anywhere near 80 percent of seniors would have signed up for either of those plans. If only those with high drug costs signed up for the plans, then we would know what would have happened. If we had to go up significantly, or we would have had to transfer significantly more sums from the Federal Treasury to subsidize that benefit.

Well, one way to avoid that adverse risk selection in a voluntary system would be to offer the drug benefit one time only, when a beneficiary enrolls in Medicare. The problem with that is that one is still going to get adverse risk selection because, at the age of 55, there are a number of people who do have high drug costs, and of course they are going to sign up; whereas, a lot of people have no drug costs, and they may simply decide I do not want to sign up right now, I will wait until later.

The authors of the GOP bill recognized that problem. So what they tried to do was say, well, if you do not sign up initially, then later on when you sign up, you may have to pay a higher premium.

But I tell my colleagues this, if seniors were going to do that, they would do that right now. All the seniors would voluntarily sign up for one of those three options. It would bring down the costs of premiums. But they do not do that.

Another way to control adverse risk is to try to devise a risk adjustment system. We keep hearing that in some other areas in Medicare, I will tell my colleagues what. It is really tougher to do risk adjustment. A uniform benefit package would help control adverse risk selection. Consumers would be able to make up price and quality rather than benefits. If plans are allowed a slight variation of benefits, some plans may be likely to attract low-cost beneficiaries.

The final answer would have been those plans. The GOP plan had one weak community rating and guaranteed issue provisions, but it is hard to see how the adverse risk selection would have been solved by their solutions.

Now, one sure way to avoid adverse risk selection would be to say we have a uniform benefit, prescription drug benefit, and everyone, when they sign up for Medicare, is going to be in that prescription drug plan.

That was the approach of the Medicare Catastrophic Coverage Act in 1988. We saw what happened to that law. That lesson was not lost on people in this Chamber this year. To say that mandatory enrollment had little appeal to policy makers in this election year was an untruth.

Finally, we could avoid adverse selection for a voluntary benefit like prescription drug coverage if we simply subsidized the benefit to such an extent that is such a good deal that everyone will do that. But we are really talking about large sums of Federal dollars when we do that. We cannot even predict what the costs are going to be. There are new drugs coming on board that could cost thousands of dollars per treatment where treatments have to be repeated and repeated and repeated. We could easily be talking about a trillion dollar drug benefit.

That cost reminds me again of that article by Mr. Rostenkowski. As Congressman Rostenkowski said, "The problem was and is still a lack of money. Yes, we have a projected surplus, but the 10-year cost of more highly subsidized drug coverage would, in my opinion, easily double or even triple the projected cost of both proposals."

Now, there are several reasons why even in this time of a surplus I think we need to think hard about this. I think we have made a bipartisan commitment not to use Social Security surplus funds. Second, there are people in this country who have no health insurance, much less prescription drug coverage. Should we expand coverage for some while the totally unprotected group grows? Third, Medicare is closer to insolvency than it was back in 1988. Should not our first priority be to protect the current Medicare program? Given those constraints, what can we do to help seniors and others with high drug costs? Here are some modest proposals for helping seniors and others with their drug costs. First, let us allow those senior citizens, those qualified Medicare beneficiaries, specified low-income Medicare beneficiaries, qualifying individuals who are not so poor that they are in Medicaid in addition to Medicare, but are just above that, many of whom are having to make difficult decisions because they are living solely on their Social Security, and they have very high prescription drug costs, why do not we allow these individuals, say, up to 175 percent of poverty, to get into or access the State Medicaid prescription drug programs if we could pay for it from the Federal side. We would not have to require any match from the States.

The plans are already in existence. The bureaucracy is already there. The
States have already negotiated discounts with the pharmaceutical companies. We know who these individuals are because they are already getting discounts on their premiums and co-payments and deductibility.

We could simply give them a card that would enable them to access the State formulas for their State Medicaid program for prescription drugs, at no cost for them. We could pay for it through the Federal side. Estimates are that that would probably cost about $60 to $80 billion over 10 years. It might be more than that, but that is not less than what we are talking about with the other plans. We can afford that. It would be an important first step.

We ought to also fix the funding formula in which some States, particularly rural States, have such low reimbursement rates that Medicare HMOs are never there. We ought to raise that floor, reduce the gap between some States and other States, so that we have a benefit through the Medicare plan. And that would require a floor of at least $600. We already have Medicare HMOs that are leaving areas where they are getting paid $550 per month per beneficiary. Raising it to $400 or $450 is never going to induce those Medicare+Choice plans to go into the rural areas.

And in response to my constituents who want to purchase their drugs from Canada or Mexico or Europe, we started to get the impression that something was happening this year. And it has been signed into law, and that is on the reimportation of drugs that are made in this country, packaged here, shipped overseas, whether or not they can legally come back into the country. However, we need to go back to that issue, because there were some loopholes in that legislation that passed the House and the Senate that we need to fix. We need to strengthen that law. That would help a lot. That would increase the competition. In my opinion it would automatically result in lower drug prices, not just for senior citizens but for everyone.

I think we should enact full tax deductibility for the self-insured. I think that we should look at those 11 million children that do not have any health insurance and, consequently, do not have any prescription drug coverage. Roughly one third of those kids already qualify for Medicaid in the State Child Health Insurance Programs. Those children should be enrolled. We should do things to help those States get those children into Medicaid.

Many pharmaceutical companies do have programs to help low-income people afford prescription drugs. Both physicians and patients need to be better educated to take advantage of those discounted drugs. Currently, 16 States have programs to provide pharmaceutical assistance programs targeted to Medicare beneficiaries different from the Medicaid solution.

My colleagues, the gentleman from Florida (Mr. Bilirakis) and the gentleman from Minnesota (Mr. Peterson), have a bill, the Medicare Beneficiary Prescription Drug Assistance and Stop Loss Protection Act, which would allow Medicare beneficiaries to go up to 200 percent to get into programs like that.

But that would require, in many States, the creation of whole new bureaucracies. I think there is a simpler solution. The solution is to utilize the State Medicaid programs. I think we need to fix the law.

I think that we should revise the FDA Reform Act of 1997, and we should restrict direct marketing to consumers in a way that does not limit their free speech but at least requires that they provide equal time to discussing the possible complications of those new drugs as they do to the benefits.

Finally, I think the new Congress could actually get signed into law a combination of the above in a bipartisan fashion. More than is possible than what the Clinton-Gore administration has proposed; it is more limited than what passed this House, but it has many advantages in that it is a step-by-step progression and it is something that I think is expensive and responsible until we are able to look at a more comprehensive prescription drug benefit in the context of making sure that Medicare stays solvent when the baby boomers retire.

This is a complicated subject. At the beginning of the speech, I said there was not yet a consensus on how we go on this. But I know this: On something this important, the only things that get done in Washington are done in a bipartisan way. There will be some on both sides that say it does not go far enough; there will be some that say my proposal goes too far, that we do not want to expand Medicare beneficiaries into State Medicaid drug plans. But I think I am hitting a down-the-middle approach to going to be reintroducing my bill in the beginning of this next Congress. I sure hope that a lot of Members will take some time, listen to this special order speech, look at the bill and the information that we will be providing to them, and think about this as a solution that we can do for now.

Finally, I want to say this: For a long time, in its wisdom, Congress has gone through what is known as "regulation." That is a bill, and all of its details, is dropped in that bin over there. It is made public. We have hearings on those bills. We compare language to other bills. We look at the implications of the legislative language. We have subcommittee markups with amendments and debate. And then we have a full committee markup with amendments and debate. Then we have it go to the Committee on Rules to be brought to the floor up to 200 pages does the reading. It is an orderly process. That was not done this year. That was not done. And I think the legislation was not as strong as it should have been because we did not go in regular order.

So I very much hope that when we look at this issue again this coming year, 2001, that instead of just rushing something to the floor, that we have full debate and discussion. Our constituents must know what the provisions mean when the bill reaches the floor; that it does not become just a "Republican bill" or a "Democratic bill," but in our wisdom we debate the various provisions in a fair way, debate and do the right thing. We improve the bill, voting them up or down, and doing things in a regular order.

Mr. Speaker, we did not get it done this year, at least I certainly do not think we are in these last few days of the 106th session, but I think we have a good chance to do something on this next year. So I urge my colleagues to look over my proposal, and we will be getting information to my colleagues.

TURKISH GOVERNMENT MUST RECOGNIZE BASIC HUMAN RIGHTS OF KURDISH PEOPLE

The SPEAKER pro tempore (Mr. HULSHOF). Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, today I want to speak about the need for the Turkish government to recognize the basic human rights of the Kurdish people, and I rise this afternoon to condemn recent, though ongoing, violations of these rights in Turkey.

I always say that only those people must be respected as a people, the world must finally listen to and respect their aspirations, and that they should enjoy the same right of choosing their representatives as other people do all over the world. The Turkish government has not accepted the validity of the Kurdish struggle or even of the Kurdish people. They have jailed leaders, but the message of these leaders continues to ring loud and clear.

Mr. Speaker, in the past few weeks, the Turkish government has extended a 13-year-old state of emergency in four mainly Kurdish provinces for an additional 4 months, and who knows what will happen at the end of those 4 months in terms of another extension. Further, the extension of emergency rule occurred despite the European commission's formal expression that the lifting of emergency rule is an objective for Turkey.

On December 4, The Washington Post reported that the director of a Kurdish linguistics institute in Istanbul is facing a trial on charges that the institute is an illegal business. The charges come despite the fact that Turkish security courts have hired interpreters from this very institute for the past 8 years. This incident illustrates the type of human rights violations infringements that continue to occur but this country must stand against the Kurdish people.

I call upon my colleagues to join me, Mr. Speaker, in urging the Turkish
government to immediately grant basic rights to Kurdish citizens in Turkey and more formally and fully recognize the Kurdish people. This should include lifting the extension of emergency rule, lifting all bans on Kurdish language, television, cinema, and all forms of culture.

Bans on language and culture are particularly disturbing because the lands of Kurdistan are considered by many to be the birthplace of the history of human culture. It saddens me that there is need to be on the floor protesting violations of these most basic yet essential human rights.

Mr. Speaker, back in 1997, I addressed the American Kurdish Information Network on the cultural oppression of Kurds by the Turkish government and on the Turks' squelching of Kurdish language and culture. At that time, 153 Members of Congress expressed their disapproval of the antidemocratic treatment of elected Kurdish representatives in the Turkish parliament.

In April of this year, a number of my colleagues joined in introducing a House Resolution calling for the immediate and unconditional release from prison of the Kurdish Members of the Turkish parliament and for prompt recognition of full Kurdish cultural and language rights within Turkey.

Now, Mr. Speaker, I am continuing the fight on behalf of the Kurdish people, because their voices are still repressed, although the conflict between the government and separatist Kurdish guerrillas in the southeast has subsided significantly since the arrest last year of the Kurdish Workers Party leader, Abdullah Ocalan. Fears by hard-line Turkish nationalists that any recognition of Kurdish identity will fragment the Turkish state may have helped to protect our citizens. It must end its military occupation of northern Cyprus. Such a change in behavior would benefit everyone in the region, including the Turkish people. I hope my colleagues will join in delivering these important messages to the Turkish government at every possible opportunity.

ACCOMPLISHMENTS OF SUBCOMMITTEE ON CRIME DURING THE PAST 6 YEARS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, the gentleman from Florida (Mr. McCollum) is recognized for 60 minutes.

Mr. McCollum. Mr. Speaker, I do not intend to take the full 60 minutes, but I do want to take a portion of this time to talk about an important component of something that I think is very important. I have had the privilege of serving as the chairman of the Subcommittee on Crime of the Committee on the Judiciary in the House of Representatives for the last 6 years. I will not have that privilege further. My tenure normally would come to an end, rotating under the rules of the House at the end of this Congress in any event, but as many of my colleagues know, I have been very busy, and it has been a great privilege to have served in that capacity.

I want to comment a few minutes about the work of the Subcommittee on Crime and to pay tribute to those committee staffers on that subcommittee who have worked so hard to make it possible for many of the legislative products and the oversight hearings to be accomplished, and to also pay tribute to some of the committee staff who worked for me while I have served in various capacities in years gone by on the House Committee on Banking and Financial Services.

Over the last three Congresses, the Subcommittee on Crime has compiled a tremendous record of accomplishment. In that time, 884 bills were referred to the subcommittee. The subcommittee had formal hearings on 75 of those bills and, after markup, reported 71 of them to the full Committee onJudiciary. In all, 111 days of hearings eventually were passed by both Houses and signed into law by the President. Some of those bills that did not get signed into law in their own right, were incorporated into appropriations bills and then signed.

So in more than 41 different ways, over the past 6 years, legislation crafted by the members of the Subcommittee on Crime have contributed to our country, making it a better place to live; one that is safer and more just for all our citizens.

Over the last 3 years, the Subcommittee on Crime has also held 111 days of hearings on a wide variety of subjects. I take pride in the fact that the Subcommittee on Crime hearing on almost every bill that it has marked up in order to ensure that the Members of the subcommittee were fully informed about that bill.

The subcommittee has also a distinguished record of achievement in the area of oversight. And the vast majority of these 111 days of hearings have been oversight hearings into specific problems in criminal justice or hearings into activities and operations of the executive branch law enforcement agencies over which the Committee on the Judiciary has jurisdiction. These oversight hearings included hearings on the work of the FBI, the Federal Bureau of Prisons, the DEA, the Secret Service, and the U.S. Marshals Service.

Perhaps foremost and most remembered of the hearings that the Subcommittee held in the last number of years were the 10 days of hearings it held into the activities of law enforcement in the execution of a federal death warrant; the Branch Davidians at Waco. These were joint hearings we held in conjunction with another subcommittee of the House. I think those hearings are remembered for a good reason. The hearings made the public aware of the many errors in judgment and tactics of the Federal Government during the investigation of the Branch Davidians, as well as dispelling the rumors as to the true cause of the fire that took the lives of the Davidians.

Just recently, there has been a special commission the President set up to study this measure, review it once more, and the conclusions of that effort that was undertaken have resulted in the subcommittee that my colleagues and I had the confidence of the leadership of the Committee on Banking and Financial Services, and I want to pay tribute to it, my subcommittee hearing that my subcommittee took part in.

I was very pleased with the extensive report and findings and recommendations prepared by the committee. I note that the subsequent investigations have not altered those basic findings, which I think proves the thoroughness of those hearings. I would also note that the hearings were the occasion for observing, even in the midst of tragedy, the valor of Federal law enforcement agents.

Mr. Speaker, I want to take a few minutes to note some of the legislation that was passed by the subcommittee. Many aspects of the Contract with America in 1995 involved the Subcommittee on Crime. Provisions of legislation that were crafted and revised by the subcommittee that took effect today from that Contract with America are the local Law Enforcement and Block Grant Program, which gives localities millions of dollars each year in flexible grants that they can direct resources to the places of greatest need for law enforcement purposes, where the decision making is done at the local level not at the Federal level but how those monies are spent; the Truth in Sentencing Prison Construction Grant Program, which encourages States to ensure that violent prisoners serve most of their sentence imposed by a court and provides them with monies and resources to build a prison space and to support those prison beds in return for agreeing to require at least 85 percent of a sentence be served; the Federal Mandatory Minimum Restitution Law that requires victims in Federal criminal cases to make restitution to their victims; and the historic changes in the habeas corpus process which has ensured due process to the defendant and clarified the court's role in providing a sense of closure to victims of crime.

Over the last 6 years, the subcommittee has worked on a great number of bills which have become law and have helped to protect our citizens. It has worked extensively to reinvigorate the war on drugs with a goal of increasing prospects of all of our children leading drug-free, productive lives.

The subcommittee has worked on legislation that increases the penalties for trafficking of methamphetamine, one of the most dangerous drugs facing our society today;
criminalizes the use of the so-called date-rape drugs, and provides greater resources for the law enforcement agencies whose mission it is to combat the flow of illegal drugs into the country.

The subcommittee has also enacted several laws to protect our children and other vulnerable members of our society, such as "Megan's Law," which requires States to put in place a system to track the whereabouts of convicted sex offenders who are the sexual predators against Children Act; and the Child Protection and Sexual Predator Punishment Act of 1998, which focuses on the problems of sex crimes against children and the use of computers and the Internet to commit those crimes by punishing severely those who commit them; and the Internet Stalking Punishment and Prevention Act of 1996 to punish those who would use the Internet to stalk their victims.

We also worked on several laws to protect our country from fraud, including the Cellular Telephone Protection Act of 1997, which prohibited the sale of devices used to clone wireless telephones; the Telemarketing Fraud Prevention Act of 1997, which protected our country from telemarketing fraud; the Identity Theft and Assumption Deterrence Act of 1997, which makes it a crime to traffic in personal identifying information; and the Economic Espionage Act of 1996, which protects our commercial sector from those who would steal the business innovations that have helped our economy.

We have also worked in the subcommittee to protect law enforcement officers who risk their lives daily to protect our society as well as their families who also bear this risk. The subcommittee worked to enact the Care for Police Survivors Act of 1998 and the Police Fire and Emergency Officers Assistance Act of 1998 to provide educational benefits to the families of public safety officers killed or disabled in the line of duty; the Bulletproof Vest Partnership Act of 1997, which was renewed this year to ensure that States have sufficient funding to buy protective vests for law enforcement officers; and the Correctional Officers Health Safety Act of 1998 to mandate that correctional officers who come in contact with the bodily fluids of inmates may learn the HIV status of those inmates.

The Subcommittee on Crime has also enacted prison litigation reform legislation to ensure that prisoners do not tie up our court systems with frivolous litigation.

I also pleaded this Congress that the subcommittee worked extensively to close the gaping hole in our Federal criminal jurisdiction in some areas that some cases have allowed very serious offenses to go unpunished. This hole was closed by the passage of the Military Extraterritorial Jurisdiction Act of 2000, and that is long overdue.

Also this Congress we passed bipartisan legislation to eliminate the crime backlog of crime scene samples awaiting analysis of the DNA Backlog Elimination Act will help make our system even more just by providing greater certainty in the outcome of thousands of criminal cases.

I also would like to note a couple of bills that did not become law but that we worked extensively on and one that did that was a part of another bill. We had a bill dealing with the Drug Elimination Act of 1997 that was an extensive piece of legislation incorporated into a larger omnibus spending bill at the close of the last Congress that, if fully implemented, was designed and would as one example, maybe now ordering a car into this country by a significant margin, maybe as much as 85 percent, over the next several years. Unfortunately, not all the funding to go with that legislation has been produced.

We also pursued the Juvenile Crime bill that twice has gone to the other body and has yet to become law, does not appear likely to in this Congress, but which is something in bad need of addressing in the next Congress again. This is a bill that is part incorporated, though in appropriations process in some of the legislative endeavors there. And that is a bill to correct a problem with those who are juveniles who commit misdemeanor crimes and at the early stage of their life and do not get any punishment.

That is very common today for young people to commit a crime such as perhaps throwing a rock through a window or doing something else that vandalizes and never getting taken to court; or if they are, when they are first there, they receive no punishment, maybe probation or something.

We learned in a lot of studies that there is a big problem with that. Because our juvenile justice system is overworked and they do not give this punishment, then there is no deterrent for young people or find that they come to conclude they are not going to get punished and so they go on to commit these crimes and greater crimes and perhaps violent crimes down the road.

And so we put some accountability into the law by providing a block grant program through the local law enforcement communities and the States to enhance their juvenile justice systems with more prosecutors, investigators, programs in return for the simple commitment on the part of the States to assure that the very first misdemeanor crime by a juvenile gets some punishment, be it community service or otherwise, and an ever-increasing greater amount of punishment thereafter.

That legislation, as I said, has not become law; but it has at least potentially been implemented through the appropriations process and I certainly hope will get a solution.

Another major bill that has not gotten all the way through the system is one dealing with what we do with our prisons and our prison industries. We have a problem with that I do not have the time to go into today. But it deals with the fact that we do not have very many prisoners working in our prisons compared to the private sector by a significant margin, less than 7 percent at the State level; and yet we see those prisoners who do engage in prison industries are far less likely to return to prison when they are released than those who do not. And so the legislation that we produced in our committee that has yet to become law would provide for an opportunity greater than today to bring private industry into prisons to employ these prisoners on a wider basis, to remove a burden on the underworld of prison-made goods, and to provide for other opportunities in that regard.

Mr. Speaker, I would like to take the remaining time to thank the staff that have worked so hard in the Subcommittee on Crime for me and to mention them in particular. They have done an enormous task of working for me over the years. Several of them have been very, very involved. They deserve the tribute for all that they have done. Many of those staff members have been with me for a long time.

Glenn Schmitt and Dan Bryant share the duties of chief counsel. Dan Bryant joined the subcommittee in early 1995 and has worked tirelessly over the years in many years, including the drug issue and juvenile crime and gun control and law enforcement. Glenn Schmitt was with me even before on the Subcommittee on Immigration and Border Security, and he worked extensively in the area of corrections and computer and other high-tech crimes.

Rick Fiklins on our staff joined the full committee in 1997 and became a part of the subcommittee in 1999. Carl Thorsen has done a tremendous job with us, has joined the subcommittee very recently, was on my personal staff. Veronica Eligan works for our subcommittee and Jim Rybicki. Without them we could not have done the job.

Paul McNulty for a number of years served as chief counsel for the Subcommittee on Crime from 1995 to 1999. He previously worked when I was ranking member of the minority on this subcommittee from 1987 to 1990, a very talented individual. And we have missed him. He is now working for the majority leader.

Nicole Nason was counsel with us, did a great job. Aerin Dunkle Bryant served as minority leader. She was a tremendous staffer in the past. Audrey Clement put in over 30 years of service and 20 years as staff assistant on the Committee on the Judiciary and worked on the subcommittee before she
Mr. WELDON of Pennsylvania. Mr. Speaker, I rise tonight to unfortu-
nately relate to my colleagues my con-
cern about the conviction of an Amer-
can citizen in Russia by the name of Ed Pope.

Ed Pope is an academic affiliated with Penn State University who had a
distinguished career in our military and who was simply doing research and
marketing work with Russian institutions when he was arrested without
reason earlier this year, put in a prison cell in Moscow, and denied medical
care, without proper attention.

In spite of cancer, in spite of an ill-
ness that his father has that is ter-
mental, in spite of the pleadings of
many of us on both sides of the aisle, in
particular the gentleman from Penn-
sylvania (Mr. PETERSON), who rep-
resents Ed Pope and his family, Ed
Pope was convicted this week and
given a sentence of 20 years in Russia’s
prisons.

Mr. Speaker, Ed Pope is not a crimi-
nal. Ed Pope is innocent. I have copies
of the contracts that Ed Pope had
signed with Russian agents in charge of
Russian institutes who had empowered
him to work to market Russia’s under-
water propulsion technology. During
Ed Pope’s trial, the chief witness
against him recanted his testimony. In
fact, the defense attorney for Ed Pope
provided information on what Ed Pope
was marketing was available in open
sources in this country. In fact, every-
one involved with this case under-
stands that Ed Pope is an innocent
man.

When I was in Moscow this summer, I
held a press conference in the city and
informed the Russian people and
the media that this was a bad direction
for Russia to take. We must with all of
our bipartisan effort reach out and ask
President Putin to pardon Ed Pope and
let him return to his family.

Mr. Speaker, on a down side and a
negative tone, if you want to convict
someone in this process, it would be
Bill Clinton and Al Gore, because dur-
ing the first few months of Ed Pope’s imprison-
ment, our State Department and
our White House were silent. They did
not say anything. In fact, the initial
response of our ambassador was that it
was a private matter between our citizen
and the Russian government. Only after
the media raised these questions did the administration finally begin to
raise the issue of Ed Pope. President
Clinton and Vice President Al Gore
should have demanded the release of Ed
Pope but they did not. And so Ed Pope
was convicted.

And now I relate to my colleagues
my greatest concern. My fear from
sources inside of Russia just last week
told me that Ed Pope will be offered in
exchange for a convicted Russian spy
in our country. And if we are asked to trade a
convicted person who did crimes against
this country for an innocent
man, it means this administration has
allowed us to be sucked into a situa-
tion where we may be forced to trade
someone who was a convicted criminal
to get someone back who is an inno-
cent citizen.

This country needs to release Ed Pope,
because Ed Pope is innocent, because Ed
Pope has health problems, because his
father is dying. There should be no
quid pro quo. Russia should not expect
to get a convicted spy in this country
in return. This administration had bet-
ter stand up for this American citizen,
unlike the other American citizens
whose rights have been abused over the
past several years, like Lieutenant
Jack Daley, like Notra Trulock, like
Ed McCalum, like Jay Stuart, and like
others who have been prosecuted for
simply doing their job.

I call upon my colleagues on both
sides of the aisle to demand the Rus-
sian president release Ed Pope, send
him back to his family, and in no way
allow the Russians to receive a con-
victed spy in this country in return for
that action.

RECESS

The SPEAKER pro tempore (Mr.
HULSHOF). Pursuant to clause 12 of rule
I, the Chair declares the House in re-
cess subject to the call of the Chair.

Accordingly (at 5 o’clock and 2 min-
utes p.m.), the House stood in recess
subject to the call of the Chair.

AFTER RECESS

The recess having expired, the House
was called to order by the Speaker pro
tempore (Mr. SESSIONS) at 7 o’clock
and 20 minutes p.m.

REPORT ON RESOLUTION PRO-
VIDING FOR CONSIDERATION OF
H.J. RES. 128, FURTHER CON-
tinuing Appropriations, Fiscal
Year 2001

Mr. HASTINGS of Washington, from
the Committee on Rules, submitted a
privileged report (Rept. No. 106-1025)
for consideration of the joint resolu-
tion (H. Res. 669) providing for contin-
uing appropriations for the fiscal
year 2001, and for other purposes, which
was referred to the House Calendar and
ordered to be printed.

REPORT ON RESOLUTION PRO-
VIDING FOR CONSIDERATION OF
H.J. RES. 129, FURTHER CON-
tinuing Appropriations, Fiscal
Year 2001

Mr. HASTINGS of Washington, from
the Committee on Rules, submitted a
privileged report (Rept. No. 106-1026)
for consideration of the joint resolu-
tion (H. Res. 670) providing for contin-
uing appropriations for the fiscal
of illness.

H.R. 2415, to enhance security of United States missions and personnel overseas, to authorize appropriations for the Department of State for fiscal year 2000, and for other purposes.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 4 of Rule I, the Speaker signed the following enrolled bill during the recess today:

H.R. 2415, to enhance security of United States missions and personnel overseas, to authorize appropriations for the Department of State for fiscal year 2000, and for other purposes.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DAVIS of Illinois (at the request of Mr. GEPHARDT) for today on account of illness.

Mr. KIND (at the request of Mr. GEPHARDT) for today on account of a travel delay.

Mr. FOSSELLA (at the request of Mr. ARMY) for today on account of his son's hospitalization.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at their own request) to revise and extend their remarks and include extraneous material):

Mr. PALLONE, for 5 minutes, today.

Mr. WELDON of Pennsylvania, for 5 minutes, today.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1066. An act to amend the National Agricultural Research, Extension, and Teaching Policy Act of 1977 to encourage the use of and research into agricultural best practices to improve the environment, and for other purposes, to the Committee on Agriculture; in addition to the Committee on Science for a period of 7 days, for such consideration of such provisions as fall within the jurisdiction of the committee concerned.

ENROLLED BILL AND A JOINT RESOLUTION SIGNED

Mr. THOMAS, from the Committee on House Administration, reported that that committee had examined and found this bill enrolled and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2415. An act to enhance security of United States missions and personnel overseas, to authorize appropriations for the Department of State for fiscal year 2000, and for other purposes.

H.J. Res. 127. Joint resolution making further continuing appropriations for the fiscal year 2001, and for other purposes.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule X, executive communications were taken from the Speaker's table and referred as follows:

11223. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Fludioxonil; Extension of Tolerance for Emergency Exemptions [OPP–301083; FR–7656–8] (RIN: 2070–AB78) received December 5, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

11224. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Avermectin; Extension of Tolerance for Emergency Exemptions [OPP–301079; FR–7654–9] (RIN: 2070–AB78) received December 5, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

11225. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Permethrin; Amendments to California State Implementation Plan, Ventura County Air Pollution Control District [CA–224–0289; FRL–6908–1] received December 5, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

11226. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Revisions to the California State Implementation Plan, San Diego County Air Pollution Control District [CA–224–0290; FRL–6908–7] received December 5, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.


11228. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Texas; Control of Emissions of Volatile Organic Compounds from Batch Processes, Industrial Wastewater and Service Stations [TX–121–1–7450a; FRL–6913–4] received December 4, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

11229. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Amendments to 73.202(b), FM Table of Allotments, FM Broadcast Stations (Eatonville, Wenatchee, Moses Lake, Spokane, and Newport, Washington) [MM Docket No. 98–74; RM–9269; RM–9736] received November 30, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.


11232. A letter from the Director, Regulations Policy and Management Staff, FDA, Health and Human Services, transmitting the Department's final rule—Indirect Food Additives: Paper and Paperboard Components [Docket No. 99–1720] received November 30, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

11233. A letter from the Assistant Secretary, Legislative Affairs, Department of Treasury, transmitting the final rule—Interim rule; stay of regulation—received December 4, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.


11236. A letter from the Fisheries Biologist, Candidate Plus Team Leader, Office of Protected Resources, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Endangered Species; Final Endangered Species Rule for a Distinct Population Segment of Anadromous Atlantic Salmon (Salmo salar) in the Gulf of Maine [FAA Docket No. 99F–1719; RIN: 0648–X19] received December 5, 2000; to the Committee on Resources.

11237. A letter from the Regulations Officer, Federal Highway Administration, Department of Transportation, transmitting the Department's final rule—Utilities [FHWA Docket No. 99–2829; RIN: 2125–AE68] received November 30, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11238. A letter from the Deputy General Counsel, Office of Size Standards, Small Business Administration, transmitting the Administration's final rule—Small Business Size Standards; Health Care—received December 5, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Small Business.

11239. A letter from the Deputy General Counsel, Office of Small Business Investment Companies, Small Business Administration, transmitting the Administration's final rule—Small Business Investment Companies—received December 5, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Small Business.

11240. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting
the Service's final rule—Disclosure of Return Information to the Bureau of the Census [TD 9908] (RIN: 1545-AV54) received November 30, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11241. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Last-in, First-out Inventories—received November 28, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11242. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Determining of Interest Rate—received November 28, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11243. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—''Liable to Tax'' Treaty Residence Standard—received December 4, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11244. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Qualified Pension, Profit-Sharing, and Stock Bonus Plans—received November 28, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11245. A letter from the Assistant Administrator, Bureau for Legislative and Public Affairs, U.S. Agency for International Development, transmitting the Agency's Annual Report to Congress on activities under the Development Assistance Program for the period July 1, 1999, through June 30, 2000; jointly to the Committees on International Relations and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, reports of committees were delivered to the clerk for printing and reference to the proper calendar, as follows:

Mr. LINDER: Committee on Rules. House Resolution 669. Resolution providing for consideration of the joint resolution (H.J. Res. 120) making further continuing appropriations for the fiscal year 2001, and for other purposes (Rept. 106-1025). Referred to the House Calendar.

Mr. LINDER: Committee on Rules. House Resolution 670. Resolution providing for consideration of the joint resolution (H.J. Res. 129) making further continuing appropriations for the fiscal year 2001, and for other purposes (Rept. 106-1026). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. UPTON:
H.R. 5644. A bill to amend title 5, United States Code, to move the legal public holiday known as Washington's Birthday to election day in Presidential election years; to the Committee on Government Reform.

By Ms. KAPTUR:
H.R. 5645. A bill to establish a Commission for the comprehensive study of voting practices and procedures in Federal, State, and local elections, and for other purposes; to the Committee on House Administration, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STARK:
H.R. 5646. A bill to amend titles XVIII and XIX of the Social Security Act to provide for increased accountability of nursing facilities and adequate nurse staffing for patient needs in the facilities; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. YOUNG of Florida:
H.J. Res. 129. A joint resolution making further continuing appropriations for the fiscal year 2001, and for other purposes; to the Committee on Appropriations.

By Mr. YOUNG of Florida:
H.J. Res. 130. A joint resolution making further continuing appropriations for the fiscal year 2001, and for other purposes; to the Committee on Appropriations.

By Mr. ENGLE:
H.J. Res. 132. A joint resolution proposing an amendment to the Constitution of the United States to provide a new procedure for the appointment of Electors for the election of the President and Vice President; to the Committee on the Judiciary.

By Mr. ENGLE:
H.J. Res. 131. A joint resolution proposing an amendment to the Constitution of the United States to provide a new procedure for the appointment of Electors for the election of the President and Vice President; to the Committee on the Judiciary.

By Mr. FROST (for himself, Mr. LAFALCE, Mr. LEACH, Ms. ROYBAL-ALDARD, and Mr. RODRIGUEZ):
H. Con. Res. 445. Concurrent resolution wherein Henry B. Gonzalez served the people of the 20th District of Texas in San Antonio with honor and distinction for 37 years as a Member of the United States House of Representatives; to the Committee on House Administration.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 1657: Mr. WEINER.
H.R. 2025: Mr. CALVERT.
H.R. 4301: Mr. WELDON of Florida and Mr. BENSEN.
H.R. 4632: Mr. SCHAFFER and Mr. MCHUGH.
H.R. 5172: Mrs. CAPPS.
H.R. 5306: Mr. MCKEON and Mr. BACHUS.
H.R. 5442: Mr. RAMSTAD.
H.R. 5500: Mr. LATOURETTE.
H.R. 5520: Mr. CONVYRS, Mr. KILDEE, Mr. HOEY, Mr. BARRY, Mr. MINGE.
H.R. 5632: Mr. BERKLEY, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. RODRIGUEZ, Ms. NORTON, and Mr. KILDEE.
H.R. 5624: Mr. MCGOVERN, Mr. MCNULTY, and Mr. FROST.
H.R. 5642: Mr. GAY MILLER of California, Mr. HORNE, Mr. EHRlich, Mr. BILIRAKIS, Mr. BARR of Georgia, and Mrs. KELLY.
H.R. 5643: Mr. TANCREDI.
H.J. Res. 23: Mr. MCNULTY, Mr. BOUCHER, Mr. EVANS, and Mr. MINGE.
H. Con. Res. 337: Ms. EDDIE BERNICE JOHNSON of Texas.
H. Res. 461: Mr. LEWIS of Georgia, Mr. TALMADGE, and Mr. BLUMENAUER.

PETITIONS, ETC.

Under clause 3 of rule XII, 122. The SPEAKER presented a petition of a Citizen of Austin, Texas, relative to petitioning the United States Congress to enact legislation mandating uniform ballots nationwide for elections at which the office of President of the United States, U.S. Senator, or U.S. Representative, are to be decided by secret ballot; further providing partial Federal reimbursement to states, or localities, for the costs of administering those elections at which any Federal office is to be decided by secret ballot; and finally requiring that absentee ballots involving any Federal office be in the possession of election officials no later than the actual date of the election; which was referred to the Committee on House Administration.
The Senate met at 9:59 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Gracious God, all through our history as a nation, You have helped us battle the enemies of freedom and democracy. Today, on Pearl Harbor Day, we remember the fact that the pages of our history are red with the blood of those who have paid the supreme sacrifice in the just war against tyranny. Those who survived the wars of the past half century are all our distinguished living heroes and heroines. They carry the honored title of veterans.

Now, Lord, we dedicate this day to You. Help us to realize that it is by Your permission that we breathe our next breath and by Your grace that we are privileged to use the gifts of intellect and judgment You provide. Give the Senators a perfect blend of humility and hope so they will know that You have given them all that they have and are and have chosen to bless them this day. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JIM BUNNING, a Senator from the State of Kentucky, 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.

RESERVATION OF LEADER TIME

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

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDING OFFICER. The Senator from Alaska.

SCHEDULE

Mr. MURKOWSKI. Mr. President, I know all Members are interested in the schedule today, and the leader has asked me to notify all Senators that the Senate will be in a period of morning business until 1:45 today. Following morning business, the Senate will resume post cloture debate on the bankruptcy conference report. Under the previous order, Senator GRASSLEY, Senator HATCH, Senator LEAHY, and Senator WELLSSTONE will each have 30 minutes for debate prior to a 3:45 p.m. vote on final passage. A vote on the continuing resolution is also expected during today’s session. Senators will be notified as that vote is scheduled. I thank my colleagues for their attention.

ORDER OF PROCEDURE

The PRESIDING OFFICER. Under the previous order, the time until 11 a.m. is under the control of the Senator from Washington, Mrs. MURRAY.

Mr. MURKOWSKI. Mr. President, the Senate from the State of Washington has been kind enough to allow me a few moments to make a statement on behalf of an outstanding Alaskan who passed away a few days ago. With her permission, I ask unanimous consent that she be recognized at the conclusion of my remarks, and I thank her for her graciousness.

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

ELMER RASMUSON

Mr. MURKOWSKI. Mr. President, I rise to honor a truly great Alaskan, a close personal friend, Elmer Rasmuson, who passed away last Saturday at the age of 91. Alaska is a far better place as a consequence of his life of public service, his achievements in business, and his personal philanthropy.

Elmer was born in Yakutat, Alaska in 1909, not long after the Klondike gold rush. His life spanned Alaska’s modern history, history that he had a significant hand in shaping.

Elmer served Alaskans in both the public and private realms. He was a successful banker who put together Alaska’s first system of statewide branch banking. That wasn’t any easy thing to do in a wild, far-flung territory like Alaska with four time zones, but he succeeded in doing a tremendous job with tremendous imagination and perseverance.

Along the way, Elmer amassed a personal fortune, which he had, in recent years, used to benefit libraries, museums, and universities in our State. This legacy will live on, as it was Elmer’s wish that his personal fortune continue to benefit Alaska long after his death.

Elmer also enjoyed a distinguished record of public service. He served on the University of Alaska Board of Regents for nearly twenty years; and he was the mayor of Anchorage from 1964-1967— including the difficult period of time encompassing the Good Friday Earthquake of 1964 and the rebuilding of Alaska’s largest city.

Elmer also had a keen interest and expertise in fisheries issues. He served on the International North Pacific Fisheries Commission from 1969 to 1984, he served as the first Chairman of the North Pacific Fisheries Management Council. He was instrumental in the creation of the 200-mile fisheries limit, and in rebuilding the State’s salmon runs after years of federal neglect.

Elmer brought his knowledge of fisheries management to the U.S. Arctic Research Commission, a position...
that President Ronald Reagan appointed him to fill in 1988. He served in that position with great distinction, to the benefit of Alaska and the entire Nation.

We will long remember the benefits from his legacy of continuing philanthropy. Elmer hired me back in 1959, my first job in banking. I worked for him as a branch manager at one of the small offices in Anchorage and later throughout offices in southeastern Alaska. I remained close friends through the 40 years that followed. His son Ed and his wife Cathy have shared many memories and good times with both Nancy and me.

Elmer's commitment to Alaska was evident in many ways. In the private sector, he was willing to take risks, commit capital to budding enterprises in Alaska. In the public realm, he gave of his time and fortune. Just last year, Elmer and his wife, Mary Louise, donated $40 million to the Rasmuson Foundation so the foundation can provide grants to education and social service nonprofit organizations. He also gave another $50 million to the Anchorage Historical Foundation which Elmer helped start. In fact, on his 90th birthday he gave away $90 million. He also donated the largest single donation to the University of Alaska Museum in Fairbanks.

It is important to add that Elmer was generous in many other ways other than his wealth. He gave his time and effort to civic groups, including the Boy Scouts. The saying is that the true meaning of life is to plant trees under whose shade you do not expect to sit. That is the true test of generosity. By that measure, Elmer Rasmuson was an extraordinary individual in his generosity.

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December 7, 2000

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what I'd like to focus on now is our time together in the United States Senate and the work we were able to do together over the last eight years.

I am sure all of my colleagues share my own appreciation for the support, guidance and friendship our families made so that we can serve in the Senate. Our successes throughout our careers in public service are shared with our families. We rely on them in so many ways.

And that is certainly true for SLADE GORTON. Sally and SLADE have been partners for all of his years of service. From Olympia, Washington to Washington, D.C., Sally Gorton has been there each and every day. She and SLADE have three children and seven grandchildren, who I know bring immense pride to the Gorton family.

So, as we acknowledge and honor SLADE GORTON, I want to pay special tribute to Sally Gorton and the entire Gorton family. We've all had to endure some pain in seeking to represent our States in the Senate. We accept that politics can sometimes be rough.

Our families—as our biggest defenders—often take it more personally than we do. In political families, the Gorton family has been instrumental to all of SLADE's many successes. Washington State is proud and appreciative of all that Sally Gorton has also done.

Much has been said in Washington State about the differences between Senator Gorton and myself. And while SLADE and I have had our differences, not enough has been said about our ability to work together on behalf of Washington State.

SLADE GORTON was a champion for Washington State. When the interests of Washington State were at stake, we were a great team.

I will miss our ability to work together on a bipartisan basis, combining our strengths, to represent our great State.

As my colleagues know, there is also no greater adversary in the United States Senate than SLADE GORTON.

When Senator Gorton took on an issue, everyone knew they had better prepare for an energetic and spirited fight. Senators on both sides of the aisle know what a challenge it is to take on Senator Gorton.

Most of you didn't have to take those fights home to your constituencies like I did. But those differences between Senator Gorton and I were rare. And they were never personal or vindictive. There were no political vendettas, and we were always able to move onto the next issue of importance to our constituents.

Ask the Clinton administration and the Justice Department what it is like to take on an issue and differ with SLADE GORTON. He was a champion for Microsoft in its ongoing legal battles with the Department of Justice. I respected his work on behalf of Microsoft and was proud to work with him on behalf of our constituents. And certainly, all of Washington State appreciated his determined efforts to represent one of the great symbols of Washington State.

Ask the Bush administration what it was like to do battle with SLADE Gorton when he fought his own party to save the National Endowment for the Arts.

Despite Washington, DC's strong desire to label us all, SLADE was always fair and well reasoned. And when he wanted to win a case, he often surprised people. Throughout his career in both Washington, SLADE defied labels.

Most recently, Senator Gorton and I worked very closely on the issue of pipeline safety. Unfortunately, a tragedy in Bellingham, Washington claimed three young lives and scarred forever a community. SLADE was right there with me from the very beginning, working to raise the profile of the issue and ensure the Senate the toughest pipeline safety legislation ever adopted by either body of Congress. Senator Gorton was instrumental to this effort. Working together, we took on some very powerful interests and extracted some tough compromises.

At the Appropriations Committee, Senator Gorton and I teamed up on numerous instances each and every year to advance and protect Washington's many interests. From agriculture research programs benefiting apple growers and wheat farmers to export promotion programs to land exchanges. Washington was the only State with two appropriations subcommittees, and I was fortunate. More so because SLADE chaired the Interior Subcommittee where Washington has so many interests.

We worked together to clean up the Hanford Nuclear Reservation. We were part of the effort to ease the Puget Sound area's very difficult traffic congestion problems at the Transportation Subcommittee where we both served.

Beyond the Appropriations Committee, there were so many other issues that we worked well together on behalf of Washington State. Commercial fisheries is immensely important to our State and we worked closely on the Magnuson-Stevens Act in 1996 and the American Fisheries Act in 1998. We recently worked together to pay tribute to a Nisei veteran and Washington State native William Kenzo Nakamura by naming a courthouse after him in Seattle, Washington.

We did work collaboratively on selecting Federal judges in a time when confirming judges was overly partisan. We succeeded in getting our judges through this difficult process by working together.

Time and again, we both worked to help Boeing in its relationships with many foreign aircraft customers. Whether working with USTR or a foreign government, SLADE worked hard for the almost 100,000 Washington State families who work at Boeing and rely on aircraft sales.

Senator Gorton and I also worked closely on health care issues important to our constituents. We worked together to boost the growing biotech sector in our State and the promising future that companies like Immunex and others are building in Washington State. From securing research dollars to ensuring the future of medical school, Washington State's health care needs were well served by the work of Senator Gorton. Here, like in so many areas, he had an impact for the betterment of our State and our country. He was a champion on health care issues and I regularly worked with him to expand health care for children.

Senator Gorton was always known for tremendous staff work both in Washington, DC and throughout the State of Washington. SLADE will add as a mentor to literally thousands of professionals. The family tree of Gorton staffers past and present is a truly impressive list of Washingtonians.

Ask the Bush administration what it was like to do battle with Senator Gorton's staff. That working relationship was always interrupted by an annual softball game that could be as competitive as any Apple Cup football game between the University of Washington and Washington State University. I am proud to say the Murray softball team won its share of games. But so did the Gorton team. And there were a couple of years where Senator Gorton himself contributed to his team's wins. It was a friendly rivalry but I am sure SLADE will agree, we both really wanted to win that game.

The Gorton staff is as loyal as any on Capitol Hill. And I am sure they will have an opportunity to thank Senator Gorton for all of his personal and professional guidance and assistance.

But I am also sure they would want me to say to Senator Gorton that they believed in his work and that they will always be proud to call themselves Gorton staffers.

This is certainly a time of change for the country and for the Senate. And while Senator Gorton will leave the Senate, we shouldn't expect to see him fade from the public scene. At home, he will continue to be a respected leader with perhaps many opportunities ahead to further shape and influence our State.

As we all reflect on the Gorton legacy, perhaps his service in Washington, DC will continue as well. Change may seem uncertain but I am confident—just as he did almost 50 years ago on the Greyhound bus—that Senator Gorton will make the most of these new opportunities.

Senator Gorton, on behalf of all of Washington State, thank you for making Washington State your home. We have benefited enormously from the dedication you brought as a young man to settle in Washington State. Your service here in the Senate is one proud part of a dedicated and accomplished career in public service.
I yield the floor to my colleague Senator Gordon Smith from Oregon.

Mr. Smith of Oregon. I thank Mrs. Murray, the Senator from Washington, for her kind words on behalf of our colleague and friend, Senator Slade Gorton.

I am filled with conflicting emotions this morning. It is easy for me to come to the floor of the Senate to sing the praises of Slade Gorton. It is hard for me to contemplate this place without him. As Senator Murray has detailed his history, I won't repeat it, but I do think it is significant that this good man comes from a family from New England but, like a delicious Washington apple, he is a product of Washington State.

Slade often tells the story of Lewis and Clark coming down the Columbia River. They approached the Pacific on the Washington side. The first election that included minorities of African American, Indian descent, and female gender, took place on the shores of what we now know as Washington State. The decision before the party was whether to stay in Washington or to move to Oregon on the other side of the river. The vote was to move to Oregon. Slade has always used that story as an example that the voters are not always right.

I have never shared the same conclusion with respect to that story, and I find it humbling to accept that all of the elections I do now, with the defeat of Slade Gorton for another term. It is a hard decision, nevertheless, for me.

Slade was also given to say that mountains divide and rivers unite. Truly, the Columbia River is one of many marvelous things that Washington and Oregon share together. It is the thing which has made of Washingtonians and Oregonians good friends for so many years. It is, perhaps, the greatest bridge shared by Slade Gorton and me, a common interest in being good neighbors, a common interest in the values and uses of the river for both natural and human purposes. Oregon has lost a great friend at the end of the service of Slade Gorton.

Time and again, I would appeal to Slade in his powerful position on Appropriations to help the people of my State with appropriations that make it easier for those who live in Oregon, to foresters. He was always there, always anxious to help, always anxious to provide money for salmon restoration and things that make the lives of all in the Pacific Northwest better.

Slade Gorton was the champion of many things, but I think he was the greatest champion for rural people. He knew that our prosperity, our standard of living, ultimately came from the responsible use of natural resources. So he stood up for them. He stood by fishermen, to foresters. He stood by those who logged. He stood by the miner. He fought for their jobs. He fought for them to have a place. But he was not just focused on their concerns. As Senator Murray has reminded us, Microsoft knew no greater champion on the floor of the Senate than Slade Gorton as he battled for this State's great interest in Microsoft's survival and success. So he was both a friend and a competitor. He was a man for all seasons for the Pacific Northwest and for his State of Washington.

This morning, as I contemplated what I could say about him, a passage of scripture came to mind. Jeremiah 29:7 came to my mind that seemed to be, in my view, the bright way that I see Slade Gorton. After giving the Sermon on the Mount, Jesus said:

'Ye are the light of the world. A city that is set on a hill cannot be hid; neither do men light a candle and put it under a bushel, but on a candlestick, and it giveth light unto all that are in the house. Let your light so shine before men, that they may see your good works and glorify your Father, which is in heaven."

Slade Gorton's light is very bright. I don't know of a brighter person in the Senate since the day I have referred to him before as the E.F. Hutton of the Senate: When he would speak, we would all listen. I know that is true in the Republican Conference. In his halting way, it was worth stopping whatever you were doing to listen to him, because what was said was worth remembering and to be valued and followed.

So Slade's light, in my view, still burns brightly, and cannot be hid, it should still be utilized. I cannot predict how this Presidential election will turn out, but I do hope that if it should be President Bush, he will see that light as brightly as I do and utilize Slade in the service of our country still because our country needs him and he has so much more yet to give.

Like Slade, I have known victory and defeat in running for the Senate. I had no greater friend when I first ran than the one by which he has now lost, I also lost. I remember his letter so vividly because he had worked so hard for me. It came a few days after my defeat. He said how no defeat for a Senator's race had ever affected him as badly as mine, except the time he had lost once before. And it was a hard and bitter thing. But he admonished me to get up and try again, as he had tried again. He admonished me to serve and to hide my light under a bushel because he need not the help of the farmer, the fishermen, and the foresters of the Northwest needed me. I have the feeling they need me more now than ever with Slade's departure.

He also never forget it—he told me it probably upset his law partners in Seattle—that the worst day in the Senate is far better than the best day in the practice of law, which is another reason he labored so hard to come back and to serve. And it is a marvelous thing to be able to serve the people you love at home.

Slade was right. I now know how he felt when he wrote that letter because I feel a great emptiness inside at the thought of his departure. But I know, as he knows, that in democracy you do not always get to win, but you always get your say. I hope the day will come, in a different forum, perhaps, when Senator Gorton will have his say again.

Until then, I pray God's richest blessings for Slade and Sally Gorton to sustain them in this difficult transition and to help all of us who remain behind to fill his very considerable shoe size as a Senator.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. Murray. Mr. President, I ask unanimous consent to have printed in the RECORD a number of statements regarding Senator Gorton and his distinguished service. I want to take particular note of the statement by our colleague, Joe Lieberman, who could not be here today. Senator Gorton and Senator Lieberman worked on many issues together over the years. I want to read his statement:

Mr. President, I wish to express my greatest respect and affection for Slade Gorton of Washington with whom I have enjoyed working closely for a number of his life is characterized by his commitment to faith, family, service, and law. As he leaves the Senate, I want to reminisce about some of the matters I have been privileged to work with Slade Gorton.

Over the years, Senator Slade Gorton has been a great leader on educational reform, supporting the need for stronger history curriculum standards and literacy awareness in our colleges and universities. I truly believe he can help us all unite our nation by demonstrating the importance of our shared heritage and civic culture as Americans.

One of my most memorable experiences with Slade was the work we did together after the House impeached President Clinton. All of us in the Senate knew that how we handled the impeachment trial would test us all—both individually and as an institution. We could either fall into intense partisanship, miring ourselves and the country in lengthy and disruptive proceedings that threatened to leave this institution demeaned and scarred, or we could rise above partisanship and join together in a way that preserved this body's dignity while at the same time ensuring a full airing of the issues before us.

Slade took the lead in guiding us to a dignified path, formulating a plan that ultimately formed the basis of the process the Senate adopted. Notwithstanding his personal views, his love for his country and this institution led him to the principle above partisanship and to formulate a plan for resolving the impeachment case before it wreaked more havoc on the Senate and the nation.

I was delighted to work on this plan with him, and was impressed again by the civilized, thoughtful, and nonpartisan way in
which Slade Gorton proceeded. I truly believe that his leadership was instrumental in seeing the Senate through that difficult time with honor.

Slade Gorton leaves the Senate with much to be proud of, and much to look forward to. For my wife and myself, I send Slade and Sally and their wonderful family love and every good wish for the next great chapter of their lives.

I also ask unanimous consent to have printed in the RECORD several editorials regarding Senator Gorton’s long service to our State of Washington.

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

STATEMENT BY SENATOR MURRAY IN TRIBUTE TO SENATOR SLADE GORTON

Mr. President, congressional lame duck sessions following an election are a rarity. They usually arise when Congress is unable to finish its business in a timely fashion and that is true with this year as well. But this session affords me and this Congress an opportunity to acknowledge and pay tribute to the service of an esteemed colleague. Senator Slade Gorton served Washington from 1977 to 2005, will be ending his service here after 38 years in the Senate.

Washingtonians regardless of party affiliation know me with high appreciation for Senator Gorton’s long service to our state, our country and this proud institution. I want to share with my colleagues a passage from an editorial this week in the Everett Herald. The Herald editorial reads, ‘History will rank Gorton with równor naissance was always interrupted by an argument or vendetta, and we were always able to move on now is our time together in the United States, Gorton is a greater adversary in the United States Senate than Slade Gorton. When Senator Gorton took on an issue, everyone knew they had better prepare for an energetic and spirited fight. Senators on both sides of the aisle knew what a challenge it is to take on Senator Gorton.

Most of you didn’t have to take those fights personally as well. But those differences between Senator Gorton and I were rare. And they were never personal or vindictive. There were no political vendettas, and able to move on to the next issue of importance to our constituents.

Ask the Clinton Administration and the Justice Department what it is like to take on an issue and differ with Slade Gorton. He was a champion for Microsoft in its ongoing legal battles with the Department of Justice. I respected his work on behalf of Microsoft and was proud to work with him on behalf of our constituents. And certainly, all of Washington state appreciated his determined efforts to represent one of the great symbols of Washington state. Ask the Bush Administration what it was like to do battle with Slade Gorton when he passed to save the National Endowment for the Arts.

Slade Gorton also fought for the United States Senate. When the Congress was struggling through a very partisan impeachment process, it was Slade Gorton who along with our colleague Senator Joe Lieberman and myself, ran a united front for Senator Gorton. In this instance as well as in many others, had enormous respect for this institution. That respect for the institution is evident in the respect he enjoys among all Senators.

Despite Washington D.C.’s strong desire to label us all, Slade was always open. When he worked on issues, he always worked on an issue and differ with Slade Gorton when he passed to save the National Endowment for the Arts.

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Despite Washington D.C.’s strong desire to label us all, Slade was always open. When he worked on an issue, he always worked on a bipartisan basis, combining our strengths, to represent our great state.

Many of our colleagues are well aware of Slade’s history of public service. As a young man, Slade defied labels. Throughout his career in both Washingtons, he took on a cause, he often surprised people. When he label us all, Slade was always open. When he worked on an issue and differ with Slade Gorton. He was a champion for Microsoft in its ongoing legal battles with the Department of Justice. I respected his work on behalf of Microsoft and was proud to work with him on behalf of our constituents. And certainly, all of Washington state appreciated his determined efforts to represent one of the great symbols of Washington state. Ask the Bush Administration what it was like to do battle with Slade Gorton when he passed to save the National Endowment for the Arts.

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the University of Washington and Washington State University. I am proud to say that the Murray softball team won its share of games. But so did the Gorton team. And there was more. Senator Gorton himself contributed to his team’s wins. It was a friendly rivalry, but I think Slade will tell you, we both really wanted to win the game.

The Gorton staff is as loyal as any on Capitol Hill. I am sure they will have an opportunity to thank Senator Gorton for all of his personal and professional guidance and assistance, but I am also sure they would want me to say to Senator Gorton that they believed in his work and that they will always be proud of the work Senator Gorton has done.

This is certainly a time of change for the country and for the Senate. While Senator Gorton will leave the Senate, we shouldn’t expect to see him fade from the public scene. At home, he will continue to be a respected leader with perhaps many opportunities ahead to further shape and influence our state.

And perhaps his service in Washington, D.C., will continue as well. I am confident—just as he did almost 50 years ago on the Greyhound bus—that Senator Gorton will make the most of the new opportunities to come.

Senator Gorton, on behalf of the people of Washington state, thank you for your many years of dedicated service. Thank you for giving your time, your energy, and your wisdom to the state and our country. We have benefited enormously from your work and we are grateful for your service.

[From the Seattle Times, Dec. 5, 2000]

GORTON’S NOTEWORTHY PUBLIC CAREER

There is no particular joy in bidding farewell to the state’s senior senator, Slade Gorton.

This page endorsed his opponent, Maria Cantwell, and we look forward to the changes in style and policy she can bring to the job.

But we will be remiss if we failed to pay tribute in this space to Gorton’s distinguished public career. He was first elected state legislator, then attorney general and has served three terms as Senator.

Legacy is not a notion that comes easily to Gorton, who has always focused on what was the legacy of his years in public service, he gropped for a reason. Perhaps that’s because Gorton’s career was not a straightforward clear goals or major accomplishments.

As a legislator he was more pragmatist than ideologue. As his Republican party moved to the right, Gorton feigned just enough moves in that direction to stay in office, moves that prompted criticism on this page and elsewhere.

A careful look at the sweep of his career reveals Gorton’s better impulses. He is credited with helping to save the National Endowment for the Arts and the Forest Legacy Program, both sources of federal support.

He learned to say thank you. He admitted that some of his votes in his first term were mistakes and he asked voters for a second chance.

That gave it to him.

That he lost twice shouldn’t be a legacy-killer. We forget how tough it has been for Republicans to win the governor’s office or the U.S. Senate seat in Washington.

In fact, since 1954 only three Republicans have—Evans, Gorton and John Spellman. In that same time period, eight different Democrats have won those offices—five men and three women.

Gorton overcame that handicap with a strategy that has always worked—him against Seattle and exploited the resentments many have for the state’s biggest city. He was accused of using so-called welfare issues that divided the electorate.

But that in itself is not a Seattle-centric critique. It’s OK—in fact, preferred—to represent Puget Sound to the detriment of the other electorates. Doing the opposite, however, is divisive.

Cantwell won just five of the state’s 39 counties. But she is defined as a unifier while Gorton is a divider.

The campaign is too recent for liberals to view Gorton’s service as anything but a disaster.

But as time passes, perhaps they’ll be more willing to give him his due and allow him to take his place in state political history with those other giants.
Sound region. That disavowis, in fact, may have contributed to his defeat by Cantwell. But he helped ensure that the less urban areas of the state weren’t forgotten.

To Cantwell, campaigning to become a senator for the entire state. She has promised, in fact, to visit each of the state's 39 counties every year. That will be a challenging task.

Cantwell has talked about the need for action on issues that relate directly to people's lives, including prescription drugs and controls on the manufacture of alcohol. With her incisive understanding for policy issues, demonstrated in both the state Legislature and the U.S. House of Representatives, she could help to create answers to such difficult questions.

Her lack of seniority, though, deprives the state of the significant influence over appropriations that Gorton wielded, especially for environmental projects. The state, and Cantwell, will have to look to Sen. Patty Murray to fill as much of the gap as possible.

Cantwell returns to politics after making a fortune with a high-tech company in just five years. As the careers of Jackson, Magnon and Gorton have demonstrated, the length of time is often a critical factor in achieving a great senator. Cantwell should keep that in mind as she makes what is likely to be an impressive entrance into the Senate of the United States.

MRS. MURRAY. Mr. President, I yield such time as he may need to the Senator from West Virginia, Mr. Rockerfeller.

The PRESIDING OFFICER. The Senate will resume. The time is 1:30 p.m. Senator Murray.

MRS. MURRAY. Mr. President, I yield to the majority leader, Trent Lott. He is a very close adviser, and may remain so, in the Senate, in that he was a very close adviser to the current Majority Leader of the Senate.

Mr. ROCKERFELLER. Mr. President, I rise today on a personal basis to reflect a little bit about the SLADE GORTON I have known and worked with over a number of years now. Even as I welcome Mary Cantwell into the Senate, I also am very sorry to see SLADE GORTON go—just because of the very extraordinary character he brought to this institution.

I worked with SLADE very closely on the Commerce Committee. Our jurisdictions overlapped a great deal. Our interests overlapped a good deal. One of the pieces of legislation where I thought you saw SLADE working at his best, when he was so effective in the Senate, was the reauthorization of the Federal Aviation Agency. This was actually a very complicated piece of legislation. It was one that was particularly difficult because the Senate as a whole has not bothered to engage itself particularly with the whole subject of aviation and the enormity of the crisis which is facing us and which manifests itself in the summer and tourist season and then is quickly forgotten as soon as the tourist season is over and the delays diminish somewhat. One can see, as the industry grows, it also runs into more severe problems, financially and otherwise.

SLADE GORTON had an innate understanding of aviation, obviously, because of the State from which he came. But he was also a master craftsman in terms of understanding issues, producing legislation and then finding a compromise that would lead to a result that, in effect, reauthorized the Federal Aviation Administration and put forth money on an unprecedented basis to do what needed to be done, both for our air traffic control system and for the infrastructure which our Congress and our Nation just blithely ignore—complaining about noise, complaining about delays, and then declining to do anything about it. It is not a problem which fixes itself.

SLADE was, in a sense, kind of a pioneer on this issue which in some ways is similar to the IT phenomenon, the centers of innovation people have been rather quick to learn about the new economy and the Internet and rather slow to learn about a problem which is just as severe and technical and just as complex as that one. But SLADE, obviously, as is typical of him, never shirked his duty either to his State or to his country.

He has a work ethic. A “work ethic” simply describes itself, but the way in which SLADE GORTON has carried that out over all the years I have worked with him is something that has given me joy and a great sense of admiration. I don’t know if there are any cartoons anywhere, but there are a lot of stories: One always sees Senator Gorton at his desk—reading. The en- tire Senate, in a confrontation, a flagration of some sort, usually about something which means absolutely nothing, but SLADE GORTON understands that and so he simply turns to newspapers, journals, things which—again, in my opinion, are increasing his knowledge, increasing his perspective and the depth of his ability, therefore, to be helpful to his people, to his country, and to the Senate.

He had a very interesting position, too, in the Senate, in that he was a very close adviser, and may remain so, to the majority leader, Trent Lott. He did not do that through the power of politics. He did not lobby in the way people often do when they run for offices, go around trying to pick up votes in that way. It was simply the power of his reasoned, calm intellect, the even temperament of his nature, and the compelling force of his logic and the calmness in which all of this evolved and presented itself, which I think—my guess would be—drew Senator Lott to understand that to rely on SLADE GORTON’s judgment and understanding and advice would be a very wise thing.

SLADE GORTON and I did not necessarily have the same voting records, but we often had the same approach to issues, not all of which I will discuss here, and we have come to differ on some of those issues. But I always have had this deep sense of respect for him. He never was a typical Senator. He was not a backslider. Yet when he gave his word, you needed to worry no more because that was it. As they say, his word was his bond—and it really was.

He had always an excellent staff about him. Yet you always had the feeling that SLADE GORTON made all of the decisions and did, really, most of the basic thinking himself because of the deeply thoughtful nature of his mind and his instinct about not just legislating but the way he conducted probably all his life.

I admire very much the fact that he has been in public life for so long, and at the age of 72 sought to continue that public service. He has expressed a deep belief in public service. There are many honorable professions, but I think public service is one of the hardest and most honorable of all of them if it is carried out with serious intent and serious purpose. Ambition always accompanies public service, but ambition has to be overruled in the final analysis by this concept of serving the public and of trying to make a better situation for the State one represents and also our Nation.

SLADE is a Senator from the State of Washington but also from the United States of America. He understood that and exercised both of those responsibilities—both to the generation before the U.S. Supreme Court when he was attorney general of his State. That says to me that he did not simply, as is the case sometimes, particularly in more recent years, jump for the top of the totem pole. In the same way, he worked his way up through the system. I admire that. It shows a determined, a very professional, long-term commitment to public service at whatever level and also respect for the experience and development of one who serves in one’s State and goes on to a more national forum.

He is and always will be a superb legislator. He has been a superb friend to me. We have not spent a lot of time engaged in personal discussion, but there was a constancy in the way our relationship evolved and then maintained itself which always made me believe I could trust SLADE GORTON and look to SLADE GORTON for sound advice and careful judgment on virtually any matter.

He is firm in his views, and I respect that. We differ often on issues, and yet it is never a personal matter. Again, it is a truly brilliant, analytical, ordered mind coming to his conclusions in the way he thought best for him and for the people he represents.

When we talked personally, it was almost always about his grandchildren; of course, about Sally, his wife, whom I worked with on the marriage of 1988. He has seven grandchildren, and when there was frustration about the Senate dragging on too long, he would talk about the joy of being with his grandchildren. He talked at length about that. That was another side of SLADE GORTON: SLADE GORTON the family man, the tightly disciplined mind, and yet underneath a very warm sense of what, in many ways, is an even larger legacy, and that is, what is the nature of one’s family, what is the nature of one’s relationship to the members of one family. I express my respect for him, my affection for him for his constancy of purpose and for his superbly honed
skills. His presence in the Senate is and will be always considered unique. He is a unique person, cerebral but effective, highly analytical but deeply effective in the internal combat, whether it be on the Appropriations Committee, the Budget Committee, the Commerce Committee, or any of his various committees. He knows how to fight. He knows how to achieve what he wants for the people of his State.

As I said at the beginning, I rise to express this respect, to express this sense of admiration for the nature of his abilities as a Senator and his broad expanse as a human being. I thank the Presiding Officer and yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Parliamentary inquiry: Is it time for the Senator from New Mexico to speak about the departure of SLADE GORTON?

The PRESIDING OFFICER. The time is under the control of the Senator from Washington.

Mrs. MURRAY. Mr. President, I am happy to yield to the Senator from New Mexico. Whatever time he needs to speak, I yield the floor.

Mr. DOMENICI. I am very sorry to ask for that. I thought Senators on our side had control. I am very pleased Senator MURRAY yielded to me.

Mr. President, I come this morning to speak about my friend, SLADE GORTON, who is leaving the Senate shortly. I thought I better do it today because, as most things around here, when you can get them done you ought to be because time flies and all of a sudden we can get them done you ought to be.

I think everybody knows that while 26 years ago we had budgeting. He has been on that committee with me through thick and thin.

Everybody should know that we did a lot of innovative thing in that committee. We rather imaginatively broadened some areas of legislation where we can insist that things get done without being burdened by filibuster and, I hope, we have, and it cannot be used for anything else. These are all unique and different, along with regular routine things.

It did not take very long, once these issues were put on the table and discussed, for SLADE GORTON to understand and he has been there most of the time, to help me with everything he does. He does not have to be the kingpin, but I guarantee you, those who are around and say: Who were the leaders? He is there. He must have been a great solicitor. He appeared before the U.S. Supreme Court and tried them on for size with SLADE GORTON, and he said, “That’s the way to do it,” no one will really know what that has meant to anyone, and how influential saying “that’s the way to do it” from SLADE GORDON really is in terms of many of us here.

He has a wonderful wife Sally and the three great, wonderful children. I hope whatever happens in the next few years, since he is so knowledgeable about the workings of our Government, not just those items within bills on which he worked so hard called appropriations, but he knows about many things in Government, I close by saying, many of us raise our hand and say, yes, we are lawyers, and some of us know full well we are not lawyers any longer; we have been away from the profession for years. We are not what one would call a lawyer. But after all these years of not being in the legal profession. He must have been a great solicitor. He appeared before the U.S. Supreme Court on behalf of his State and made some very interesting law when he was a lawyer for his State, either in his attorney general’s office or whatever they have.

So I want to say to him, whatever it is you choose now, Senator GORTON, and Sally, whatever you choose, I hope you will be around so we can continue to share with you, an occasional opportunity to share a meal, an occasional social event, or, even better, an opportunity from time to time to just listen to you tell us what you think of how it is, how you observe it, and, in a way, continue to bless us with all those marvelous qualities you bring here. I hope they have.

You have brought from your State a conduct of occurrences of significance in the Senate. I am not sure how that will be picked up because much of it occurs in meetings that are not public not private meetings but meetings that are just not known because they are in the leader’s office or a committee room.

But what I want to say to him is: You will be missed because while you have been here, you have been felt. People have known you were here. They knew your presence, your intellectual presence, your humanity, your loyalty, and, yes, your skill at knowing when things ought to happen. SLADE has a real knack for knowing; Well, it is about time to spring this. He will be there doing that and, sure enough, it will go unnoticed that he was the one who got it done.

Individually, from my standpoint, he has been at my side every time we have had major events on the floor that I have had to manage. There have been times they have been long, and they have been arduous.

When I had to test them and try them on for size with SLADE GORTON, and he said, “That’s the way to do it,” no one will really know what that has meant to anyone, and how influential saying “that’s the way to do it” from SLADE GORDON really is in terms of many of us here.

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You have brought from your State a degree of pride to the Senate that is very difficult to replace. Far be it from
me to judge any other Senator from any other State or even his own State, but Senator SLADE GORTON will be here a long time in memory because many will know what he thought about the Senate and how he thought about us. It is healthy to not be down here at that seat, arguing with us on important issues. But he will be here because I cannot imagine that people who lived and worked with him all these years—I see one here on the floor, the distinguished chairman of the Appropriations Committee who knows about it very well—will ever forget him, and we will not let the Senate forget.

I thank the Chair and yield the floor. The PRESIDING OFFICER (Mr. ALARD). The Senator from Washington.

Mrs. MURRAY. How much time is left under my control?

The PRESIDING OFFICER. Three minutes.

Mrs. MURRAY. How much time does the Senator from New Hampshire need?

Mr. GREGG. I would like to have about 5 minutes.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Senator from New Hampshire have 5 minutes, the Senator from North Dakota have 3 minutes, and that any other Senators who wish to bring their statements and have them printed in the RECORD at this point regarding Senator GORTON be able to do so.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. I temporarily object. The PRESIDING OFFICER. Is there an objection?

Mr. STEVENS. I withdraw my objection.

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

The Senator from New Hampshire is recognized for 5 minutes.

Mr. GREGG. I thank the Senator from Washington for the courtesy of recognition.

Mr. President, I join with my colleagues in praising and expressing our appreciation for the opportunity to work with and know as a colleague in this body Senator SLADE GORTON from Washington. I expect to continue to work with and know Senator SLADE GORTON for many years. But, unfortunately, he will be leaving this body, which is too bad because I consider him to be one of the truly extraordinary people I have had a chance to get to know.

I would describe him as delightful and extraordinary—delightful as a person, extraordinary as a Senator. He brings to this Senate a uniqueness which is special. He has a freshness about him, a way of approaching the issues which is always creative and imaginative. He has true love for this institution. He especially understands its rules and how it works.

He is one of the few senior Members on our side of the aisle who will sit in the chair for hours and hours in order to officiate over the Senate. In fact, I think every year he has been here he has received what is known as the Golden Gavel for sitting in the Chair for 100 hours, something usually received by junior Members of the Senate, but because of his interest in and intensity and love for any Committee to which he has been assigned, he has enjoyed the opportunity to preside. He has presided extraordinarily well.

He, however, as the Senator from New Mexico, although has been probably less visible than many Members of the Senate but has had much more impact than most of us. His actions and effectiveness are really in the famous back halls and meeting rooms of the Senate. Very few pieces of legislation have moved through this body that do not, in some part, have the fingerprints of SLADE GORTON on them.

He is truly an effective tactician, but more importantly, he is an effective talker and get ideas. He talked about his family that he so loved, Sally and his children, his grandchildren, his nieces, nephews. He used to go to hockey league for his niece all the time. She is a wonderful hockey player. He is totally committed to his family. It was a pleasure to have the chance to sit down and talk with him on any subject, but especially when it came to issues of family and what everybody was up to and what everybody was doing. That is the priority for SLADE and Sally. At one point, they took a bike ride across the country, which must have been an amazing experience, the whole family riding across the country.

He set an example for those of us who came here after him. As we look around this institution, we often refer to people. He reminds me of so-and-so, he reminds me of some Senator from here or Senator from here at some other date. I must say, I can't think of higher praise than if someone were to come up to me some day and say: You know, you remind me of SLADE GORTON a lot the way he worked as a Senator. That would be the highest praise I could receive because I consider him to be one of the finest, if not the finest, Senator I know.
I have had with the Senator from Washington, SLADE GORTON, in dealing with the problems of the Pacific Northwest.

I thank the Senate.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. Mr. President, we find ourselves in a predicament as old friends. Of course, we are this morning talking about our friend SLADE GORTON from the State of Washington. In a way, we are listening classmates. We came here in 1988. Of course, it was not his first time here, since he was defeated in 1986 and then came back and won reelection in 1988.

We had a lot of things in common—not only representing the Northwestern part of these 48 contiguous States. We also have great friendship and we served on some of the same committees. I took from him great lessons about this body and how to represent our constituencies. SLADE has been friends with Phyllis and me for all these many years while he has been serving in his second and third terms.

We in Montana have a quality that I think will become more and more admired as this country grows and matures. We are brutally honest with each other in that part of the world. I spent my time in business—in the cattle business and the auction business. People will just tell it like it is. If you like it, fine. If you don't, it's fine. And I believe it. Well, that's why it is. SLADE GORTON is that kind of a person. He is probably the most pragmatic of all of our Members with whom I have had an opportunity to serve in this body, and he is brutally honest.

I have made speeches before graduating classes and a lot of other places, and I am always interested in the way people treat the history of our country. We have revisionists who like to gloss over some of the warts, the bruises, and the bumps this country has encountered in all its history. That is not to say it is not the best country in the world, but we have historians who tend to revise things.

As you know, for those who do not study history and have little or no institutional knowledge of our country and the way it was built, one has to remember that we make decisions based on history and it affects all of us in the United States. I have often said that our Constitution is like a bicycle. We have revisionists who tend to tinker with the compass of our Nation, and I hope historians pay him the respect he understands our history as it truly is, not as revisionists would have us believe. I do not look forward to losing the partnership that we face in the Pacific Northwest, as a region that many people do not understand. It is an area that requires an enormous amount of personal contact with our constituents in order to make certain we are on the right track.

SLADE GORTON has been to my State quite often, along with me and my colleague, Senator MUKOWSKI, to try and make certain we are reflecting the concerns of our people as we address the concerns of the people of the State of Washington at the same time.

When I came to the Senate, an elderly Senator told me that there were two types of Senators: the workhorses and the show horses. You have to decide which one you are going to be. It is obvious that an Alaskan has only one choice. We are one-fifth the size of the United States. We have more than half the coastline in the United States. And we have about the same number of people as the smallest States in the lower 48. In terms of geography, that are much tinier compared to our State.

Senator GORTON, with his background, as we heard, coming from the east coast originally, very well educated, very well read, and probably one of the best Senators in the Senate, has had the problem of trying to decide what to do. He, too, decided to become a Senator and is one whom I would call a workhorse. He has worked hard, spending most of his time serving the State of Washington. His staff is probably one of the best staffs I have seen work on issues pertaining to the Pacific Northwest.

When we look at the problems of America from the point of view of the Senate, we would have to really take into account the people Senators represent. The State of Washington has given its Senators great flexibility in terms of addressing issues that deal with the problems of the Pacific Northwest and our Nation. There is no question that in his three terms in the Senate, Senator GORTON has been one of the pivotal votes in determining the policies of that area.

I know that they will be going back to Washington. And I think we will hear a great deal of SLADE GORTON and Sally Gorton personal friends. I have visited with them. We have traveled together to other places in the world. It is highly necessary for Members of the Senate to travel and try to learn firsthand the problems of other continents, such as Antarctica, Australia. I remember we went to eastern Russia, and we have traveled many times into the NATO countries together. It is on those trips that we really get to know one another even better than we do in the Senate in Washington.

Of course, my friend and I have been able to meet as I have gone through his family was young and he was a little younger. I have had the Senator from Washington, SLADE GORTON, in dealing with the problems of the Pacific Northwest.
said, "That is a long trip, SLADE." He said, "It was. We spent all of it in Montana." It is a very long State. In fact, from the Yaak to Alzada, MT, it is further than it is from Chicago to Washington, DC, as the crow flies.

But passing something about the man, and it also tells you something about the family.

Nobody in this body has fought harder for property rights, the cornerstone of a free society; fought harder for States' rights; and who was designated as the five greatest Senators of the 20th century. He had a sense of history. He was a body that had an opportunity to serve with him recently on a committee that Senator LOTT and Senator DASCHLE appointed to select two Senators to be added to the portraits just outside the door. For 40 years, we have had five that were designated as the five greatest Senators back in the early 1960s or in the mid-1950s. The thought was that we would add two more Senators to the list.

SLADE sort of led our side, which consisted of the majority leader and myself and him, in reaching the conclusion that if we were going to pick someone of this century it made a lot of sense to pick Arthur Vandenberg, who had been chairman of the Foreign Relations Committee and had really made the Truman policy of containment in the development of NATO a bipartisan matter, since there was, in fact, a Republican Congress right after World War II. SLADE thoughtfully analyzed, all of the possibilities and recommended Arthur Vandenberg because he thought the single most important thing of the second half of the 20th century was the winning of the cold war.

Out of all the things that occur here, we were able to get that out and come up concisely with what was, indeed, the biggest challenge of the second half of the previous century, the winning of the cold war, and applying that to the Senate and coming up with an individual on one side of the aisle, which was our charge, who would help make that policy bipartisan. And of course, it lasted until the Berlin Wall came down in 1989. That is the kind of thinker SLADE is.

For some who serve in public office, it is important to remember that it is not personal; that people have their own mind; that people have their own will; that people change their mind; that people have their own perspective. In the end, it is good policy and it seldom makes good public policy to run over people.

I say to our colleagues, SLADE GORTON is one of the most extraordinary men who has served in the Senate during my tenure in the Senate. He will be missed here. What he represented is a potential consensus; but he has the judgment in knowing, in pushing for the things he is for. In the end, it is seldom good policy and it seldom makes good public policy to run over people.

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sort of bring Members out of our contentious decisions in conference about whatever the particular issue was to see a larger picture of what was not only in the best interests of our party, but more importantly, what was in the best interests of the country.

He is an extraordinary legislative strategist. I know he is going to miss being in the Senate because he didn’t think there was a better job somewhere else he ought to be doing. Being in the Senate to SLADE was never his second choice as his first choice. Every one of our colleagues who has been Governor and come to the Senate says a Senator who used to be Governor who tells you they like the Senate better will lie to you about other things.

That, clearly, was not SLADE’s view. This was not his second choice. This was where he wanted to be.

We are going to miss his friendship. He was one of my best friends in the Senate and, I would say even if he were not on the floor, which he is, one of the two brightest guys in the Senate, the other one being the Senator from Texas from whom we just heard.

But we are not going to lose contact with SLADE, many of us. I know there will be a new challenge for him. He is bright and vigorous and committed to public service. Somewhere, hopefully in the very near future, there will be an opportunity for him to continue to make a mark on our wonderful country.

So we say goodbye to you, SLADE, in the Senate, but look forward to continuing our friendship in the years to come. The Senate will certainly be a poorer place without your presence. I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

PRIVILEGE OF THE FLOOR

Mr. ASHCROFT. Mr. President, I ask unanimous consent that my entire staff be granted floor privileges for the duration of my remarks. In addition, I ask that Tracie Spingarn, from the Congressional Special Services office, be permitted on the floor for the duration of my remarks. The members of my staff are:

Kris K. Aridizone, Rachel S. Audi, David Ayres, Andy A. Beach, Annie E. Billings, Cara Bunton, Adam G. Ciongoli, Bob Coughlin, Chuck DeFeo, Mark Grider, Greg P. Harris, Jacob Herschend, Chris Huff, Jessica Hughes, Davide James, Hillary Lee-Kerris, Elizabeth K., Kelly D. Kolb, Taunya L. McLarty, Caleb Overstreet, Smita Patel, Janet M. Potter, Jim Richardson, Susan Richmond, Andrew Schauder, Lori A. Sharpe, John A. Simmons, Shimon Stein, Tevi D. Troy, Brian Waidmann, Ricky Welborn, and Matt Wylie.

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

SERVING THE PEOPLE OF MISSOURI

Mr. ASHCROFT. Mr. President, it is with a sense of deep gratitude that I have this opportunity to speak on the Senate floor for one last time before I conclude my term in the Senate. There are few compensating factors for the lame duck session in which we find ourselves, but one is the opportunity for one who has lost an election to come back and make a few last remarks. This sort of makes this like home. At home I always have the last word—“Yes, dear.” And to have a last word here is a pleasing thing for me.

Of course, I am grateful, and, as I think about the opportunity I have enjoyed to be in the Senate, it is a set of thoughts that are characterized by gratitude. I am grateful to God that we are created as individuals with the capacity to rejoice tomorrows in which we live. If freedom has a definition, it is that—that we can change things. And, obviously, we want to change things for the better.

America respects that understanding of the capacity that we each act as individuals with a Government that represents the people as agents of change, making decisions about the kind of community we want to have. Any of us who has the opportunity to represent fellow citizens obviously is in a position to do great things and to enjoy the ability to fulfill what God has destined for us to do, and that is to shape the tomorrows in which we live.

I want to thank the citizens of Missouri first. It is a community that I love and I have been raised in Missouri, obviously because I was raised there, but by our choice. I have had the opportunity to serve the people of Missouri for 33 years. I began teaching in Southeast Missouri State University as a way of serving the people of the State of Missouri. And then, one of the most important mentors in my life, and one of the individuals who perhaps represents what Missouri is and what Missouri stands for more than any other single individual, the senior Senator of this state, Senator Kit Bond.

He acceded the opportunity to serve as the State auditor of Missouri when he vacated that office upon his election as Senator. I first offered myself to the people of Missouri to serve in the U.S. Congress, and they had expressed their profound affection for me, indicating that I should stay in Missouri and not go to the Congress. Kit Bond, recognizing that, appointed me to serve as the State auditor for 2 years. I later served as the attorney general of Missouri after a short period of time as an assistant attorney general in Missouri, and that was a notable experience. I had the wonderous privilege of sharing an office with a now J ustice of the Supreme Court of Missouri and a House member in the same room together for 16 months. That is a historic item that I did not understand the history of at the time, but I certainly do now. It was the chance, after serving 8 years as attorney general, of going on to be Governor of the State of Missouri for 8 years. What a marvelous opportunity it was to work with the community to work with people, to shape our community in a way which was constructive and reinforced the things in which we believed.

This past election obviously was a disappointment for me, but I am not disappointed in the people of Missouri. The tragedy of this election, the death of my opponent and a plane crash of unspeakable disaster, was one that the Missouri community responded to with two values and virtues that I cherish about our community—the value and virtue of compassion. I want Missouri and America to be a place of compassion.

What a tremendous and wonderful thing it is when people are compassionate and share the feelings of each other, and the value of respect, particularly respect for those who have gone on and have been of service. In expressing those values, the people of Missouri decided they would honor the deceased Governor by voting in his behalf and in his stead in the election rather than voting for me, and I respect them for that and I honor them for that. It is a great community. They are a community to be loved and respected, and I profoundly love and respect them.

I thank my friend Mrs. Carnahan who will succeed me in this seat in the Senate. I thank her for coming by my office yesterday. I hope she is treated with kindness. I told her yesterday that I was pleased to see her and have the opportunity to communicate with her, and I reminded her yesterday that 30 days from now she will be my Senator, and I want her to do well.

I thank, in addition to Missourians, my staff. I am delighted the Senate has allowed the members of my staff to be on the floor of the Senate during these remarks. When I came to the Senate, my staff and I decided there were values and principles we wanted to honor in everything we did. We wanted those values and principles to transcend circumstance. We wanted them to be controlling factors of our conduct. So we spent some time together.

Early in my time in the Senate, I came to the floor of the Senate and presented the Congressional Record with this statement of service, commitment, and dedication that each member of my staff joined me in formulating. This one hangs near the desk of...
Annie Billings in my office. I asked each staff member to sign this commit-
ment and then I signed the commit-
tment, too, so each one of these items contains the signature both of the
staff, the real workers of the Senate, and
of at least in this case, who relied so heavily on their work.
I did not want to set the standards for my office absent the staff's partici-
pation because I believed the staff would help me reflect profoundly the
values of the people of Missouri—and, indeed, they did. Each member of my
staff took the pledge, the pledge that is contained in this statement of service,
commitment, and dedication—high
standards of service.
Our pledge states, and I will read
part of it:
We dedicate ourselves to principled public
policy. We believe that Americans are en-
dowed by their Creator with certain
unalienable rights, and among these are life,
liberty and the pursuit of happiness. The
power we exercise is granted by Missourians and the people; we serve
under their rights. Our commitment is to respect
diverse political views and serve all people
by whose consent we govern.
As people, liberty reach for opportunity and achieve greatness, our Nation prospers.
A government that lives beyond its means and reaches beyond its limits violates our basic
liberty and our God-given rights. The Nation suffers. We dedicate ourselves to quality service.
America's future will be determined by the char-
acter and productivity of our people. In this
respect, we seek to lead by our example. We
will strive to lead with humility and honest-
y. We will work with energy and spirit.
We will represent the American people with
loyalty and pride. Our standard of pro-
ductivity is accuracy, courtesy, efficiency,
integrity, validity, and timeliness. We hold
that these principles are a sacred mandate.
We take responsibility for these standards.
I thank my staff for helping me for-
mulate that format for our service, and
I thank them for, in every instance I
know, pursuing the fulfillment of that
format for our service, and
I thank the Members of the Senate.

I thank the Senator, at least in this case,
for the leadership that has been kind to me
and LINCOLN, in addition to members of
this caucus.
Senator FEINSTEIN's State of Cal-
ifornia, similarly, has been afflic-
ted with the curse of methamphetamines,
and she was always helpful in this re-
spect. And we could not have done it
without Senator HATCH, the chairman
of the Judiciary Committee, on which I
have had the privilege of serving.
I digress for a moment to say I
had the privilege of serving under Chairman HATCH. I respect him
and am grateful for his leadership on the
committee. There are a tough set of circumstances that always involves the
tensions of giving and taking, and he has
craftily negotiated the
shoals in that particular arena.
Of course, I should mention as well
JOHN MCCAIN's leadership on the Com-
merce Committee, on which I have had
the privilege of working and being so
graceful to me and kindness to me
and his direction in a committee which
has achieved massive revisions in the
kind of liberating renovation which has
provided tremendous energy to Amer-
ican industry. The tele-
communications law which we were
able to achieve is a result of excellent leadership. It has changed the dynam-
ics of the world's economy, not to men-
tion the United States.
But I go back to some of the specific
legislation.
This year, we enacted legislation to
provide funding so that the survivors of
slain law enforcement officers could
have in the tens of thousands of
eyducation and training so that they could in some way
begin to undertake an effort on
their own behalf, which the law en-
forcement officer, slain in the line of
duty, was otherwise prepared to help
the survivors. I am thankful to Senator
SPECTER and Senator COLLINS and Sen-
ator BIDEN for working and being so
helpful to me in that respect.
Tougher penalties for gun crimes:
We put through the amendment into Sen-
ator HELMS' law, which was moving
through this body, for tougher criminal penalties for those who use guns in the
commission of a crime, it could not
have happened without Senator HELMS' measure. Of course, as the chairman of the
Foreign Relations Committee, on
which I have had the opportunity to
serve, I have learned to respect Senator
HELMS, his gentlemanly character, and
his generous and judicious approach to
running the committee.
I worked with BILL FRIST on cur-
tailing weapons in schools and making
sure we could provide penalties for
those who carried guns into schools or
maintained guns at schools. It could not
have happened without Senator HELMS' measure.
I think of the late Senator Paul
Coverdell and his efforts on education
flexibility, sending resources to the
State. I was thrilled to have the oppor-
tunity to work with Senator DYEN and Senator FRIST on that legis-
lation. It was very important legisla-
tion across the aisle, but it would have
an impact across America.
Then on the legislation to end food and medicine embargoes, I think this is a major step forward for America—good foreign policy, good farm policy, and expresses the values of the people of this country. Working with Senator Dodd, Senator Grassley, and on our side, Senator Hagel and Senator Roberts—and Senator Wellstone joined in that effort—the Senate overwhelmingly worked together to get that done. Now that it is a part of the law of this country, I think it is a major step in the right direction.

I was pleased to be able to work with Tom Daschle, the minority leader of the Senate, to make sure that the U.S. Trade Representative had a full-time, permanent agr ambassador so agricultural interests were not neglected when negotiations were made regarding trade.

Over and over again, I think of things that happened this last year, such as when HCF A, the Health Care Financing Administration, announced that it would not reimburse cancer care treatments. I thought of the millions of people around the country who lived in rural areas who would find their care curtailed. Senator Mack of Florida worked to make sure more people would be able to begin the process of changing the law. And the process was so successful that HCF A changed its rules and regulations. Sometimes that is the way we make progress.

There are the big things as well as the little things we have done. Some of these are a litany of things that are more incidental. There are the things such as welfare reform. I think of Phil Gramm's work, Senator Grassley's work, and Senator Roth's work there. This was early during my term. I had the opportunity to craft a provision called charitable choice that welcomed nongovernmental agencies into the process so that we could begin to remediate the pathology of welfare in this country. Often, it is by making sure that we helped all of America address this problem, not just America's government.

It was a wonderful thing to see its broad bipartisan acceptance. It was very pleasing to see in this last Presidential election that Governor George W. Bush of Texas made this a point of what he would provide in the welfare arena, as did Vice President Gore.

I had the privilege of chairing several subcommittees. I was grateful for the opportunity to have done so. In particular, with Senator Feingold, I chaired two subcommittees. I chaired the Africa Subcommittee of the Foreign Relations Committee and the Constitution Subcommittee of the Senate Judiciary Committee.

I have to say, I have never had a better working relationship with any individual than with Senator Feingold in that respect. Never did he ask me to do something I thought was wrong and unfair and that I could not do and that I would not do. In each instance, when I offered him an opportunity to participate in a broad range of what the subcommittees were doing, he fulfilled his responsibilities with fairness, with dignity, with respect, and with the public interest as the uppermost criterion. I am grateful for that.

Obviously, I do not want to overstate what has been a Significant influence on me, but it was a tremendous opportunity to spend time on Tuesday mornings, before the workday began, rehearsing and seeking perfection—elusive perfection—which never attended our efforts. But we never lost our faith for it.

I thank the Singing Senators for allowing me to be a part. We did travel over a good bit of the United States from one time to another. We raised, I think, well over a half million dollars for the Alzheimer's research effort. It is one of those things that otherwise provided a little squirt of WD-40, where the friction might otherwise have made things less pleasant. It lubricated relationships and gave us a great opportunity.

I have recited a lot of important things that went into law. I am very close to concluding my remarks. I just want to say this: I do not want anyone to think the law is the most important thing. In pursuing the goals of helping families, in churches and civic organizations, the values people believe in their hearts, is more important than the laws we write on the books.

I do not want anyone to ever believe the laws are not important. We do have to have laws that tell us what the baseline are of our culture and, if you fall below those, we will punish you, what the framework is in which we operate. But no culture ever really achieves greatness by everyone just being at the baseline. Cultures achieve greatness not when people just stay out of jail but when they soar to their very highest and best, not when they just accommodate our threshold of the lowest and the least.

The greatness of this great Nation is to be found in the hearts of the American people more than in the books of the American Government. But those items of policy and framework that we have put there guard the opportunity for greatness that comes from the heart of the American people. So our law and Constitution and the decisions we make are fundamentally important. It has been a great privilege for me to be involved.

I thank one last group of people, and that is my family. If we didn't believe in these very important principles, I wouldn't have had the opportunity to ask them to make the sacrifices they have made. My wife Janet has been willing to dislocate her career time after time when changes in my life have moved me from one place to another. She has taught at Howard University in Washington, DC, on the faculty. In 1975, I was on the faculty at Yale. I am grateful for that. My sons, when I first came to the Senate, was still in high school, and we divided our family for that year so he could finish. A high school senior generally likes a dad around. I am not sure I would say he always wants me around, but there was a little bit of a dislocation of the family.

But dislocations are worth our effort. Perhaps the most important thing my father taught me was that there were more important things than me, and the ability to make sacrifices to get good things done is important. When we understand there are some things that are more important than we are, we have a willingness to make sacrifices. I thank my family profoundly—my wife Janet, my sons Jay and Andy, my daughter Martha, my son-in-law Jim, and my grandson Jimmy. I thank them for being willing to understand that when there are things more important than we are, we can sacrifice those things and recognize in our lives our willingness to set aside our personal agenda for the public good.

It is my hope that if and when I have the opportunity to serve again, I will be able to serve in accordance with those principles, with the values that my staff and I had the privilege of developing, always understanding that the public good is an objective well worth pursuing, not just pursuing, but well worth sacrificing for, because when we sacrifice for each other, we communicate the most important values of our culture, that we love and respect another.

I thank the Chair for the opportunity. I know he has foregone the time limit on my behalf. I thank each Member of the Senate, this very important body in preserving liberty, for its courtesy and kindness to me and for this last opportunity to speak.

The PRESIDING OFFICER (Mr. Fitzgerald). Under the previous order, the time until 12:30 is under the control of the Senator from Florida, Mr. Graham. The Senator from Missouri.

Mr. BOND. Mr. President, might I ask the indulgence of my good friend from Florida to take perhaps 5 minutes.

Mr. BOND. Mr. President, I am pleased to yield such time as my colleague and friend from Missouri would like and to add my accommodation to the service of Senator Ashcroft and for the remarks he has presented to the Senate.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 5 minutes.

Mr. BOND. Mr. President, I thank my former gubernatorial colleague. There are far too few of us former Governors in this body, and it was my pleasure to serve with the Governor from Florida, who is now the Senator from Florida.

It is a very melancholy time for me to rise today to pay my respects and honor and to offer sincerest thanks to a friend who is probably my closest colleague in the political community. We have been through a lot together. I lost a couple friends through a lot together. I lost a couple friends.
JOHN ASHCROFT was the one who funded Missouri. We managed to get it on the solutionized early childhood education in early childhood program that has revolutionized early childhood education in the State of Missouri. I will not impose on the Senate’s time to go about this. I had one of my experiences.

Last night I had the pleasure of joining him for ceremonies at a Christmas celebration to collect toys for tots in the Marine Corps effort. Now, there was some singing. And the host who heard both of us sing sort of gave me a speaking role and gave J ohn the responsibility to lead the singing. There is no question that I will not try to take his place in the Singing Senators. That is going to be a loss.

But there are a lot of other ideas, a lot of other fond memories that come back to me. When John Ashcroft followed me in the State auditor’s office, he continued the effort to clean up the mess of the State auditor’s office, something I chided him about frequently. He went on to be attorney general, my second term as Governor. During the first time, I had taken an involuntary hiatus from the Governor’s general, my second term as Governor. And because of his strong leadership, it is now law.

When he conceded the election and there were those who wished to mount a legal challenge, he wasn’t going to stand for it. He would not tolerate it. The people of Missouri had spoken. He views his service to the people of Missouri—not one of using legal challenges and court challenges to try to win what the polls had shown. I can tell you that as I have traveled around the State there is one overwhelming message Missourians have; that is, thank you, John Ashcroft. Their esteem for you has grown. People shake their heads, and say: Why didn’t he fight? Why didn’t he do something? I said: I look forward to it. They are very proud of the nobility he showed. But they are confident, as I am, that new opportunities will be arising for him. They wish him well—with his experience, commitment, and his solid faith.

There will be many areas where John Ashcroft will serve. He has too much to offer. And I look forward to—admit—with awfully mixed emotions to seeing him take a new role and new responsibilities.

On behalf of my fellow citizens of Missouri, I say thanks for the first 33 years of service to the State. We are not finished with you yet. There is a lot more to be done, and you are the one to do it.

For me personally, I know what you and J anet have gone through. And I am very proud of the way you have handled it. Your friendship will always mean a great deal to me, and the shared time that we have had together in this body is particularly special.

When they close the service and the benediction at my church in Missouri, the minister says: The service is over, and now it is time to begin. For John, the service is over for now right here. But let the work begin. John, thank you from the bottom of my heart, and very best wishes to you, Janet, and your family.

I thank the Chair. I particularly thank my colleague from Missouri.

The PRESIDING OFFICER. Under the previous order, the Senator from Florida, Mr. Graham, is recognized for 30 minutes.

Mr. Graham. Mr. President, I yield such time as he would use to my friend and colleague from North Dakota.

Mr. Dorgan. Mr. President, let me, for a moment, from the floor of this body today who paid tribute to Senator Ashcroft for his service in the Senate. As I indicated earlier, some think because we are engaged in heavy debate from time to time that we are not friends. Across the aisle, Senator Ashcroft and I worked on a piece of legislation, one which we passed early on when he came to the Senate dealing with Federal funding of physician-assisted suicide. We worked together, and it was passed. It is now law.

We worked a great deal for a long period of time on lifting sanctions with respect to the sale of food and medicine. It is a fight that will continue even after Senator Ashcroft leaves the service of the Senate.

Also, a couple of times, I joined Senator Ashcroft and the quartet on the Republican side with the Singing Senators, along with my colleagues, Senator Daschle and Senator Boxer. I don’t know if you know what the Singing Senators are, but it is a combination of Senator Ashcroft and the quartet. I have seen Senator Ashcroft in action in a number of ways.

My expectation of his public service is that it is not at an end. I appreciate the service he has given to this country and to the Senate. I appreciate having had the opportunity to work with him. I know him to be smart and tough and tenacious on the issues about which he cares deeply. I wish him well.

Mr. Graham. Mr. President, my primary purpose this morning is to make some remarks relative to my retiring colleague, Connie Mack. But while he is still here, I would like to also express my admiration for Senator Ashcroft.

Senator Dorgan talked about some of the times they worked together. Those are always rewarding, and they help build relationships. I have had some of those times with Senator Ashcroft. I have also had some times when we disagreed—such as on the same issue that Senator Dorgan referred to as the wisdom of our policy towards Cuba. In those times of disagreement, you also learn something about the character of the person. I find Senator Ashcroft to be a person who listens to what the other side thinks is the proper course. He wouldn’t necessarily agree with it, but he would take it into account and would try to use that as the basis for finding a broader common ground.

Those are important qualities which I think our colleague, Connie Mack, also represents and which I will discuss in a few moments. But I wish to extend my best wishes to Senator Ashcroft very sincerely and very much, to try to serve with as a Governor, but I admire his service to the State of Missouri and to America in many ways. I wish him well for a happy, rewarding future.
SENATOR CONNIE MACK

Mr. GRAHAM. Mr. President, the Constitution of the United States provides that each State, regardless of other circumstances, will have two Members in the Senate. It says nothing about how those two Senators will get along. Sometimes they don't.

I think good demonstration a few moments ago with the very heartfelt comments of Senator BOND to his colleague, Senator ASHCROFT. They are two Senators who have a very close, constructive relationship for the people of this country.

It is my pleasure and my honor to be able to say the same relationship has existed for the last 12 years between myself and Senator CONNIE MACK. I am proud to call CONNIE a friend, and I am proud to have served with him as a colleague.

There are a number of reasons that may have led to this good relationship—one of which is that we have a great deal in common.

We both grew up in a Florida which was undergoing massive change. When Senator MACK and I were born in the late 1930s, the State of Florida had a population of about 1.5 million. As we started a family in the early 1960s, Florida has a population of over 15 million. That demographic change has brought a flood tide of other economic, cultural, social, and political changes to our State. They have affected both Senator CONNIE MACK and myself as we have seen and experienced them.

Our personal lives have also overlapped. We both had the good fortune of marrying substantially above ourselves. Adele, Priscilla, CONNIE, and myself have grown to be not only personal friends.

We are about the same age. We have now been blessed with a growing number of what is one of life's greatest gifts—grandchildren. I believe if you ask every one of our favorite title is, it would probably be the title of grandfather.

But we have also had some differences. Let us try to ignore the big white elephant in the living room of relationships between myself and CONNIE; indeed CONNIE is a Republican. He is very proud and loyal to his party. In fact, recently CONNIE told me a story which indicates the risk he was willing to take in support of his party. At the early age of seven in what was clearly a formulation of what was to come, young CONNIE MACK was invited to the Democratic National Convention which was being held in Philadelphia. He was not just being invited; he was being invited by his step grandfather, a Democratic Senator from Texas, Tom Connally, one of the most prestigious Members of this body, particularly in the period of World War II.

While there was being held in Philadelphia, young 7-year-old CONNIE stood up and began yelling "I'm a Republican; I'm a Republican." That behavior, needless to say, earned him the wrath of his step grandfather who threatened to call the police if the display was not terminated.

Now, despite this highly partisan launch to CONNIE's political career, Senator MACK and I have been working together in the closest manner for what is best for Florida and for the Nation.

Just a few of the items on which we both take considerable pride, in our joint efforts we have battled against offshore drilling in Florida. We battled against the funding formula that takes into account States with rapidly growing populations. As a team, we worked to help rebuild Dade County after the devastation of Hurricane Andrew in 1992.

We are particularly proud of our success in filling Federal judicial vacancies, which is a direct result of cooperation of working together to put quality judges on the Federal bench, not judges of a particular political party. We interviewed applicants together. We made joint recommendations to the Judiciary Committee. We introduced the nominees to the committee. And we applauded, together, when they were confirmed on the Senate floor. I am very pleased in the last 4 years the Senate has confirmed 15 Federal judges from Florida.

Our close cooperation isn't limited to just the two of us. Our staffs have worked closely together on issues of mutual importance. And most recently, in fact, the last act of the Congress before it recessed for the election period, we helped participate in legislation that will forever cement Senator MACK's legacy, the restoration of America's Everglades.

Connie should be justifiably proud of each one of these and many other accomplishments. But I suggest he would be most proud of the fact that he worked hard at, and made it look easy, bipartisanship. Connoisseur of consummate gentleness, man of unwavering civility in a body that often yearns for more of that quality. This is no small matter.

In today's political world, we shrug off a notion of being polite as if it is a relic from a world that no longer exists. But being polite is far more than knowing your table manners. Civility, collegiality, and respect are the building blocks of political bipartisanship. And bipartisanship, in turn, is the fundamental to all legislation.

When funding for the National Institutes of Health advances, many Members on both sides of the aisle will be able to claim a small measure of credit, but none more so than Senator MACK. No Member of this body has worked harder to build the coalitions based on understanding of the importance of the issue and the opportunity we had as a nation to roll back the barriers of disease than Senator MACK.

In the future, when science beats cancer, we will look back and thank Senator MACK who worked with many others, particularly Senator ROCKEFELLER, to allow Medicare payments for clinical cancer trials. These are major achievements and they required the support and hard work of both parties.

It is no secret that this Congress has had few such serious legislative accomplishments. How can we enact any innovative legislation when we can't even agree on the future bills such as the remaining appropriations bills that we must pass to keep our Government from shutting down. We are now 10 weeks beyond the beginning of the fiscal year and still have much necessary work to be done. Certainly there is plenty of blame to go around for this overly long session, and it is hardly a surprise that the American people are tuning out while we battle inside the beltway over issues that seem to affect no one other than ourselves.

Senator MACK has always said it doesn't have to be that way. And he is right. We are not just being invited; he was being invited by his step grandfather, a Democrat. It is my pleasure and my honor to be a founding member of the Centrist Coalition when it came together in 1997 to stop the hemorrhaging of annual fiscal deficits.

One of the other areas in which he should justifiably take great pride is his contribution to bringing America from an era of accumulated national debt to one in which we are starting to pay down the debt. To a lesser degree, we will be asking CONNIE's grandchildren to be paying our credit card bills.

Maybe we have heard too many times that nice guys finish last. I submit Senator MACK proves that adage to be dead wrong. Nice guys, in fact, get results. Those who can't get along with their colleagues get gridlock. And the American public pays for their posturing.

There is another danger in the culture of swagger that has too often characterized this Congress. That danger is arrogance. Somehow, many Members have convinced ourselves that the reason we can't reach an accommodation is not that we haven't really tried and not because we are playing politics; instead, the problem is simply that they are completely right, we are completely wrong, and the other side is wholly and utterly wrong.

Now, clearly that attitude is not conducive to getting much done on a bipartisan basis. The easy excuse for arrogance is that we were put here to express our opinion and to change them would be a betrayal to our constituents. But Senator MACK has found a better way, a...
way that I describe as nonarrogant self-confidence. That is not an oxymoron despite how it may occasionally appear when this room is filled with enough hot air to melt the polar ice cap. Nonarrogant self-confidence is, in fact, a follower for public life. Nonarrogant self-confidence is the product of sustained and diverse life experiences prior to and during a political career. It is the ability to look beyond one's world, to reach out to people of other beliefs, different values, different backgrounds. It is not a person who wakes up every morning and puts his proverbial finger in the wind to see which way it is blowing and decides what his position will be that day. It is the quality of having the strength to hold well-grounded opinions and values, and yet to be open and persuadable in the face of new information and logical arguments. Nonarrogant self-confidence is the ability to be a leader in your party, but not necessarily a follower of the party line.

This is how CONNIE MACK has worked throughout his tenure in the Congress, and it is a model to which we should all aspire. It could be that confidence convinced CONNIE MACK of the importance of players, politics which were so carelessly shunted aside in this session of the Congress. CONNIE is a leader of his party, a key member of the Banking and Finance Committees, and has served as chairman of the Joint Economic Committee. In all of these positions, he has had a respect for the process of senatorial decisionmaking. He has been confident enough to let what he believes is right to be in full view of the American people.

Now, few would argue that the process we have is cumbersome and, frankly, often dull. We rarely hear of some one setting up a VCR or rushing home after work to catch our latest pontifications on C-SPAN. But the seriousness of the issues has added purpose. Time and public debate are the key ingredients that go into solid, sustainable public policy. Legislatively behind closed doors is breaking our promise to the American public, the promise that if they, the American people, made the effort, their voice would be heard and would influence public policy on Capitol Hill. The rules of this body rely on keeping promises in an informal way as well as formally.

We are fortunate to trust that our colleagues will do as they say and vote as they claim to do. CONNIE MACK is a man of his word. He keeps his promise to his colleagues. He keeps his promise to the people of Florida.

CONNIE'S strength of character, his respect for this institution, and his ability to reach across party lines became apparent to me early in our time together in the Senate. Our service in the Senate overlapped with his last term in the House in 1987 and 1988. I want to know CONNIE when he came to the Senate after the 1988 election, when he won the seat that had previously been vacated by Senator, later Governor, Lawton Chiles. When the campaign was over, we vowed to work together. This has been an easy commitment to fulfill because CONNIE MACK is a fine person, as he is a fine representative of his State.

He is blessed with a sense of humor. He understands that the business we conduct is serious, but he does not take himself too seriously. He is hard working, an always reliable coworker. I have walked out of meetings with pages of notes and reams of paper. CONNIE MACK could care less. But when we divide assignments, without fail he completes his homework, generally before I do. He not only remembers the names of various members of my staff, he recollects the schools they went to and the football teams they support.

Senator MACK is devoted to his family. In fact, I have said that CONNIE and Priscilla Mack are the living embodiment of family values. Adele and I have compared notes on our children and grandchildren. We have watched our families grow and grow up.

For his legislative and personal qualities, Senator MACK will be sorely missed. I call on my colleagues, colleagues from both sides of the aisle, to join me in tribute to our friend Senator CONNIE MACK, his wife Priscilla, and the Mack family.

Connie, while they call what you are doing retirement, I prefer to think it is more like you are being traded to another team, a practice in which your grandfather participated on a regular basis, or maybe playing another position I have no doubt you will continue to work hard for the people of Florida and America. We will all be a better and especially a healthier nation because of your commitment and Priscilla's commitment. May your next step bring you as much personal and professional fulfillment as the years in the Senate have brought to all of us.

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

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

SLADE GORTON

Ms. COLLINS. Mr. President, I am delighted today to join my colleagues in paying tribute to a truly outstanding United States Senator, and that is SLADE GORTON.

During SLADE's recent campaign, I had the privilege of going to Seattle to speak at a luncheon organized for him by women who had once worked for him in the Senate and in his capacity as attorney general. I was not at all surprised to see so many women who felt so strongly about Slade's reelection. He is, and always has been, an oasis of inclusion, encouragement, and support for women in the workplace. He is one of those people who know how to encourage, how to mentor, and how to help women and men reach their full potential.

That certainly has been true in my own case. Even before I was sworn in as a new Senator some 4 years ago, SLADE took me under his wing with advice on everything from committee assignments, to selecting my office space, to hiring my staff. He has continued to give me invaluable advice on a host of issues ranging from what our policy should be in Colombia and Kosovo, to how to take a different approach to education spending, to how to succeed in a tricky procedural situation.

SLADE has always been someone to whom I could turn for advice, for answers, for good counsel. It has also been a pleasure to SLADE on a host of issues such as education, children's health care, and the cost of prescription drugs. What I admire most about SLADE is his intellectually rigorous, challenging, and creative approach to problems. He simply does not go along with the conventional wisdom; he challenges it, constantly seeking new ideas and innovative approaches to solve thorny problems.

A perfect example of SLADE's innovative style was his development of an entirely new approach to Federal education policy, one that recognized that local school boards, parents, and teachers know best what their children need. As the architect of the Straight A's bill, SLADE has been a leader in education in the Senate. I was very proud to cosponsor his innovative effort to bring academic achievement and accountability to our public schools.

I realized that the Federal Government gives money to local schools, it should not come with dictates from D.C. on how it should be spent. He understood that it should, however, come with an expectation of results, and that is why he worked so hard to give local school boards, parents, teachers, and administrators, the freedom to decide how best to spend Federal money in exchange for holding them accountable for improving their schools. He changed the entire focus of Federal education policy from being focused on paperwork and process, to instead being focused on how much our students were learning, to a focus on student achievement and results.

SLADE has also been an advocate for children's health. Not only was he an early supporter of the Children's Health Insurance Program, the SCHIP program, but he has also worked for years to increase Federal research dollars for autism. His hard work is about to pay off because his autism bill was included this year in the omnibus children's health bill which was signed into law last month. It will direct more
Federal dollars toward finding a cure and treatment for autism. SlaVe Gorton has had an impact on this Senate in so many ways. Whether it is serving as a valued mentor to more junior Senators, such as myself, or being the architect of very important legislation or shepherding appropriations bills through an incredibly difficult procedural morass, SlaVe has been front and center in every debate in this Senate.

He is not only a brilliant legislator; he has also been a wonderful friend. I will deeply miss serving with him, and I appreciate this opportunity today to pay tribute to a man who has not only been an outstanding Senator but a wonderful friend.

I thank the Chair. I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

AMERICAN HOMEOWNERSHIP AND ECONOMIC OPPORTUNITY ACT OF 2000

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 5640, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The senior assistant bill clerk read as follows:

A bill (H.R. 5640) to expand homeownership in the United States, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. SARBANES. Mr. President. I am pleased we are passing this bipartisan piece of housing legislation today. While there are provisions that were not included in the bill, which I thought were worthy of passage, on the whole, the "American Homeownership and Economic Opportunity Act of 2000" is a bill that should become law. I would like to highlight just a few parts of this legislation that we worked particularly hard on over the last two years.

First is the manufactured housing bill, that has been incorporated into this legislation. This bill establishes a national minimum installation standard for manufactured homes, ensuring that the homes as installed, perform as advertised. We have created a dispute resolution program, so that owners, many of whom are lower-income, are not mistreated when they are trying to have a defect in their home corrected. This bill also updates the safety standard setting process for the manufactured housing industry, which will allow new innovations in technology to be incorporated into homes more quickly, making them safer, more efficient, and cheaper for homeowners.

Passage of this portion of the bill would not have been possible without the help of Senators KERRY, EDWARDS, BAYH, and SHELBY, and their respective staff, namely Lendell Porterfield and Josh Stein. I would like to thank all of these individuals for their contributions throughout the process of writing, negotiating, and passing this legislation.

I also want to associate myself with the remarks made by Chairman LEACH and Congressman FRANK in the House on October 24, 2000, regarding the contracting language in this bill. Their colloquy clarified the intention of this section.

The legislation includes language taken from S. 2733 designed to increase the supply of low-income elderly and disabled housing by expanding available capital for such projects. We allow service providers in federally assisted elderly and disabled facilities to include eligible residents in the surrounding neighborhood in their programs, expanding their service to the community as a whole.

In addition, there are provisions which will allow Rural Housing Service to refinance guaranteed loans, reducing costs for low-income rural homeowners, and a new program to expand housing opportunities to Native Hawaiians and Native Americans. Both of these changes will make a big difference in the lives of low income families.

Finally, the legislation reauthorizes a number of agency reports under the jurisdiction of the Banking Committee which would otherwise have expired this year. These reports include the Federal Reserve's Semiannual Report on Monetary Policy, the Economic Report of the President, the annual reports of the federal financial regulatory agencies, and a number of other significant reports in the area of consumer protection. These reports are vital to the exercise of the Banking Committee's oversight function, and I am very pleased that the House and the Senate were able to reach agreement on their reauthorization.

I reiterate my approval for the substance of this bill. I am glad to see us pass these portions of different pieces of legislation this session, though I regret that a low-income housing production program was not included.

Mr. KERRY. Mr. President, there is much to applaud in the bill we are taking up today, H.R. 5640, "The American Homeownership and Economic Opportunity Act." I note that this legislation is identical to legislation I have cosponsored, S. 3274.

Some of the provisions of H.R. 5640 are contained in bipartisan legislation, S. 2733, which I have introduced with my colleagues Senator SANTORUM, Senator SARABANES, and others. These are the results of the work of the other side of the chaired subcommittee of Congressman Christen Schaefer of the Banking Committee staff, without whose hard work and dedication this legislation could not become law.

The legislation also includes important reforms to the manufactured housing statute. These reforms provide practical new solutions for owners of manufactured homes. For example, the bill creates national minimum installation standards to make sure manufactured homes are not just manufactured correctly—an area that had been under-regulated—but that they are installed properly and perform as advertised to provide high quality, safe, durable, and affordable housing for their occupants.

In addition, the new law establishes a dispute resolution process which, for the first time, will enable a consumer determine whether a problem with a manufactured home is due to a manufacturing or installation defect, and then get the defect corrected.

Overall, the manufactured housing title of this bill will modernize the regulatory structure for the manufactured housing industry in a way that gives consumers a full and equal voice. Such modernization will help the industry incorporate new technologies more quickly, making this housing more efficient, more attractive, safer, and cheaper. Manufactured housing can and should be a bigger part of this nation's effort to address the rising need for affordable housing. This legislation will help make this a reality.

I also concur with remarks made in the House of Representatives by Chairman LEACH and Representatives LAFAULCE and FRANK in the House on October 24, 2000, regarding the issue of contracting out certain monitoring and oversight functions required by the legislation. HUD needs to be able to manage contracts in a way that allows them to get the work done.

Finally, I thank Senator SHELBY for his leadership on this issue. Senator SHELBY deserves great credit for making this legislation possible. He worked through every issue and concern raised by the various parties to make this day possible. I also thank Lendell Porterfield from the staff of Senator SHELBY. Mr. Porterfield was highly professional and extremely knowledgeable. He provided the leadership at a staff level that enabled this bill to become law. In addition, Senator EDWARDS and his staff, Josh Stein, were instrumental in negotiating the final compromise. They ensured that the interests of consumers were balanced with the needs of industry. Likewise, the leadership of Senator SARABANES and his staff helped ensure that this process would continue to be bipartisan and productive. Senator BAYH also played an important role. I want to make a special note of the work of Christen Schaefer of the Banking Committee staff, without whose hard work and dedication this legislation could not become law.
There are many other solid achievements in this legislation that will improve housing opportunities for many Americans.

However, as much as there is to welcome in this bill, it is as notable for what is missing as for what is not. Most importantly, this bill does not include any of the numerous bipartisan proposals, some of which passed the House with overwhelming majorities, that would provide for the preservation of existing affordable housing that is fast being lost; nor does it include any of the bipartisan proposals to facilitate the construction of new affordable housing. In particular, I very much regret the exclusion of the Affordable Housing Trust Fund legislation that I introduced with a number of my colleagues from both sides of the aisle. Finally, it does not include some important provisions that would encourage and support make-work programs, such as low downpayment FHA loans for teachers, police officers, and other municipal employees.

Everyone who has looked at the issue of housing with an open mind, or has tried to figure out rent and understand that we face an affordable housing crisis. A recent study issued by the National Low Income Housing Coalition highlights the fact that there is no city, county, or state where a minimum wage is adequate to enable a working person to afford the typical rent on 2 bedroom home. In tight markets such as Boston, New York, Denver, Minneapolis-St. Paul, Austin, San Francisco, and many others around the country, affordable housing is out of reach to average working families.

The Federal Government has an important role to play here, and I will be working very hard in the upcoming Congress to complete the effort we have begun here today. As Chairman of the Committee on Banking, Housing and Urban Affairs, I have had the privilege of working closely with Housing and Transportation Subcommittee Chairman McCollum and Senate Banking, Housing, and Urban Affairs Committee Chairman Carper. As such, I would like to express my appreciation for his strong leadership and commend him for the successful stewardship of this legislation.

The legislation we are considering today will improve and modernize a variety of federal housing programs. The proposed changes to our nation's housing laws will increase the efficiencies of subsidized housing programs and assure that more of the truly needy Americans may be assisted at no greater cost to the American taxpayer. I am particularly pleased that this legislation includes the Manufactured Housing Improvement Act—signifying a cooperative product involving input from industry and other interested parties that successfully ends a 10-year legislative stalemate. The bill modernizes the requirements of the National Manufactured Housing Construction and Safety Standards Act of 1974, a 26-year-old statute in serious need of revision. Manufactured housing reform is of great importance to the State of Texas, which leads the Nation in the production and sale of manufactured homes. Across America, manufactured homes are a vital resource of affordable housing—representing 25 percent of all single-family housing starts. I also want to give special thanks to Senator Shelby, the original lead sponsor of the manufactured housing bill, who has worked tirelessly over the years for its passage. Without Senator Shelby's dedication and perseverance, the Manufactured Housing Improvement Act title of this bill would not be before the Senate for consideration today.

The American Homeownership and Economic Opportunity Act contains many other significant housing provisions, including modernization of the Department of Housing and Urban Development's, HUD, Section 202 elderly housing and Section 811 disabled housing programs; the Department of Agriculture's rural housing programs; HUD Native American housing programs; and the HUD home equity conversion mortgage program, which allows our cash-poor but house-rich senior citizens the opportunity to utilize their home equity for needed expenses. This legislation also renews some 45 reporting requirements of Executive Branch and regulatory agencies, including the report of the Federal Reserve to the Senate Banking, Housing and Urban Affairs Committee on the conduct of monetary policy.

H.R. 5640 directs that the Chairman of the Federal Reserve appear before the Committee in person. In February and again in July, to report on the Federal Reserve's activities with respect to the conduct of monetary policy and its outlook regarding economic developments and prospects in the future. This legislation eliminates the requirement of the Federal Reserve to report on many of the outdated economic indicators required in the past, such as measures of money supply that are no longer useful.

Among other things reinstated in this legislation are the Annual Economic Report of the President and annual reports from numerous banking and housing agencies, including the Department of Housing and Urban Development, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, Office of Thrift Supervision, Federal Housing Finance Board, and National Credit Union Administration. All of these reports are important in helping Congress conduct its constitutional oversight responsibilities and ensuring that agencies and departments are ultimately accountable to the American taxpayer.

Mr. President, these are but a few of the highlights of the important provisions in H.R. 5640. I am grateful to my colleagues on both sides of the aisle, both in the Senate and the House, in crafting this compromise legislation. In particular, I would like to note the extensive cooperation of Senators Banne's and Kerry in working out many of the provisions of this bill. I urge adoption of the bill by the Senate. Ms. Collins. 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 (H.R. 5640) was read the third time and passed.

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

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

TRIBUTE TO DEPARTING SENATORS AND NEW SENATORS

Mr. Torricelli. Mr. President, in the days and hours that remain in this session, many of us on each side of our respective aisles will say a great deal about the colleagues we have worked with and admire from our own political parties. Indeed, I am no exception. For years, the contributions of the Moynihan's, or the Bob Kerneys, or the Dick Bryants, or the Frank Laufenbergs have been extraordinary in the life of our country and in the workings of this Senate. I will join those voices in praising each of them. But at this moment I wish to say a word as well about our colleagues of the Republican Party who are leaving this institution.

Having chaired the Democratic Senatorial Campaign Committee for these years, I have known some of these Senators only the way they have worked with and against me and my colleagues, and in some cases with a good deal of mutual respect. But knowing them as Republicans I have come to respect the way they conduct themselves as well as adversaries. It is a peculiar and even awkward thing in the American political process that with people you like and admire, you can nevertheless have philosophical differences; you can have a political contest but nevertheless deal with them civilly.

I admire many of these men and rise today to praise their contributions to...
the Senate and the country; and, as many other Americans, to thank them for their service even though it was my responsibility to help wage campaigns against them. That is our system. It is not personal. It is borne only in the struggle to identify the common sense of proposals, and the free market of American politics that have served our country so well.

I would like to say a word about several Members of the Senate who are not of the Democratic Party.

Senator Abraham of Michigan, with whom I worked on the Judiciary Committee, is a respected Member of the institution, a very fine Senator who has left his mark on the great issues of law enforcement, who I have come to know and admire.

Senator Roths of Delaware, who I did not know well personally but who cleverly served this institution with distinction for a long time, changed many of our laws and much for the better.

Senator Grams of Minnesota, I believe, too, worked hard gaining the respect of his colleagues.

Senator Gorton of Washington State, who served his State for so very long and so ably, I believe, was a tremendous Member of this institution. Although he did lose an election and is also leaving this institution, he is one of my favorite members of the other party.

Connie Mack, who I served with in the House of Representatives, is an extraordinary Senator and a great gentleman who has made enormous contributions to the Congress and to the United States.

People I have also come to meet as adversaries through the electorate process I want to join in welcoming to the Senate. They are both fierce advocates and great campaigners, who defeated my party in the fields of political contest.

Former Congressman Ensign, who joins us as a Senator from Nevada, will be a fine Senator. He is a great advocate for his State, and is an impressive individual who I believe will serve with distinction in the Senate.

Governor Allen, who was engaged in one of the most competitive Senate contests in the country, has served with distinction as a Governor, and I believe he will be an extraordinary Senator.

I welcome them to the institution. Despite an evenly divided Senate, there are real differences on fundamental issues as to how the Nation should approach education and health care, gun safety, and the use of the budget surplus. These issues are real. Our differences have meaning. Sometimes differences are deep; but our objectives are common; that is, to serve the country, to have the Senate act with distinction, and ultimately—simply—the most obvious goal of all—to help ordinary people in our country who live sometimes quiet lives, usually content to have the Government not be a part of all that; but ever so often look for help, guidance, or certainly the simple need to be able to look upon their Government with pride.

I welcome these individuals to the Senate, and I say farewell for the moment to those who are leaving. I confess that what those who have lost on having done what our Nation is dependent upon; that is, people of good meaning and integrity going out every day saying the things they believe in, fighting for the causes they hold dear, and asking the public to render judgment.

Senators Abraham, Roth, Ashcroft, Grams, and Gorton did just that. Senator Mack did for a long time. Now Senators Ensign and Allen have joined his effort to be relected to the State of Illinois.

It really came crashing down on me—that a man who served for 18 years, because of the decision of the electorate, could see his political career come to an end so bluntly.

A constant reminder in my public life is the fact that this is a fickle business, and no one can ever take for granted the next election. But I believe that the next Senator who has served the people of good conscience, that is, people of good meaning and integrity, going out every day saying the things they believe in, fighting for the causes they hold dear, and asking the public to render judgment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I ask unanimous consent to be recognized in morning business.

The PRESIDING OFFICER. The Senator is recognized.

Mr. DURBIN. Mr. President, I would like to associate myself with the remarks of the Senator from New Jersey, paying tribute to colleagues on both sides of the aisle who for a variety of reasons are leaving this institution.

I think it goes without saying that those of us who have been involved in putting ourselves in battles for election, and we have some courage and some foolhardiness to put your name on a ballot and submit your fate to the neighbors and friends with whom you live. Those leaving this institution have done that time and again. I respect them. All of us are human beings and on philosophy, we respect them so much for the courage they have shown and for their dedication to public service.

One of the most important lessons I ever learned in politics was my first. I was a college intern on Capitol Hill working in the office of the U.S. Senator, Paul Douglas. I had no sooner met the man in February than I fell in love with this life and decided to work in Government. A few short months later, he lost his effort to be relected to the State of Illinois.

I say on a positive note that we had our organizational caucus of the Democratic Senators a few days ago in the Old Senate Chamber. We had a chance for each of the 10 new Democratic Senators to stand and speak for a moment about their feelings concerning their elections and service in the Senate. One word that was used most frequently by these new Senators was "humility"—how humbled they were to be part of this institution.

I have always felt that. I think it is such an exceptional responsibility but also an exceptional privilege to serve in this great body. I have believed that representing a State as diverse and interesting as Illinois gives a special meaning.

The new Senators coming on both sides of the aisle will add something to this Chamber, as each new class of Senators does. I hope before we begin anticipating the next Congress and what it might mean, we take care of the business of this Congress.

PASSING APPROPRIATIONS BILLS

Mr. President, we are required by law, as of each October 1st, to pass spending bills, appropriations bills for the function of government. Most Congresses fail to meet the deadline of October 1st. Some miss it by a few days, some by a few weeks. Sadly, this Congress will miss it by weeks.

We still have major spending bills which have not been passed by this Congress. Frankly, we have run out of...
In my conversations with hospital administrators and doctors, those who are managing nursing homes, those who are providing valuable health care services, there is nothing more important to them than getting this done before we leave. No excuse will do. It was part of the original tax relief bill that was pending before Congress, a controversial bill that involved over $250 billion in tax relief over the next 10 years. That bill is caught up in controversy and is going nowhere. The President and many of his allies have to decide whether or not to veto it. The provision in there relative to Medicare and Medicaid would be lost in that process.

It has been reported in the newspapers, and I think it is probably accurate, that the leadership has pulled away from that tax bill now and believes it cannot pass. But we would make a serious mistake if we backed off from our commitment to deal with Medicare and Medicaid before we adjourn this Congress. I think there is a will and there is a way.

I have spoken with the representative from the White House, Mr. Lew, who heads up the Office of Management and Budget, and my colleague and friend, the Speaker of the House Dennis Hastert, who understands the importance of this issue to the State of Illinois. I have talked to my colleagues on this floor. We clearly can achieve this. In achieving it, we can send back a message not only to rural hospitals, which frankly are facing the ruin of declining revenues at a time when they are trying to keep their doors open, but also hospitals in the inner cities and hospitals across America, teaching hospitals, and others that rely on these reimbursements.

I urge my colleagues, as we consider the next Congress, let’s not forget the amendments and the Congress. It is not enough to pack our bags, wish everyone a happy holiday, and head home. There are important items still to be resolved. We were elected and took an oath of office to resolve this. No excuse will do at this point. Let us pass those pending appropriations bills, make the compromises necessary to do so, and not forget our responsibility under Medicare and Medicaid across the United States to seniors, the disabled, and the disadvantaged, who rely on those programs for quality health care.

I think it can be done. I hope my colleagues join me in making certain we make that effort as we close this session of the Congress.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The morning business is closed.

BANKRUPTCY REFORM ACT OF 2000—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the conference report to accompany H.R. 2415, which the clerk will report.

The legislative clerk read as follows:

Conference report to accompany the bill (H.R. 2415) to enhance security of United States missions and personnel overseas, to authorize appropriations for the Department of State for fiscal year 2000, and for other purposes.

Mr. WELLSTONE. Mr. President, it is my understanding that we are now in debate on the bankruptcy bill; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. WELLSTONE. I thank the Chair. Mr. President, I yield back from Senator Leahy’s time, 30 minutes.

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

Mr. WELLSTONE. I am sorry, I have my own time.

Mr. President, The proponents of this bill argue that people file because they want to get out of their obligations, because they’re untrustworthy, because they’re dishonest, because there is no stigma in filing for bankruptcy.

But any look at the data tells you otherwise. We know that in the vast majority of cases it is a drastic step taken by families in desperate financial circumstances and overburdened by debt. The main income earner may have lost his or her job. There may be sudden illness or a terrible accident requiring medical care.

Specifically we know that nearly half of all debtors report that high medical costs forced them into bankruptcy—this is an especially serious problem for the elderly. But when you think about it, a medical crisis can be a double financial whammy for any family.

First there are the high costs associated with treatment of serious health problem. Costs that may not be fully covered by insurance, and certainly the over 30 million Americans without health insurance are especially vulnerable. But a serious accident or illness may disable—at least for a time—the primary wage earner in the household. Even if it isn’t the person who draws the income, a parent may have to take significant time to care for a sick or disabled child. Or a son or daughter may need to care for an elderly parent. This means a loss in income. It means more debt and the inability to pay that debt.

Are people overwhelmed with medical debt or sidelined by illness deadweighting the economy? For example, it would force them into cripplng counseling before they could file—as if a serious illness or disability is something that can be counseled away.
Women single filers are now the largest group in bankruptcy, and are one third of all filers. They are also the fastest growing. Since 1981, the number of women filing alone increased by more than 700 percent. A woman single parent faces a much greater likelihood of filing for bankruptcy than the population generally. Single women with children often earn far less than single men aside for the difficulties and costs of raising children alone. Divorce is also a major actor in bankruptcy. Income drops, women, again, are especially hard hit. They may not have worked prior to the divorce, and now have custody of the children.

Are single women with children dead-baits? This bill assumes they are. The new nondischargeability of credit card debt will hit hard those women who use the cards to tide them over after a divorce until their income stabilizes. And the "safe harbor" in the conference report which proponents argue will shield low and moderate income debtors from the means test will not benefit many single mothers who need help the most because it is based on the combined income of the debtor and the debtor's spouse, even if they are separated, the spouse for bankruptcy debtors and the spouse is providing no support for the debtor and her children. In other words, a single mother who is being deprived of needed support from a well-off spouse is further harmed by this bill, which will determine the full amount of that spouse available to pay debts for determination of whether the safe harbor and means test applies.

Mr. President, you will hear my colleagues talk about high economic growth and low unemployment and wonder how so many people could be in circumstances that would require them to file for bankruptcy. Well, the rosy statistics mask what has been modest real wage growth at the same time the debt for middle class families has skyrocketed. And it also masks what has been real pain in certain industries and certain communities as the economies restructure. Even temporary job loss may be enough to overwhelm a family that carries significant loans and often the reality is that a new job may be at a lower wage level—making a previously manageable debt burden unworkable.

So what does this bill do to keep people who are just facing wrenching experiences out of bankruptcy? Nothing. Zero. Tough luck. Instead, this conference report just makes the fresh start of bankruptcy harder to achieve. But this doesn't change anyone's circumstances, this doesn't change the fact that these kids no longer earn enough to sustain their debt. Mr. President, there is not one thing in this so called bankruptcy reform bill that would promote economic security in working families.

What you put in the rhetoric aside, one thing becomes clear: The bankruptcy system is a critical safety net for working families in this country. It is a difficult demoralizing process, but for nearly all who decide to file, it means the difference between a financial disaster being temporary or permanent. The repercussions of tearing that safety net asunder will be tremendous, but the authors of the bill remain deaf to the constant indignation that is beginning to swell as ordinary Americans and members of Congress begin to understand that bankrupt Americans are much like themselves—are exactly like themselves—except that they have lost their job, that they are more than one medical bill, one predatory loan away from joining the ranks.

For the debtor and his family the benefit of bankruptcy—despite the embarrassment, despite the humiliation of acknowledging financial failure—is obvious, to get out from crushing debt, to be able to once again attempt to live within one's means, to concentrate one's income on clear priorities such as food, housing, and transportation. But the critics insist it is precisely the priorities of a just society to ensure that financial mistakes or unexpected circumstances do not mean banishment forever from productive society.

The "fresh start" that is under attack here is the one that costs no less than a critical safety net that protects America's working families. As Sullivan Warren and Westbrook put it in "The Fragile Middle Class":

Bankruptcy is a handhold for middle class debtors, the families who have suffered economic dislocation, but the ones that file for bankruptcy have not given up. They have not uprooted their families and drifted from town to town in search of work. They have not gone to the underground economy, working for cash and saying off the books. Instead, these are middleclass people fighting to stay where they are, trying to find a way to cope with their declining economic fortunes. Most have come to realize that their incomes will never be the same as they once were. As these skilled, hardworking families can live on $30,000 or $20,000 or even $10,000. But they cannot do that and meet the obligations that they ran up while making more. When put to a choice between paying credit card debt and mortgage debt, between dealing with a daunting notice from Sears and putting groceries on the table, they will go to the bankruptcy courts, declare themselves failures, and save their future income for their mortgage and their groceries.

I say to my colleagues, there may be many different standards that different communities will apply to the floor of the United States Senate. We come from different backgrounds, we come from different states, we have different philosophies about the role of government in society. We have differing priorities. But for God's sake, there should be one principle that all of us can get behind and that is that we should do no harm here in our work in America's working families.

That's what is at stake here. This is a debate about priorities. This is a debate about who you're on. This is a debate about who you stand with. Will you stand with the big banks and the credit card companies or will you stand with working families, with seniors, with single women with children, with African Americans and hispanics.

But I would say to my colleagues on the floor of the United States Senate today that this is not a debate about winners and losers. Because we all lose when the tide of capital in this country. We all lose if we take away some of the critical underpinnings that shore up our working families. Sure, in the short run big banks and credit companies may pad their profits, but in the long run our businesses need the access to capital the small businesses need to thrive. And if the bill moves as it is, our children will not have the opportunity for a fresh start. Instead, our children will be saddled with the burden of parents who are already saddled with the burden of debt.

So how? Well this how a Georgia Congressman described the issue in 1841:

Many of those who become a victim to the reverses are among the most high-spirited and liberal-minded men of the country—men who build up your cities, sustain your benevolent institutions, open up new avenues to trade, and pour into channels before unfilled the tide of capital.

This is still true today. This is a debate about reducing the high number of bankruptcies. No way will this legislation do that. Instead, rewarding the behavior that got us here in the first place we will see more consumers overburdened with debt.

No, this is a debate about punishing failure. Whether self inflicted or uncovered and unexpected. This is not a debate about punishing failure. And if there is one that this country has learned, punishing failure doesn't work. You need to correct mistakes, prevent abuse. But you also need to lift people up when they've stumbled, not beat them down.

Of course, what the Congress is poised to do here with this bill is even worse within the context of this Congress. This is a Congress that has failed to address skyrocketing drug costs for seniors, this is a Congress that has failed to enact a Patients' Bill of Rights much less give all Americans access to affordable health care. This is a Congress that does not invest in education, that does not invest in affordable child care. This a Congress that has yet to raise the minimum wage. But instead, we declare war on America's working families with this bill.

What is clear is that this bill will be a death of a thousand cuts for all debtors regardless of whether the means test applies. There are numerous provisions in the bankruptcy reform bill designed to raise the cost of bankruptcy, to delay its protection, to reduce the opportunity for a fresh start. But rather than failing the heaviest on the supposed rash of wealthy abusers of the code, they will fall hardest on low and middle income families who desperately need the safety net of bankruptcy.

I want to take some time to talk about the effect this bill will have on low and middle class debtors. Remember, nearly all debtors who file for bankruptcy are not wealthy scofflaws,
but rather people in desperate economic circumstances who file as a last resort to try and rebuild their finances, and, in many cases, end harassment by their creditors. And in particular I want to remind my colleagues of the May 15, 2001, Time magazine cover story on this so-called bankruptcy reform legislation was entitled "Soaked by Congress."

The article, written by reporters Don Bartlett and Jim Steele, is a detailed look at the history of the bankruptcy system bankruptcy in America. You will find it far different from the skewed version being used to justify this legislation. The article carefully documents how low and middle income families—increasingly households headed by single women—will be denied the opportunity of a "fresh start" if this punitive legislation is enacted. As Brady Williamson, the Chairman of the National Bankruptcy Review Commission, notes in the article, the bankruptcy bill would condition the proceedings in Chapter 7 bankruptcy cases on the "what essentially is a life term in debtor's prison."

Now proponents of this legislation have tried to refute the Time magazine article. Indeed during these final days of debate on the bill's supporters claim that low and moderate income debtors will be unaffected by this legislation. But colleagues, if you listen carefully to their statements you will hear that they only claim that such debtors will not be affected by the bill's means tests. Not only is that claim demonstrably false—the means test and the safe harbor have been written in a way that will capture many working families who are filing for Chapter 7 relief in good faith—but it ignores the vast majority of this legislation which will impose needless hurdles and punitive costs on all families who file for bankruptcy regardless of their income. Nor does the safe harbor apply to any of these provisions!

You might ask the Congress has chosen to come down so hard on ordinary working folk down on their luck. How is it that this bill is so skewed against their interests and in favor of big banks and credit card companies? Maybe it's because these families don't have million-dollar lobbyists representing them before Congress. They don't give hundreds of thousands of dollars in soft money to the Democratic and Republican parties. They don't spend their days hanging outside the Senate chamber waiting to bend a Member's ear. Unfortunately it looks like the industry got to us first. They may have lost a job, they may be struggling with a divorce, maybe there are unsecured medical debts. But you know what? They are busy trying to turn their lives around. And I think it is shameful that at the same time this story is unfolding for a million families across America, Congress is poised to make it harder for them to turn it around. Who do we represent?

I want to take a few minutes to explain exactly what the effects of this bill will be on real life debtors—the folks profiled in the Time article. I hope the authors of the bill will come to the floor to debate on these points. There could be the opportunity for some real progress on an issue that has affected many of my constituents and their families.

Specifically, I challenge them to come to the floor and explain to their colleagues how making bankruptcy relief harder and much more costly to achieve will benefit working families.

Charles and Lisa Trapp were forced into bankruptcy by medical problems. Their daughter's medical treatment left them with medical debts well over $100,000, as well as a number of credit card debts. Because of her daughter's degenerative condition, Ms. Trapp had to leave her job as a letter carrier about two months before the bankruptcy case was filed to manage her daughter's care. Before she left her job, the family's annual income was about $83,000, or about $6900 per month, so under the bill, close to that amount, about $6200, the average monthly income for the previous six months, would have been deemed to be their current monthly income, though their gross monthly income at the time of filing was only $4800. Based on this fictitious deemed income, the Trapps would have been presumed to be abusing the Bankruptcy Code, since their monthly income was about $850 per month, which is lower than the IRS allowable expenses under the IRS guidelines and secured debt payments amounted to $5339. The difference of about $850 per month would have been deemed available to pay unsecured debts and was over the $167 per month triggering a presumption of abuse. The Trapps would have had to submit detailed documentation to rebut this presumption, trying to show that their income should be adjusted downward because of special circumstances and that there was no reasonable alternative to Ms. Trapp's leaving her job.

Because their "current monthly income," although fictitious, was over the median income, the family would have been subject to motions for "abuse" filed by creditors, who might argue that Ms. Trapp should have never left her job, and that the Trapps should have tried to pay their debts in chapter 13. They also would not have been protected by the safe harbor. The Trapps would have had to pay their attorney a minimum of $167 per month, whereas they could not have afforded the thousand dollars or more that this would have cost, their case would have been dismissed and they would have received no bankruptcy relief. If they prevailed on the motion, it is very unlikely they could recover attorney's fees from a creditor who brought the motion, since recovery of fees is permitted only if the creditor's motion was frivolous and could not arguably be supported by any reasonable interpretation of the law (a much higher standard than the original Senate bill). Because the means test is so vague and ambiguous, and creditor could argue that it was simply making a good faith attempt to apply the means test, which after all created a presumption of abuse.

Of course, young Annelise Trapp's medical problems continue and are only getting worse. Under current law, if they were to file for bankruptcy and pay other debts they can't pay, they could seek refuge in chapter 13 where they would be required to pay all that they could afford. Under the new bill, the Trapps could not file a chapter 13 case for five years, even if their payments would be determined by the IRS expense standards and they would have to stay in their plan for 5 years, rather than the 3 years required by current law. The time for filing a new chapter 7 would also be increased by the bill, from 6 years to 8 years.

Not only does the majority leader want to ram through bankruptcy legislation on the State Department authorization conference report, which he has literally hijacked for that purpose, then the majority leader and his friends in the Republican party have had the gall to claim that this is a significantly worse legislation than what passed the Senate. In fact, there is no pretending that this is a bill designed to curb real abuse of the bankruptcy code.

Does this bill take on wealthy debtors who file frivolous claims and shield their assets in multi million dollar mansions? No, it guts the cap on the homestead exemption adopted by the Senate. I ask my colleagues who support this bill how they can say that this bill is designed to crack down on wealthy scofflaws without closing the massive homestead loophole that exists in five states, and in a bill that falls so harshly on the backs of low and moderate income individuals?

I wonder how my colleagues who vote for this conference report will explain this back home. How will they explain that they supported letting wealthy debtors shield their assets from creditors—in the same time that the practice under current law of stopping eviction proceedings against tenants who are behind on rent who file for bankruptcy. With one hand we gut tenants rights, with the other we shield wealthy homeowners.

Nor does this bill contain another amendment offered by Senator Schumer and adopted by the Senate that would prevent violators of the Faith Access to Clinic entrances Act—which would prevent violators of the Fair Access to Clinic entrances Act—which protects women's health clinics— from using the bankruptcy system to walk away from their punishment. Again, I thought the sponsors of the measure wanted to crack down on people who game the system. What could be a bigger misuse of the system than to use the bankruptcy code to get out of damages imposed because you committed an act of violence against a women's health clinic.

And yet the secret conference on this bill simply walked away. They walked away from the real opportunity to prohibit an abuse that all sides recognize exist, but they also walked away from an opportunity to protect women from...
harassment. They walked away from the opportunity to protect women from violence.

So why shouldn't people be cynical about this process? Ever since bankrupt-

cy reform was passed by the Sen-
ate that has been less balanced, less fair, and more punitive—but only for low and moderate income debtors. So again, I would say to my colleagues, this bill is a question of our priorities. Will we stand with wealthy dead beats or will we take a stand to protect women seeking reproductive health services from harassment?

But unfortunately, these were not the only areas where the shadow con-

ferees beat a retreat from balance and fairness.

You know, a lot of folks must be watching the progress of this bank-

crunch bill over the course of this year with awe and envy. Can my colleagues name one other bill that the leadership has worked so hard and with such de-
termination to move by almost any means necessary? Certainly not an in-
crease in the minimum wage. Certainly not a meaningful prescription drug benefit for seniors, certainly not the reauthorization of the Elementary and Secondary Education Act. On many issues, on most issues, this has been a do-nothing Congress. But on so-called bankruptcy reform, the Senate and House leadership can't seem to do enough.

One can only wonder what we could have accomplished for working fami-
lies if the leadership had the same de-
termination on other issues. Unfortu-
nately those other issues did have the financial services industry behind it. And you have to give them credit—no pun intended—over the past couple of years they have played the Congress like a violin. And what do you know, here we are trying to ram through this bankruptcy bill in the 11th hour as the 106th Congress draws to a close.

In reading the consumer credit indus-

try's propaganda one would think the story of bankruptcy in America is one of large numbers of irresponsible, high income borrowers and their conniving attorney using the law to take advan-
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As it turns out, that picture of debt-
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It also turns out that the innocence of lenders in the admittedly still high numbers of bankruptcies has also been—to be charitable—overstated.

As Congress draws to a close, retail charge cards and financing plans for consumer goods have skyrocketed in recent years, so have the number of bankruptcy filings. As the consumer

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In the interest of full disclosure—
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So how responsible has the industry been? I suppose that it depends on how you look at it. On the one hand, con-
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On the other hand, if you define re-
sponsibility as promoting fiscal health among families, educating on judicious use of credit, ensuring that borrowers do not go beyond their means, then it is hard to imagine how the financial services industry could be bigger dead-

beats.

According the Office of the Com-
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ruptcies—at least it didn't stop them from pushing high cost credit like candy.

Indeed, what do credit card compa-
nies do in response to “danger signals” from a customer that they may be in over their head. According to "The Fragile Middle Class" an in depth study published by the Federal Reserve, any supposed bankruptcy protective policy or why, the company's reaction isn't what you would think.

In other words, those folks who may have come into your office this year or last year talking about how they needed protection from customers who walked away from debts, who thought Congress should mandate credit coun-
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tached that reform of the bankruptcy code is needed because the decline in the stigma of bankruptcy have been pour-
ging gasoline on the flames the whole time. Of course, in the end, if this bill passes, it's working families who get burned.

But guess what? It gets even worse, because the consumer finance industry isn't just reckless in its lending habits, big name lenders all too often break or skirt the rules in both marketing and collection.

For example:

In June of this year the Office of the Comptroller of the Currency reached a settlement with Providian Financial Corporation in which Providian agreed to pay at least $300 million to its cus-
tomers to compensate them for using deceptive marketing tactics. Among these were baiting customers with "no annual fees" but then charging an an-
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The number of bankruptcies has fallen steadily over the past months, charge cards (defaults on credit cards) are down, and delinquencies have fallen to the lowest levels since 1995, and now all sides agree that nearly all debtors resort to bankruptcy not to game the system but rather as a desperate measure of economic survival.

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As Congress draws to a close, retail charge cards and financing plans for consumer goods have skyrocketed in recent years, so have the number of bankruptcy filings. As the consumer credit industry has begun to aggressively court the poor and the vulnerable, bankruptcies have risen. Credit card companies brazenly dangle literally billions of card offers to high debt families every year. They encourage card holders to make low payments toward their card balances, guaranteeing that a few hundred dollars in clothing or food will take years to pay off. The lengths that companies go to keep their customers in debt is ridiculous.

In the interest of full disclosure—something that the industry itself isn't very good at—I would like my colleagues to be aware of what the consumer credit industry is practicing even as it preaches the sermon of responsibility borrowing. After all, debt involves a borrower and a lender; poor choices or irresponsible behavior by either party can make the transaction go sour.

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According the Office of the Comptroller of the Currency, the amount of revolving credit outstanding—i.e. the amount of open ended credit (like credit cards) being extended—increased seven times during 1980 and 1995. And between 1993 and 1997, during the sharp increases of the bankruptcy filings, the amount of credit card debt doubled. Doesn't sound like lenders were too concerned about the high number of bankruptcies—at least it didn't stop them from pushing high cost credit like candy.

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As Congress draws to a close, retail charge cards and financing plans for consumer goods have skyrocketed in recent years, so have the number of bankruptcy filings. As the consumer
That is pretty brazen, but as my colleagues will hear over and over in this debate, this isn't just an industry that wants to have it both ways, it wants to have it several different ways.

Of course, these are mild abuses compared to predatory lending. Schemes such as payday loans, car title pawns, and home equity loan scams harm tens of thousands of more Americans on top of those who are already vulnerable. Some consumers groups and the labor unions who protect the working poor and the recently unemployed are seeking to protect vulnerable families with debt at usurious rates of interest. Why, who said good deeds don't get rewarded?

Reading this conference report makes it clear who has the clout in Washington. There is no one provision in this bill that holds the consumer credit industry truly responsible for their lending habits. My colleagues talk about the message they want to send to the banks, the creditors, that bankruptcy will no longer be a "free ride" to a clean slate. Well what message does this bill send to the banks, and the credit card companies? The message is clear: make risky loans, discourage healthy, borrowing practices, encourage excessive indebtedness and impose barriers to paying off debt in the name of paddling their profits. It would be a bitter irony if Congress were to reward big banks, credit card companies, and other businesses for their bad behavior, but that exactly what passage of bankruptcy reform legislation is.

I wish this had been a one time event. Unfortunately, it happened too many times. For the last three years we have combined unrelated legislation in conference reports. We have combined bills, the text is written by a small group of Senators as the majority has stuffed extraneous matters into these reports. I hope the Senate will not go down that road.

Conference reports are privileged. It is very difficult for a minority in the Senate to stop a conference report as long as that report is considered to be a necessary step in a process. But tomorrow the issue might be civil rights, States' rights, health care, education, or anything else. It might be a matter of much more sweeping than the labor law issue that is before us today.

I was absolutely right. The text is written by a small group of Senators as the majority has stuffed extraneous matters into these reports. I hope the Senate will not go down that road. The narrow issue is the status of one corporation under the labor laws. But tomorrow the issue might be civil rights, States' rights, health care, education, or anything else. It might be a matter of much more sweeping than the labor law issue that is before us today.

I challenge my colleagues to walk into any high school classroom room in America and explain this process. Explain this new way that a bill becomes law. What the majority has essentially done is started down the road toward a virtual tricameral legislature—House, Senate, and conference committee. But at least the House and the Senate have the power under the constitution to amend legislation passed by the other house—measures adopted by the all-powerful conference committee are not amendable. Is bankruptcy reform so important that we should weaken the integrity of the Senate itself? It is not. I question whether any legislation is that important, but to make such a blatant mockery of the legislative process on a bill that is going to be amended anyway? That is effectively dead? Just to make a political point? What have we come to?

This is a game to the majority. The game is how to move legislation in conference—House, Senate, and conference committee. But at least the House and the Senate have the power under the constitution to amend legislation passed by the other house—measures adopted by the all-powerful conference committee are not amendable. Is bankruptcy reform so important that we should weaken the integrity of the Senate itself? It is not. I question whether any legislation is that important, but to make such a blatant mockery of the legislative process on a bill that is going to be amended anyway? That is effectively dead? Just to make a political point? What have we come to?

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I remind my colleagues of what Senator Kennedy said 4 years ago when the Senate voted to gut rule XXVIII, the war on the credit card companies and the consumer in conference which we are violating with this conference report. Speaking very prophetically he said:

The rule that a conference committee cannot include extraneous matter is central to the way that Congress conducts its business. When we send a bill to conference we do so knowing that the conference committee's work is likely to become law. Conference reports are privileged. Motions to proceed to them cannot be debated, and such reports cannot be amended. So conference committees are already very powerful. Conference committees are permitted to add completely extraneous matters in conference, that is, if the point of order against such conduct is not sustained, a conference committee will acquire unprecedented power. They will acquire the power to legislate in a privileged, unreviewable fashion on virtually any subject. They will be able to completely bypass the deliberative process of the Senate. Mr. President, this is a highly dangerous situation. It will make all of us less willing to go to conference. By putting barriers in between you and bankruptcy relief, yes we're doing it with so-called bankruptcy reform.

However, I am not sure that we have ever been so brazen in the past. Yes we have combined unrelated, extraneous measures into conference reports. Usually but not always to pass one bill using the popularity of another. But into a conference report makes it privileged. Putting into a conference report makes it unamendable. So they piggy back legislation. Fine. But this may be the first time the Senate's history where the majority has hollowed out a piece of legislation in conference—left nothing behind but the bill number—and inserted a completely unrelated measure. I challenge my colleagues to walk into any high school classroom in America and explain this process. Explain this new way that a bill becomes law. What the majority has essentially done is started down the road toward a virtual tricameral legislature—House, Senate, and conference committee. But at least the House and the Senate have the power under the constitution to amend legislation passed by the other house—measures adopted by the all-powerful conference committee are not amendable. Is bankruptcy reform so important that we should weaken the integrity of the Senate itself? It is not. I question whether any legislation is that important, but to make such a blatant mockery of the legislative process on a bill that is going to be amended anyway? That is effectively dead? Just to make a political point? What have we come to?

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will be on the other side of this tactic. Today it is bankruptcy reform, but someday you will be the one protesting the inclusion of a provision that you believe is outrageous.

Regardless of the merits of bankruptcy reform, this is a terrible process. I would urge my colleagues to vote no to send a message to the leadership. Send a message that you want your rights as Senators back.

Finally, I end on this note. I think many in this body believe that a society is judged by its treatment of its most vulnerable members. By that standard, this is an exceptionally rough bill in what has been a very rough Congress. All the consumer groups oppose this bill, 31 organizations devoted to women and children’s issues oppose this legislation.

There is no doubt in my mind that this is a bad bill. It punishes the vulnerable by bill. It punishes consumers by credit card companies for their own poor practices. And this legislation has only gotten worse in the sham conference.

Earlier, I used the word “injustice” to describe this bill—and that is exactly right. It will be a bitter irony if creditors are able to use a crisis—large ly of their own making—to convince Congress to decrease borrower’s access to bankruptcy relief. I hope my colleagues reject this scheme and reject this bill.

Mr. President, I will not repeat what I said yesterday at the beginning of this debate. I will respond to some comments that were made on the floor dealing with chapter 12.

Some of my colleagues have talked about chapter 12 farmers’ bankruptcy relief, and they have made the argument that opposition to this bankruptcy bill really held up chapter 12, which is very important for protection of family farmers. I point out to colleagues that it is precisely the opposite case.

A year ago when it first became clear that this bankruptcy bill, for very good reasons, was not going to move forward, under the able leadership of Senators and Representatives—Senators such as Senator Grassley—legislation was introduced and passed which extended chapter 12 bankruptcy protection for farmers. Within about 20 days, it was signed by the White House and passed. No problem.

This past Tuesday, in June, the House passed an extension, but for some reason the majority leader took no action over here. Then in October, the House passed a 1-year extension for chapter 12 for family farmers. Again, the majority leader took no action.

This can pass within 24 hours. What we have here is a bit of a game going on where chapter 12 becomes held hostage to a bankruptcy bill with many harsh features which will be vetoed by the President, and, in my view, either the veto will be sustained or we will not become law and should not become law.

But let me be clear. Chapter 12, the bankruptcy relief for family farmers, can be passed separately within a day or two. It is not a problem. So no one from any ag State should believe that somehow you have to vote for a hard piece of legislation that targets the most vulnerable citizens, that is completely one sided, that calls for no accountability from credit card companies or larger banks, in order to get bankruptcy relief for family farmers. It is just simply not true.

The proponents of this bill have argued—they have been pretty explicit about this—that often the people who are filing for chapter 7 do so because they want to get out of their obligations, because they are untrustworthy, because they are dishonest, and because they sort of feel no stigma in filing for bankruptcy.

I would, one more time, like to point out on the floor of the Senate that about 50 percent of the people who file for chapter 12 because of major medical bills that have put them under. Quite often, it becomes a double whammy: Either you not only are faced with a major medical bill that puts your family under—we have not talked about those families afford health care—or, which is the double whammy, you cannot work because you are the one who is ill, in which case you lose your income, or it can be a loved one who is facing a serious illness or disability and you are the one who takes care of them, in which case, again, you can lose your job and your income.

So I do not really think we ought to be viewing families who file chapter 7 because of major medical bills as dishonest or untrustworthy.

Now the largest single group of those citizens who file for bankruptcy are women. They are one-third of all the filers. They are the fastest growing group. About 40 percent of the women filing alone increased by more than 700 percent.

It is not so surprising that single parents—women with children—are among the largest or disproportionate number of people who file for bankruptcy. Because, in addition to medical costs, divorce is a major factor in bankruptcy—income drops—women again are especially hard hit. Many of them have not worked prior to divorce, and now they have to find the money to support themselves in very difficult financial circumstances.

Are single women with children dead beats? All too much of this bill assumes they are. The new nondischargeability of credit card debt will hit hard those women who use the cards to tide them over after divorce until their income stabilizes. The safe harbor in the conference report, which proponents argue will shield low and moderate income debtors from the means test, will not benefit many single mothers who need the help the most because it is based upon the combined income of the debtor and the debtor’s spouse, even if they are separated. The spouse is not filing for bankruptcy, and the spouse is providing no support for the debtor or children, but that spouse’s income is considered.

This piece of legislation does not provide the help to many hard pressed single parents, most of whom are women.

I have heard some of my colleagues out here on the floor talking about economic growth, low unemployment, say- in Gabou’s economic performance, how can you have people filing for bankruptcy? Surely, it must be, again, that these are people who feel no stigma.

You know what. This rosy picture masks the fact that there is real pain in certain industries, and there are certain communities and certain families under siege.

This is a news release from the LTV Corporation, Hoyt Lakes, MN, which was issued on May 24, 2000, its intention to close the local mining operation. They were going to close at the end of the summer. Now they have said, in this release, that they are going to cease permanently on February 24, 2003. This is some holiday gift that we don’t know—1,300 or 1,400 miners. These miners and their families wonder what is going to happen to them. These are the kinds of families who all too often find themselves in these difficult economic circumstances, even in growing economy, and quite often have to file for chapter 7.

Are we going to make the argument that these families are without a sense of responsibility? Are we going to make the argument that these families are loafers and they feel no stigma?

What does this piece of legislation do to help keep people from having to undergo these wrenching experiences that force them into bankruptcy? Nothing. Zero. Through luck. The only thing this piece of legislation does is make it harder for people to file bankruptcy, to file chapter 7, to rebuild their lives.

We do not do anything to help on health care costs. We do not do anything in terms of dealing with the unfair dumping of steel with a fair trade policy. We do not do anything in terms of passing an Elementary and Secondary Education Act. We do not do anything on affordable housing. We do not do anything to raise the minimum wage. We do not do anything to make these families more economically secure. But instead, what we do is we make it difficult for people to rebuild their lives.

This is sham reform. When you push the rhetoric as hard as this becomes clear: The bankruptcy system is a critical safety net for many middle-class, working-class, low-income families. It is a difficult, demoralizing process, but it is a critical safety net for families. And we are tending up that safety net. I say to my colleagues this may be many different standards that different Members have when they bring legislation to the floor of the Senate. We
come from different backgrounds. We come from different States. We have different philosophies about the role of Government in society. We have different priorities. But, for God's sake, there should be one principle that all of us can agree on. That is that we should do no harm to the most vulnerable people and most vulnerable families in this country.

I believe strongly—and I have argued yesterday and today—that that is exactly what we are doing. That is what is at stake here. This is a debate about priorities. This is a debate about what side you are on. This is a debate about with whom you stand. Will you stand with the big banks and credit card companies or will you stand with hard-pressed families, with seniors, with single women with children, with African Americans, with Hispanics, with people of color, with consumers?

What the Congress is poised to do here with this bill is worse within the context of Congress because it is a Congress that has failed to address skyrocketing drug costs for seniors; this is a Congress that has failed to pass a Patients' Bill of Rights; this is a Congress that has failed to make sure that drug companies have access to affordable health care; this is a Congress that has failed to invest in education; this is a Congress that has failed to invest in affordable child care; this is a Congress that has failed to raise the minimum wage. But instead, with this bill we declare war on working families.

What is clear is that this piece of legislation will be a death of a thousand cuts for all debtors regardless of whether the means test applies.

There are numerous provisions in the bankruptcy reform bill designed to raise the cost of bankruptcy, to delay its protection, to reduce the opportunity for a fresh start. But rather than what we need, the enforcement of the rash of wealthy abusers of the Code, they will fall hardest on low- and middle-income families who desperately need this safety net of bankruptcy.

I commend to my colleagues, but I will not take a lot of time on it, the May 15, 2000, issue of Time magazine whose cover story on so-called bankruptcy reform legislation was entitled “Soaked by Congress.” I hope they will read it.

I will quote from Brady Williamson, Chairman of the National Bankruptcy Commission. Please remember, 166 law professors in this country who teach bankruptcy law, who do their scholarship in this area, have said this bill is harsh and one-sided, without balance, and should not pass.

Brady Williamson, Chairman of the National Bankruptcy Review Commission, notes in the article from Time magazine: The bankruptcy bill would condemn many working families to “what essentially is a life term in debtors’ prison.”

I will talk a little bit about this piece of legislation in relation to what the Senate passed before. Not only does the majority leader want to ram through bankruptcy legislation on the State Department authorization conference report, which he has literally hijacked for this purpose, there is no question in my mind that the piece of legislation—I heard colleagues yesterday say “better”—than passed by the Senate. Does this piece of legislation take on wealthy debtors who file frivolous claims and shield their assets in multimillion-dollar mansions? No. It guts the cap on the homestead exemption which was adopted by the Senate. It was taken out in conference.

I ask my colleagues who support this bill, how can you claim that this bill is designed to crack down on wealthy scoff laws without closing the massive homestead loophole that exists in five States? And in a bill that falls so harshly on the backs of low- and moderate-income individuals, you have a huge exemption for people who can go buy multimillion-dollar homes. How do you explain that back home? How will you explain that you supported letting wealthy debtors shield their assets from creditors at the same time you voted to end the practice under which families can proceed against tenants who were behind on rent and who filed for bankruptcy? Poor tenants are evicted. Wealthy people can shield their assets and go buy multimillion-dollar homes. On the one hand, tenants’ rights, while on the other hand we shield wealthy homeowners. That is what this piece of legislation is about.

Nor does this bill contain another amendment offered by Senator Schumer and adopted by the Senate that would prevent violators of the Fair Access to Clinic Entries Act, which protects women’s health clinics, from using the bankruptcy system to walk away from their punishment.

Some families are watching the progress of this bill and they are watching the way this bill has developed over the last year with a considerable amount of awe and envy. Can my colleagues name one other bill on which the leadership has worked so hard and with such determination to move by any and all means necessary? Certainly not an increase in the minimum wage; that is not a priority. Certainly not a meaningful prescription drug benefit for seniors. Certainly not reauthorization of the Elementary Secondary Education Act. On many issues, on most issues, there has been nothing done in this do-nothing Congress. But on the so-called bankruptcy reform, the Senate and House leadership can’t seem to get enough. One can only wonder what we could have accomplished for working families if the leadership had the same determination on these other issues. Unfortunately, those other issues did not have the financial services industry behind them.

You have to give them credit, no pun intended. Over the past couple of years, the financial services industry has played this Congress like a violin. And what do you know, we are trying to ram through this bankruptcy bill in the 11th hour as the 106th Congress comes to a close.

In reading the consumer credit industry, as it stands now, the story of bankruptcy in America is one of large numbers of irresponsible, high-income borrowers and their conniving attorneys using the law to take advantage of naive and overly trusting lend-ers who turn out, that picture of the debtors is almost completely inaccurate. The number of bankruptcies has fallen steadily over the past several months. It turns out that the people about whom we are talking are vulnerable citizens. The major reason is major medical costs. I have made that argument.

As high-cost debt, credit cards, retail charge cards and financing plans for consumer goods have skyrocketed in recent years, so have the number of bankruptcy filings. Consumer credit industry has begun to aggressively court the poor and the vulnerable, bankruptcies have risen. Credit card companies brazenly dangle literally billions of credit card offers to tens of millions of people with no accountability for them. They encourage credit card holders to make low payments toward the card balances, guaranteeing that a few $100 in clothing or food will take years to pay off. In the lengths these companies go to keep their customers in debt is ridiculous.

So in the interest of full disclosure, something that the industry itself is not very good at, I would like my colleagues to be aware of what the credit card industry is practicing even as it preaches the sermon of responsible borrowing. After all, debt involves a borrower and a lender. Poor choice, irresponsible behavior by either party can make the transaction go sour. So how responsible has the industry been? It depends upon how you look at it.

On the one hand, consumer lending is terrifically profitable, with high-cost credit card lending the most profitable of all, except for perhaps even higher cost credit such as payday loans. So I guess by the standard of responsibility to the bottom line, this industry is doing great.

On the other hand, if you define responsibility as promoting fiscal health among families, educating on judicious use of credit, ensuring that borrowers do not go beyond their means, then it is hard to imagine how the financial services industry could be bigger deadbeats.

From studies from the Office of the Comptroller of Currency, some of the settlements that have been reached with Providian Financial Corporation, Sears & Roebuck, American Capital Corporation, a subsidiary of GE, the Department of Justice brought an antitrust suit against Visa and Mastercard. We have example after example after example of abuses by this industry but...
not one word in this piece of legislation that calls for any accountability.

In case my colleagues miss the blatan
t hypocracy of what is going on here, the big banks and credit card compa
ties are pushing to rig the system even more making it more difficult
to you perform credit counseling at the same
time that they are jeopardizing the health of the credit counsel
ing industry by pumping credit cards, by themselves abusing the sys
tem, and hardly making it easier for people
to get out of bankruptcy unless you get

To make it simple for my colleagues,
this debate is fundamentally a re
ferendum on Congress's priorities. You
can simply need to ask yourself again: Whose side am I on?

Are you on the side of working fami
lies who need a financially fresh start
because they are overburdened with debt? Fifty percent of bankruptcies
are because of major medical bills. Are you
for preserving this critical safety net for the middle class? Will you stand
with the civil rights community and the reli
gious community and the wom
en's community and consumer groups
and labor unions who fight for ordinary
Americans who oppose this bill or will
you support the credit card compa
ties and the big banks and the auto
lenders who desperately want this bill
to pad their profits?

I hope there is a clear choice for Sen
ators.

Mr. President, I reserve the remain
der of my time.
The PRESIDING OFFICER. Who
yields time?

Mr. GRASSLEY. Mr. President, I
yield myself such time as I might con
sume.

First of all, in response to the Senator from Minnesota, I was a little bit
amused at the use of the words "blatant hypocracy." I don't question his
use of those words at all. But the fact is that this has passed with 83 Senators
voting for it. It passed the Senate and went to conference. Three-fourths
of the members of his caucus voted for this legisla

tion. If there is blatant hypocracy, it is very bipartisan hypocracy.

Mr. WELLSTONE. Mr. President, will
the Senator yield for a question?

Mr. GRASSLEY. I sure will, only for
the purpose of a question.

Mr. WELLSTONE. My understanding
is that the bill passed with the Schu
mer provision in it, and it also dealt
with the homestead exemption. That is
a different bill from the one we are
considering right now. Am I not cor
rect?

Mr. GRASSLEY. The Senator is cor
rect, but his reference was in regard to
the credit card industry—not the Schu
mer amendment and not the provision
on homestead.

The PRESIDING OFFICER. The Sen
ator from Iowa.

Mr. GRASSLEY. Mr. President, secon
d, the interest in this legislation and the
reason this is such an important
piece of legislation is that there is a lot
of understanding at the grassroots of
America that it is immoral and unethical
for people with the ability and the means
to repay some of their debt to go into bankruptcy court and be dis
charged of that debt.

It is particularly wrong when it hurts
the very same low-income and middle
income people. The Senator from Minnesota talks. They have to pay
$400 more per family per year for goods and services. They pay a higher
fee or price because somebody else isn't paying their bills. That is not going
to be another business in most cases; it is going to be passed on to the consumer.

On the basis of ability to pay, par

cularly for the necessities of life of
food and clothing and things of that
nature, it is going to hurt the low-in
come people and middle-income people of America disproportionately because
somebody else isn't paying their bills. There is an understanding at the grass
roots of America that this just isn't right. That is why this legislation has such
overwhelming support.

I refer to this chart because it has
letters from my constituents. I bet the Senators from Minnesota and other
States are getting letters from their constituents saying the same thing.

We have a letter from a constituent of mine in Des Moines who says:

It is insane that such practice has been al
lowed to continue causing higher prices to
consumers. Debtors should be required to pay their debts.

A constituent from Keokuk, IA:

Bankruptcies are out of hand. It is time to make people responsible for their actions. Do
we need to say this?

In other words, it is unconscionable
to that constituent that we would have
a situation with 1.4 million bank
ruptcies in America, with the number
doubling in 5 or 6 years, at a time when we
have the best economic growth in our Nation.

Another constituent:

We need to make more people responsible
for their savings. We are the same time pro

tecting those who fall on hard times. I re
alize this is a delicate balance. But the way it is
now, there is very little change going this route.

This bill is a very delicate balance.
That is why it passed with 83 votes. It also
preserves what this constituent said in the letter. She understands that
there are some people who go into debt through no fault of their own. And for the
100 years of history of the bankruptcy code of the United States, we have rec
ognized that certain people may be in hard times through no fault of their
own and they are entitled to a fresh start. This allows that fresh start.

But, at the same time for those who have
the ability to repay, it sends a clear
signal to not go into bankruptcy court
because you are not going to get off
scot-free anymore.

Another constituent from Font
telle, IA, says:

People need to be more responsible for their debts. As a small business owner, I
have had to withstand several large bills peo
ple have left with me due to their poor man
agement and bankruptcy.

That may be a small business person
who, unlike a lot of corporations, can't
pass on this $400 per family in additional
costs for goods and services be
cause nobody else is paying their bills. This person may be so small that
they have to absorb those costs un
fairly and may be putting their own business in jeopardy.

Another constituent from Cedar Rap
ids:

Bankruptcy reform will force the Amer
ican people to become more responsible for their actions. Bankruptcy does not seem to carry any degree of shame. It is almost re

garded as a right or entitlement.

If it has become a right or entitle
ment, the statistics of the last 6 or 7
years show an increase of about 700,000
to 1.4 million. It is an example maybe
of some additional people in America seeing it as a way to manage their fi
nances. It becomes a financial manage
ment tool for some.

Another constituent from Waverley,

IA:

Many don't think the business is what loses.
We make it too easy now.

A constituent from Washington, IA:

Bankruptcy laws are a joke. One local man has declared bankruptcy at
least four times at the expense of suppliers to him. He just laughs at it.

There is a person who quite obviously figures out the exact timing
bankruptcy as a financial planning tool.

A Cedar Falls constituent:

It is way too easy to avoid responsibility.

From Indiana, IA:

If one assumes debt, they need to pay it off. We have got to take responsibility for
our purchases.

That reminds me of the President in
his speeches during his second term, and maybe even at the ending of his first term. He always talked about the
importance of individual responsibility and individuals have to be responsible.

As we hopefully present this bill to the President of the United States
today, I want to remind President Clinton
how often he talked about the


necessity of individual responsibility. If he believes that—and I believe he does believe it—then signing this bill is
very important to fulfill his own state
ment that government ought to pro
mote individual responsibility.

A constituent from Harlan, IA:

Too many people use bankruptcy as a way out. We need to make sure people are held accountable for all of their debts.

From Fort Madison:

Personal responsibility is a must in our country. Sickness or loss of a job is one thing, but the majority of people just do not pay and spend their money elsewhere know
ing they can unload the debt with the help of the courts.

That is a person who understands the basic principles of bankruptcy: No. 1, cause a loss of a job, something be

ting beyond the control of the individual, there ought to be, and there has been for 100 years under a bankruptcy code, the
right for a fresh start.
The other side of that is whether there is an ability to repay. People should pay what they can according to the ability to pay the debt. It also recognizes there are some people, again, who use this as a financial planning tool.

One of my constituents I quote from Cedar Rapids:

I think people taking bankruptcy should have to pay the money back. . . . They should have learned to work for and pay for what they get.

Maybe that statement is not quite as sympathetic to those people who are in bankruptcy through no fault of their own. I don’t know for sure. But I am happy to tell that constituent the principle behind this bill, the principle behind the bankruptcy code of the last 100 years, that there is a social policy in this country that some people are in debt through no fault of their own and they are entitled to a fresh start. She thought there should never be a bankruptcy court, not that she should be able to go to bankruptcy court.

That is the balance of this legislation. This is a balance that has been recognized by the vast majority of this body with those 83 votes we had for origination. There are things about this legislation I don’t like. There are some things that even the Senator from Minnesota said should be tightened up. I won’t go into what those are, but I agree with him.

In legislation, particularly as this legislation is, with varying interests—some not wanting any and some wanting a lot more—compromise is the name of the game. There hasn’t been a compromise of basic principle here. There may be a compromise of degree, and I am not going to give up just because this bill passes and it is not as much in the direction he wants or I happen to agree with him on a couple of points and perhaps I might move in that direction in the future. But we have had 20 years without bankruptcy reform. We have gone from 300,000 bankruptcies filed per year in the early 1980s to 1.4 per million now, and we have had studies showing it will go up another 15 percent. These are in good times. What about bad times, if we have a recession in the future? There are indications of a Clinton recession coming on now with the indices turning down and confidence in the economy turning down and the manufacturing sector being in recession. Maybe we are starting in this administration with a recession. Then if we are turning down and confidence in the economy. We had testimony from Secretary Summers that bankruptcies will drive up interest rates.

I appreciate very much my friend from Minnesota and his strong position against this bill, even though I disagree with it. Hopefully, in the very next couple of hours he will not be successful in what he has been so successful doing for the last year and a half, not wanting this bill to pass. He has been a tough competitor and one I enjoy competing against. But I think he is very much wrong as he approaches this. There is the wide bipartisan support it has had not only in this body, but it passed originally by a veto-proof margin in the House of Representatives.

I yield the floor.

Mr. LEAHY. The PRESIDING OFFICER (Mr. Voinovich). The Senator from Minnesota.

Mr. WELLSSTONE. First of all, let me say I like my colleague from Iowa so much that I will let his comment about the Clinton recession pass and not respond to that.

I also want to make it clear that my use of the word “hypocrisy” of course was not aimed at any Senator and certainly not the Senator from Iowa, who we all believe who has made a mockery of the legislative process. We have taken a State Department embassy bill and gutted it. There is not a word left; there is only a number. Instead, you had a bankruptcy bill put together last minute and the other hand in conference committee knocks out an amendment, so that now we have millionaires in a position to be able to shield their money and go buy multimillion-dollar homes in other States.

If that is not hypocrisy, I don’t know what is. If that doesn’t tell you about how lopsided a piece of legislation this is, I don’t know what does.

I also think it is more than just a little hypocritical to have a piece of legislation that in the main targets the most vulnerable citizens—I have made that point over and over again—with study after study saying that the highest percentage would be 12 percent, probably 3 percent of the people at most “gaming” this.

People who file for chapter 7 do so because they are in difficult circumstances. Major medical illness puts them under, a divorce, loss of job. But at the same time that we are now going to make it virtually impossible for many families who find themselves in difficult economic circumstances to rebuild their lives, we don’t have one word to say by way of demanding some accountability for these credit card companies that push this debt on to people, that send these cards to our kids, that do all the solicitation, that charge exorbitant interest rates, that are reckless in their lending policies. Not a word. Not a word.

Could it be these are the people with more clout in the Congress? I fear that is part of the problem.

I say to my colleague from Iowa and other Senators, it is simply not the case that these people who file for bankruptcy are gaming the system. Let me give a case study which goes to why this bill is so profoundly wrong. LTV is going to shut down. Miners up on the Iron Range are going to be without a job.

I know the way this bill works. It is an honest disagreement, but it is a wrong disagreement. If one of these families 2 months from now has a illness—now they are going to have trouble paying their mortgage—do you know what this bill does? This bill doesn’t figure their income in February, after they have been laid off. This bill figures their average income over the prior 6 months, during all the times they were gainfully employed.

That is not going to work for these miners, that is not going to work for these hard-pressed working families, and you had better believe I am going to be out here on the Senate floor raising Cain in behalf of these Minnesotans.

Finally, let me one more time, before my colleague from Vermont takes the floor, remind all Senators, but especially Democrats: This is the majority leader who has made a mockery of the legislative process. We have taken a State Department embassy bill and gutted it. There is not a word left; there is only a number. Instead, you had a bankruptcy bill put together last minute and the other hand in conference committee knocks out an amendment, so that now we have millionaires in a position to be able to shield their money and go buy multimillion-dollar homes in other States.

If that is not hypocrisy, I don’t know what is. If that doesn’t tell you about how lopsided a piece of legislation this is, I don’t know what does.

There may be a different majority 2 years from now. We can do the same thing to the minority. Frankly, it should not be done by anyone. I certainly hope Democrats will vote against this. The minority leader yesterday said he is going to vote against this bill because, he said, it does not meet the standard of fairness. And it does not—not on substance and not on process, not on the basic standard of what the Senate should be about. I hope Senators will vote against this piece of legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, parliamentary inquiry: How much time is available to the Senator from Vermont?

The PRESIDING OFFICER. The Senator has 29 minutes.

Mr. LEAHY. I thank the Chair. I like to do this. I wish we were not still in session, but I suspect the Presiding Officer probably had things he might have planned to be doing during this time, as did my distinguished friend from Iowa.

My distinguished friend from Iowa and I have been here for numerous lame duck sessions. After 26 years here, I have yet to see what good was ever accomplished in one of these lame duck sessions. I think the statement made by my distinguished friend from Minnesota just now emphasizes the kind of mischief that sometimes happens in lame duck sessions, when people want to leave, yet we have, as in this case, a
bankruptcy bill that none of the Democrats had a chance, really, to do much about. It gets put in—what was it, I ask my friend from Minnesota, a bill on embassies?

Mr. WELLSTONE addressed the Chair.

Mr. LEAHY. I yield on my time.

Mr. WELLSTONE. My colleague is correct. That is right. Though there is not a word about that. There is nothing left on the bill number.

Mr. LEAHY. This was not a case where there was a concern the embassies were all going bankrupt? The embassy in London or in Moscow or, heaven forbid, in Dublin, might be in bankruptcy court in the Southern District of New York? That is not the case.

Mr. WELLSTONE. I say to my colleague from Vermont that argument has not been made. So far, that argument has not been made.

Mr. LEAHY. I thank my friend from Minnesota. I appreciate his pointing this out. I just want students who might look at this afterward and wonder what bankruptcy has to do with embassies to go back and read what the distinguished Senator from Minnesota says, which is, of course, that it has absolutely nothing to do with embassies. It is a parliamentary trick to get a piece of special interest legislation through.

It is unfortunate that who that kind of trick had to be carried out because the Republican majority had worked with the President, they could have worked in a democratic way. The bankruptcy legislation that is more balanced and more fair. We did this 2 or 3 years ago. I remember Senator GRASSLEY, Senator DURBIN, others, worked together and we passed a piece of bankruptcy legislation that was here in the Senate. It was strongly backed by both Democrats and Republicans. I think we passed it by 97 or 98 votes. There was only one vote against it. It was overwhelmingly passed. It shows what we can do when Republicans and Democrats work together.

Mr. President, I am disappointed that the majority refuses to work with the President and us to pass bankruptcy legislation that is better balanced and more fair. Despite the President's repeated attempts to offer reasonable compromises for the last six months, the majority is continuing to push this unfair and unbalanced bill. It appears that the same mistakes that led to the chance for passage of the bipartisan balanced bankruptcy reform 2 years ago, in the last Congress, are being repeated in this Congress. We should work together to finish the work of the 106th Congress. Instead, there seems to be this effort to pass flawed legislation that virtually guarantees a Presidential veto.

I had hoped we would have acted on the administration's four letters on the resolution of key issues needed for the President to sign a fair and balanced bill, that we could have at least met to discuss them so we could have a bill the President could sign.

I am the ranking Democrat currently on the Senate Judiciary Committee. I was not a conferee of the conference report. Instead, the Republican leadership created a sham conference to create and file this flawed bankruptcy bill to make sure the Democrats would not have any chance to pass a bill that is not going to be signed into law. It may help for the next fundraiser, but it does not help bringing about the kind of bankruptcy reform we actually need in this country.

The Senate had requested a conference in August 1999 on legislation to enhance security of U.S. missions and the security of personnel overseas and to authorize appropriations for the State Department, what the distinguished Senator from Minnesota was just talking about. That did not proceed.

On October 11, 2000, the House appointed conferees not from the committee with jurisdiction over any embassy security issues, but from the House Judiciary Committee. Then a few hours later, out of nowhere, the leadership filed a conference report that strikes every aspect of the underlying legislation on which the two Houses have agreed, and puts it in this wholly unrelated matter with reference to a bankruptcy bill that had not even passed. It had only been introduced that day. There was no debate, nothing. It is like: Whoops, open the door, let the special interests out, slam it down, and please pass it.

We Americans are great at telling other countries how to run democracies. We each tell them how to run elections, are not virtues people in the other body? And the press releases went out. Of course, 2 days later, the sham conference report was filed, the one that was done behind closed doors, not done in the open. Yet everybody could say: Why, I voted that have open, 398-1.

The bipartisan informal process that produced many improvements to the Senate-passed bill with respect to its bankruptcy provisions was for nought in the end. We worked in an informal bipartisan conference and made these improvements. We dropped the controversial nonrelevant amendments on the 3-year minimum, the increase in outrageous tax cuts, mandatory minimum sentences for certain drug offenses, and private school vouchers.

We added a new provision to include a $6,000 floor in the means test to protect low-income debtors.

We added a new provision to take into account up to 10 percent of the debtor's administrative expenses in the means test calculations.

We added a new provision to allow for adjustments of up to 5 percent from the IRS standards for reasonable food and clothing expenses in the means test calculations to take into account the regional difference in costs.

We added the provision that exempted creditors with small claims from sanctions against creditors who file abusive motions, and, thus, we made all creditors subject to these sanctions for coercive behavior.

We added the provision for the waiver of filing fees to debtors with income less than 150 percent of the poverty line.

All of these things we did with Democrats and Republicans working together, each not giving something, each side adding things. We had a better bill. We even added a new temporary bankruptcy judgeship for the following courts: the District of Delaware, the Southern District of Georgia, the Eastern District of North Carolina, and the District of Puerto Rico.

Finally, we added privacy protections for the financial information of debtors to protect patient medical records in the.
bankruptcy health care businesses, to destroy all debtors’ tax returns after 3 years of the close of the case, to provide Congress with the authority to add appropriate privacy safeguards to protect electronic bankruptcy data, and to add safeguards for the collection of bankruptcy data.

That was a good bipartisan start with Republicans and Democrats working together. We could have a fair and balanced final bankruptcy reform bill. It was a win win on all sides of the issue were applauding. They were saying: Finally, Republicans and Democrats are working together.

Do you know what happened? Some in the Republican majority found this was going on and said: We can’t have it; we can’t have that balance; it has to be our way or no way, and they stopped those meetings. We actually resolved most of the issues between the two bills. There were two key issues outstanding. We could have brought it back for a vote. One was discharge of penalties for violence against family planning clinics, medical clinics, and the other was a problem of debtors who used overly broad homestead exemptions to shield assets from creditors by putting money into multimillion-dollar houses, declaring bankruptcy, and using their home as their creditor.

Everything I heard told me we could have reached bipartisan agreement on these matters, too. Now this backdoor conference report does not adequately address either of these two abuses currently in the system.

The Senate passed the Schumer amendment to prevent the discharge of penalties for violence against family planning clinics. This was not a bipartisan vote. It was 80-17. People said, no, no, no, you feel about abortion. No, no, no matter how you feel about medical matters or family planning, we are not going to condone violence against legitimate medical clinics.

Does the conference report reflect this? No. There is not a single provision to end abusive bankruptcy filings used to avoid the legal consequences of violence, vandalism, and harassment to deny access to legal health services. As a result, we could have all kinds of clinic violence. If you are sued for it, just declare bankruptcy and get away with it. That is wrong.

The administration made it crystal clear in four letters to congressional leaders that this abuse of the current bankruptcy system was needed to gain the President’s signature. Four times they said they were not going to allow people to firebomb clinics, harass people, assault people, and if they are sued, to simply say: We will declare bankruptcy. Four times.

The OMB Director Jack Lew wrote to Congressional leaders on May 12, 2000:

The abuses of the bankruptcy system must be stemmed, including abuse by those who would use bankruptcy to avoid penalties for violence against family planning clinics.

The President wrote congressional leaders on June 9.

I am deeply disturbed that some in Congress still object to a reasonable provision that would end demonstrated abuse of the bankruptcy system. We cannot tolerate abusive bankruptcy filings to avoid the legal consequences of violence, vandalism, and harassment used to deny access to legal health services. An effective approach, such as the one offered by Senator Schumer’s amendment, should be included in the final legislation.

A few weeks later the President again wrote to congressional leaders to reiterate his position saying:

I cannot support a bankruptcy bill that fails to require accountability and responsibility from those who use violence, vandalism, intimidation, and harassment to deny others access to legal health services.

The final legislation must include an effective approach to this problem, such as the one contained in the amendment by Senator Schumer, which passed the Senate by a vote of 80-17.

This is a no-brainer. We already debated it and voted on it 80-17. We have a hard time getting an 80-17 vote here to support the bean soup in the Senate cafeteria.

Gene Sperling, national economic adviser to the President, in his letter of September 22, made it clear that President Clinton would veto any bankruptcy reform legislation that did not end this abuse of bankruptcy law. He said:

Our society should not tolerate those who develop a strategy to first threaten and intimidate doctors, health care professionals, or their patients and then turn to the bankruptcy courts to avoid liability for their actions. I reiterate that the President will not sign any legislation that does not contain effective means to ensure accountability and responsibility of perpetrators of clinic violence.

Mr. President, how much time is still available to the Senator from Vermont?

The PRESIDING OFFICER. Just under 13 minutes.

Mr. LEAHY. I thank the Chair.

We should not use the bankruptcy law to shield purveyors of violence. We should close this loophole.

Six defendants in the Nuremberg files web site case filed bankruptcy to avoid their debts under the law. This web site depicted murder weapons with dripping blood and advocated the killing of pro-choice physicians and public figures. Indeed, as some of these people were killed, their names were crossed out on the web site. Why should somebody who is sued for this kind of violence, purveying this kind of violence, be allowed to go to bankruptcy court and say, “See ya, I’m home free?”

Dr. Barnett Slepian, who was murdered 2 years ago in Buffalo on October 23, 1998, was on this heinous Internet site. After he was murdered, his name was crossed out.

If I can make a personal note, when Dr. Slepian was murdered in upstate New York because his name was on the Nuremberg files web site. Within days they determined the chief suspect was a man from Vermont. In fact, there is now an arrest warrant out for him.

I mention that also not just because I am from Vermont, but when I checked the Internet file, I found that along with this man’s name, my name was there. I was listed as one of the people who should be shot and killed. I take that a little bit personally, especially when the FBI is looking for a man from my State who is suspected of shooting and killing one of the people whose name was on that list with mine. Dr. Slepian’s name has been crossed out. Mine has been left on the list of those who should be shot and killed.

Frankly, I find it a little bit difficult to think, when these people are sued for this kind of thing, and judgments are rendered against them, that they can just go into bankruptcy court and say: See ya.

So nobody will think that there is any kind of conflict of interest, I am not part of any suit against them. I am not going to do that. But for those who do, they ought to at least get their settlement or other judgment, win or lose, in the courts. But we should not let anybody walk into our Federal bankruptcy court—because of a huge loophole that this Congress does not have the guts to close—and just walk home scot-free.

It is hypocrisy at the worst, when we voted 80-17 in this body to close the loophole, and when all but one Member of the other body voted to have an open conference on this, their bodies ignored that. That is hypocrisy. It is wrong.

If anybody thinks they do not know the reason why some people in this country look at the Congress and ask what is going on, there is one of your reasons right there. Maybe we ought to look at some of the elections this year and say: Our people are saying they are fed up with this.

In fact, this suspect is still at large, and will a reward of $1 million for his arrest.

You tell me—anybody in this body—you tell me—anybody who is listening to this debate—that somehow it is fair to let people such as that escape because of a loophole that we do not have the guts to close in our bankruptcy law.

Clearly, the perpetrators of violence and illegal intimidation should not be able to abuse the bankruptcy laws to avoid their responsibility to their actions. Bankruptcy should not be used to avoid the legal consequence of clinic violence, harassment, and intimidation.

If we do not want to do something against violence, the President and we do not want to do anything in bankruptcy to offend those who have multimillion-dollar estates in the right States.

In the Senate, we passed, by a vote of 76-22, an amendment to create a $250,000 reward for capturing a home mortgage fraud escapee. Again, we could say we are only concerned about the little people. We are concerned about people paying the debt. All people—we want
everybody to pay their bills. Whether they are rich or poor, we want them to pay their bills. We are equal to everybody.

Of course, that would have eliminated one of the most flagrant abuses in bankruptcy¿undeclared bankruptcy, and then keeping their millions of dollars in the homes that they have in those States.

Senator Sessions, along with Senator Sessions, put together an amendment they have in those States. With unlimited exemptions, declaring expensive homes in a handful of States in bankruptcy laws¿debtors moving to pay their bills. We are equal to every-
which this bill was conferred and got to the Senate floor. But I think I heard him say something about Democrats not being consulted. There was a 3-3 ratio on this conference. Normally there would not be a 3-3 ratio; there would be a minimum of one Republican than Democrat. But because of Senator Coverdell’s death, it ended up on this conference there were three Republicans and three Democrats. So the point is, we would not be here today if it were not for help from Democrats. Even a conference bill.

I only say that because the Senator from Vermont is a friend of mine. He is very strongly opposed to this legislation. But I thought I ought to point out the fact that there are those small, insignificant modifications of his comments that I thought I ought to make. Whether he would consider those clarifications or not, that is his judgment. But I want them on the record for my point of view.

I also address an issue raised by Senator LEAHY. Some have stated that the bankruptcy conference report should be opposed on the grounds that it does not contain a provision that would prevent abortion protesters from using bankruptcy as a way to get out of paying debt arising as a result of violence or intimidation at abortion clinics.

On this issue, I draw my Senator’s attention—in other words, the attention of the Senator from Vermont—to a memo prepared by the nonpartisan Congressional Research Service.

This memo—which I will provide to any Senator who wants to see it, and I will include it in the RECORD—concludes that not one single abortion protester has ever used bankruptcy in this way. I repeat, according to the Congressional Research Service, a truly nonpartisan resource, no one has ever used bankruptcy to skip out on debts arising from violence or intimidation at abortion clinics.

This issue, of course, is a red herring. It has been put forth by people who flat out oppose needed bankruptcy reform as a way of defeating this legislation. There is absolutely no merit to their argument.

I hope people will see it for what it is—an empty political ploy. I hope Senators will see through this political ploy and support the bankruptcy conference report.

I ask unanimous consent to print in the RECORD the memo from the Congressional Research Office.

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


MEMORANDUM

To: Hon. Charles Grassley, From: R. Jeweler, Legislative Attorney, American Law Division.


This is a telephone conversation of October 25, 2000. You requested a comprehensive online survey of reported decisions considering the dischargeability of liability incurred in connection with violence at reproductive health clinics by abortion protesters. Our search did not reveal any reported decisions where such liability was discharged under the U.S. Bankruptcy Code.

The only reported decision identified by the search is Buffalo Gyn & Womenservices v. Inc., 242 B.R. 149 (Bankr. S.D.N.Y. 1999). In this case, the bankruptcy court held that a debtor’s previously incurred civil sanctions for violation of a temporary restraining order (TRO) creating a buffer zone outside the premises of an abortion service provider was nondischargeable under 11 U.S.C. §523(a)(6), which excepts claims for “willful and malicious” conduct. The court surveyed the extent and somewhat discrepant standards for finding “willful and malicious” conduct articulated by three federal circuit courts of appeals. It granted the plaintiff’s motion for summary judgment and denied the debtor/defendant’s motion to retry the matter before the bankruptcy court. Specifically, the court held:

[When a court of the United States issues an injunction or other protective order telling a specific individual what actions will cross the line into injury to others, then damages resulting from an intentional violation of that order (as is proven either in the bankruptcy context or in this case, was full and fair opportunity to litigate the question of violation and violation) in the issuing court are ispo facto the result of a ‘willful and malicious’ conduct.]" (emphasis added) at 238.

The PRESIDING OFFICER (Mr. L. CHAFFEE). The Senator from Utah, Mr. HATCH. Mr. President, this consumer bankruptcy reform legislation is one of the most important legislative efforts to reform the bankruptcy laws in decades.

This legislation has been discussed by my distinguished friend and colleague from Iowa for his hard work on this, of course, the distinguished Senator from New Jersey, and so many others, Senator BIDEN from Delaware. There are many others as well.

This is important. Before talking about the substance of the legislation, I personally thank the majority leader, the distinguished Senator from New Jersey, who has worked with me and Senator LEAHY, who have shown unwavering dedication to accomplishing the important reforms in this bill, and to the many other Members of the Senate for their hard work and cooperation.

I was deeply troubled by a comment made on the floor yesterday by a colleague. I addressed the other side of the aisle to the effect that this bill was written by Republicans and is being forced upon Senate Democrats. Nothing could be further from the truth. I am compelled to set the record straight on this point. The entire development of this bill has taken place in a bipartisan manner. In fact, throughout the entire process of consideration of this bill, beginning as long ago as the drafting stage, numerous changes suggested by both sides have been part of the bill.

It is no secret that in the informal conference process, we worked together with Senate Democrats. And with rare exception, the provisions that are contained in the final conference product were agreed to and were done with the full bipartisan cooperation and support of the Senate negotiators. Furthermore, in an effort to reach a bipartisan agreement and address concerns of the other party on some of the issues that were important to many of us on the Republican side off the table.

For example, I agreed to remove from consideration a provision I had sought which would have prevented criminal check kiter and counterfeiter from collecting attorney’s fees in lawsuits that they bring against debt collectors—perhaps adding multiple lawsuits that really don’t make sense. Many others in the majority also made compromises and a good-faith effort to resolve differences and move forward with the long overdue comprehensive bankruptcy reform.

Here on the Senate floor, the assertion was made that not a single organization that advocates for kids supported this bill. I simply cannot allow that kind of misrepresentation to stand uncorrected. In fact, there is tremendous support for this legislation from child advocates.

I must give some illustrations. A letter from Laura Kadwell, President of the National Child Support Enforcement Association, representing over 60,000 child support professionals across America:

I am writing to urge you to support the Bankruptcy Reform Act of 2000. NCSEA is committed to ensuring that both parents fulfill their responsibilities to provide emotional, financial and social support to their children—including honoring legally owed child support obligations. The pending legislation will forward this goal significantly.

In a letter from Howard Baldwin, President of the Western Interstate Child Support Enforcement Council, an organization comprised of child support professionals from the private and public sectors west of the Mississippi River:

I would like to express our membership’s unqualified support.

The resolution of the California Family Support Council, consisting of approximately 2,500 persons employed by
counties and State agencies which administered the Federal child support programs in California:

Now therefore be it resolved that the California Family Support Council directs the president of the California Family Support Council to convey to the California congressional delegation and to the President its enthusiastic endorsement of the Bankruptcy Reform Bill.

How about a letter from Betty D. Montgomery, attorney general of the State of Ohio:

As the chief law enforcement officer for [Ohio], I stand committed to protecting our most vulnerable citizens [and the legislation] will further promote the objectives of our State and national child support enforcement program and further ensure that those families in need are protected.

A vote for this conference report will mean a vote to stop letting deadbeat parents use bankruptcy to avoid paying child support. It will mean a vote to stop paying lawyers ahead of children who rely on child support. I have worked with Senator Torricelli, the children who rely on child support. It will mean a vote for those families who work to provide essentials for children and grandchildren. And it helps avoid administering the automatic stay in bankruptcy to avoid paying their support obligations. The bankruptcy reform stops deadbeat parents from abusing the automatic stay.

The conference report prevents deadbeats from using bankruptcy's automatic stay for anything but providing child support with this legislation. The automatic stay cannot be used to prevent the reporting of overdue support owed by deadbeat parents to any consumer reporting agency. The automatic stay cannot be used to prevent the withholding, suspension, or restriction of driver's licenses, professional and occupational licenses, and recreational licenses when deadbeats default on domestic support obligations. And suspending the driver's license of the deadbeat parent can be a very effective way of getting them to pay the child support they owe.

This is important stuff. It has taken a lot of time to get this done. We will pass this bill, but if the administration doesn't accept this bill and it winds up vetoing it, it will be a tragedy.

These are just a few of the many improvements the conference report makes in this area as compared with current law. I have had a long history of advocating for children and families in Congress and throughout my legal career. I support a conference report that puts child support first in line ahead of the lawyer's fees and that does not let debtors who owe child support turn their backs on children when they file for bankruptcy.

In another provision I authored, the conference report protects for the first time in bankruptcy education savings accounts set up by parents and grandparents for their children and grandchildren.

The conference report is a vote for consumers. A vote for this conference report is a vote for our Nation's kids. Just look at the bankruptcy consumer provisions. A vote for this conference report is a vote for consumers. The legislation includes a whole host of new consumer protections that do not exist under current law, such as:

- New disclosure by creditors and more judicial oversight of reaffirmation of agreements to protect people from being pressured into onerous agreements;
- A debtor's bill of rights to prevent the bankruptcy mills from preying upon those who are uninformed of their rights;
- New consumer protections under the Truth in Lending Act, such as required disclosure regarding minimum monthly payments and introductory rates for credit cards;
- Penalties on creditors who refuse to negotiate reasonable payment schedules outside of bankruptcy;
- Penalties on creditors who fail to properly credit plan payments in bankruptcy;
- Credit counseling programs to help avoid the cycle of indebtedness;
- Protection of educational savings accounts; and
- Let me make one thing absolutely clear. The poor are not affected by the means test. In fact, the legislation provides a safe harbor for those who fall below the median income. So they are not subjected to the means test at all. And only those above the median income are affected, and the means test could not deny anyone bankruptcy relief. It just requires those who have the means to repay their debts, based on their income, to do so. It is that simple.

A vote for the conference report is also a vote to stop allowing a few wealthy individuals to abuse the homestead exemption. The conference report tackles the problem of the homestead exemption. Although rare, that problem is offensive to those of us who work hard to make good on our debts.

The conference report reaches a compromise which targets the major abuse of bankruptcy by those who move to States with generous homestead exemptions purely in order to file bankruptcy and keep an expensive home.

A vote for this conference report is also a vote for families who work to provide essentials for children and grandchildren in the law.
save for retirement. I mentioned earlier that the conference report contains my provision to provide equal treatment for retirement savings plans in bankruptcy. For example, the retirement savings of teachers and church workers are only given group protection in bankruptcy as much as everyone else. They deserve nothing less.

A vote for the conference report is a vote for our country farmers and the men and women who work hard every day in the face of many challenges. Without aggressive package, family farmers lose out on the special bankrupcy protections they need in chapter 12.

I urge my colleagues to think for a moment about the children, the consumers, families, and farmers who will end up getting hurt if comprehensive bankruptcy reform is not enacted this year. I urge my colleagues to support and cast a vote for them and to support this bankruptcy reform.

I urge the President of the United States to sign this bankruptcy reform into law.

Mr. SESSIONS. Mr. President, I thank Senator Hatch for his leadership on this bankruptcy bill and for shepherding it through the Judiciary Committee.

I remember distinctly when we first began to discuss the problems of children, alimony and child support, the leadership and the firm position Senator Hatch took to guarantee that children and alimony payments would have an enhanced position in bankruptcy, much higher than it had ever been before. That was the goal of Senator Hatch, who has worked on this bill and previous bankruptcy bills and studied this.

I am looking at a letter from some professors who don’t seem to get it. But the Senate has studied and sponsored the amendment that made some of these drastic changes.

Is there any doubt in your mind, Senator, that the children will benefit from those child support payments, and women will have more protections for alimony payments under this bill that we are about to pass than if the bill does not pass?

Mr. HATCH. I thank the Senator for his very intelligent question. There is no question that this bill will make dramatic changes in bankruptcy laws to the benefit of children, parents, families, farmers—just name them—in large measure because of the work of the distinguished Senators, Mr. Grassley, Mr. Torricelli, and others, including our ranking member Senator Leahy, and especially the distinguished Senator from Alabama.

The distinguished Senator from Alabama has been here just long enough to show how effective he is and what a perfect job he has done on the judiciary committee and personally to complement the Senator. He has played a significant and noble role in this bill, as have others, but, in particular, I consider him one of the best lawyers, one of the best legal practitioners in this whole body. I am very proud of the work the Senator and so many others have done on this bill, without which it would have been much tougher for me as chairman of the committee. This bill has made a difference in the lives of the children of this country.

If we don’t have this bill put on the law books of this country, families, children, farmers, consumers, and others are going to be drastically hurt. Yes, the bill is absolutely perfect, but we have too many people at cross-purposes. But we have worked every day this bill has been in existence with our colleagues on the other side. That is why we have a number of them who are willing to support this bill, not only willing but enthusiastically do so.

We couldn’t have come this far without the work of the distinguished Senator from Alabama. I have great respect for the Senator and I am grateful. This is on the floor today, and I am grateful the Senator is one of the people who is helping to make the case for this bill. There are good people on both sides of the aisle, good people who understand these important matters, good people who know that children are a focal point of much of this bill.

I thank the Senator for his question. The PRESIDING OFFICER. Who yields time to the Senator from Alabama?

Mr. HATCH. I yield such time as he shall need.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, we have had quoted on the floor a letter from a group of professors that expressed opposition to this bankruptcy bill. I think we owe it to those who quoted from it to treat the letter seriously and analyze item by item the complaints they have made and discuss it on the floor. I must say that after examining the letter carefully, I must take issue with the professors’ conclusions. The letter states the points that they raise fairly and honorably, and to state the situation as I see it. In fact, I think it is quite plain. The professors are wrong and they are making misleading statements about it.

For example, the letter from the professors says:

Women and children will have to compete with powerful creditors to collect their claims after bankruptcy. The letter says:

The fact is, the bill makes currently exempt assets—that is, homestead, household effects, tools of the trade—those kinds of things that normally today cannot be made to be sold to pay alimony or child support—non-exempt. Thus, the bill will not have to compete with anyone before, during, or after bankruptcy for these key assets.

In fact, a mother, for child support, can take the home—the home still has a mortgage on it of a deceased dad and take other assets that he has that otherwise under current law would be exempt. It is a major step forward for the rights of children.

The letter from the professors further says:

Credit card claims increasingly will be excepted from discharge and remain a legal obligation after bankruptcy.

The fact is, the bill makes only credit card debt not discharged by fraud non-dischargeable, just like taxes and child support are non-dischargeable. Debtors who defraud creditors should not be able to discharge their debts in bankruptcy and not pay them. They only know to be able to discharge their debts they lawfully incurred. That is the current law. That is the law today. You cannot discharge fraudulent debts. In addition, of course, credit card debt is the end of the line if you have to pay anything. It is a non-secured debt. It is the last priority to be paid in the list of priorities.

This letter goes on to say:

Large retailers will have an easier time obtaining reaffirmations of debt that legally could be discharged.

That is absolutely false. I was charged by Senator Grassley to meet with Senator Reid and the representa-tives from the White House to develop reaffirmation language that would strengthen protections for people who were asked to reaffirm debts.

Frankly, reaffirmations are not all that bad. Many times, people have reason to want to reaffirm their debts and keep their washing machine, their TV, their furniture, their automobile they use to get to and from work. They want to keep it. They reaffirm their debt and they do not lose it. So I worked out language to which the White House agreed. It strengthens the protections provided to those debtors. It was language agreed-upon in a bipartisan way.

The letter further says:

Giving first priority to domestic support obligations—

Which is in the bill, giving them first priority of payment—

does not address the problem, and that 95 percent of bankruptcy cases make no dis-tributions to any creditors because there are no assets to distribute.

First, the money is going to the bankruptcy court and to lawyers. In our rule, children would be above the courts and the lawyers. “Granting women and children a first priority permits them to stand first in line to collect nothing,” the professors say. But the fact is, the means test will place above median income deadbeat dads in chapter 13 if they can afford to pay back some of their debt—median income for a family of four, by the way, is about $45,000. So, to reiterate, deadbeat dads who are above median income, will be forced into chapter 13 (instead of being able to pay some of their debts in chapter 7) if they can afford to pay back some of the debts they owe—maybe it is 20 percent, maybe it is 30 percent—but they will be put into chapter 13 to pay that. And for 5 years the judge can order them to pay on those debts what percentage he or she believes the debtor is financially able to pay and maintain a decent standard of living.
But what is first? What is first paid by that deadbeat dad? His alimony and child support. He would be under court-monitored supervision and direction to pay the first fruits of his income directly in the form of child support and alimony. And he would have a bankruptcy judge helping ensure, for 5 years, the full payment of child support and alimony. I believe that is going to be a historic step forward. In fact, this will place children and women at a higher level than they have ever been before.

The letter further says:

Under current law, child support and alimony are treated as exempt assets from alimony and child support. Thus, anyone who has gone through that support, will be up to date on all his exempt assets from alimony and child support. And it is treated as a 5 year court supervision of credit counseling, who has been subject to 5 years of court supervision of credit counseling. And support claimants will be able to file on any of these assets. No one else can file on any of these assets. To claim these exempt assets. Thus, no one else can file on any of these assets.

Further, I believe the bill will provide more assets for distribution to women and children than before, during, and after bankruptcy. Before bankruptcy, debtors will receive credit counseling information which will help keep fathers on a budget, teach them how to maintain a budget, and out of bankruptcy and paying their alimony and child support. And in the first place. During bankruptcy, deadbeat dads will be required to pay all past due alimony and child support and to undergo court supervision for up to 5 years under chapter 13, as they pay their No. 1 priority, child support claims.

After bankruptcy, it is much more likely that a father who has undergone credit counseling, who has been subject to 5 years of court supervision of his finances, and where alimony and child support were the first things he was required to pay and where he knows that he cannot shield his exempt assets from alimony and child support, will be up to date on all his payments if he has gone through that process—much more so than today.

I see Chairman Grassley is here. I had a number of matters, but I know he would like to wrap up at this time.

Mr. GRASSLEY. No, I do not wish to wrap up. In effect, I would like to have permission to interrupt the Senator and for him not to lose the right to the floor. I would like to say something for 30 seconds on the bill, if I could.

There has been a report since early today about the White House, or personnel at the White House, calling Democrats who have always supported this bill to vote against it. I am not sure I know exactly why the White House is calling and saying that, but I presume it would like to have fewer folks than the two-thirds we had on the cloture to override a veto, if the President would veto this bill. I do not know that the President would veto it. I know there are a lot of people at the White House who would like to have him veto it.

I say to those Democrats who have voted and supported this legislation so much over the last 3 years, particularly on that 83-14 vote by which it passed, I hope they will not respond to that kind of pressure from the White House. I hope they know Chuck Grassley well enough to know that if I had voted for a bill in the Reagan administration or the Bush administration, they would not have sent me to the White House. I am a Republican or my staff, or a President Bush or his staff, called me up and asked me to change my mind just to protect the President, if I would do it— I would not do it. I hope they would not do it.

I return the floor to the Senator from Alabama.

Mr. SESSIONS. I thank the chair.

Mr. President, what is the situation? Are we still set for a vote?

The PRESIDING OFFICER. We are set for a vote at 3:45. The Senator has 1½ minutes remaining.

Mr. SESSIONS. Mr. President, I have at least six or seven more items that I could refer to from the professors’ letter that I believe are based on complaints about an early version of the bill, matters that are not even in the bill today, and other items that are completely distorted in how it affects the poor people today.

Let me simply say this: We need bankruptcy reform. We have shown a doubling of bankruptcy filings in the last decade.

It is time for us to move this bill forward to create a body of law that is less subject to abuse than current law, to close many of the loopholes or at least partially close them.

The fact we have not been able to do everything is not a basis to object, in my view, to the President’s position. This is the enemy of the good. This is a good bill. I would like to see all the homestead exemptions removed, at least as we agreed earlier. Senator Grassley supported that. The House would not agree. We got half the problems of homestead eliminated in this bill. If we do not pass the bill, we will have the current law which has a host of problems and none of them fixed.

That is where we are. We have a good piece of legislation. Senator Grassley has done a magnificent job of listening to everybody and working out an agreement that is acceptable. Chairman Hatch has likewise been tough in trying to complete this bill. I believe we have a good piece of legislation, and I hope the vote will be overwhelming again today.

Mr. HATCH. As chairman of the Senate Judiciary Committee, I have a responsibility for the chair, the subcommittee and principal author of H.R. 2415. Because we were forced to proceed in an unconventional procedural manner with respect to this legislation, can you provide any guidance for courts and practitioners on the bill?

Mr. GRASSLEY. Certainly. The following is what H.R. 2415 does:

H.R. 2415

BACKGROUND AND NEED FOR THE LEGISLATION

The bankruptcy system is currently in a state of crisis. In recent years, America has witnessed a dramatic explosion in the number of bankruptcy filings. According to statistics from the Administrative Office of the United States Bankruptcy Court, since Chapter 7 bankruptcy filings in 1979, they have exploded from 331,000 in 1980 to just under 1.4 million in 1999. It is a matter of serious concern to Congress that the number of bankruptcy filings in the last decade.

The change to the current system is that declaring bankruptcy has lost much of the shame previously associated with it. In the early 1980s, we were told the American people were not filing bankruptcy because of the shame associated with it. Since we have made it easier for the poor people to file, we have a far lower level of shame associated with bankruptcy.

This state of crisis has a significant negative impact on the American economy. According to the Department of Justice, creditors lose $32 billion dollars annually as a result of Chapter 7 bankruptcies filed by individuals who could repay their debts. Obviously, the existence of multi-billion dollar losses attributable to high levels of bankruptcy filings is a clarion call for Congress to reform our bankruptcy laws to require bankrupts who could repay some portion of their debts to do so.

Given the strong performance of the economy, many feel that the recent explosion in the number of bankruptcy filings is attributable to the decreased moral stigma associated with declaring bankruptcy. See Testimony of Professor Todd Zywicki, joint House and Senate hearing on Administrative Oversight and the Courts and the Subcommittee on Commercial and Administrative Oversight: Consumer Bankruptcy Crisis (March 11, 1998); testimony of Kenneth Crone, Subcommittee on Administrative Oversight and the Courts Hearing, “S. 1301, The Consumer Bankruptcy Reform Act: Seeking Fair and Practical Solutions to the Consumer Bankruptcy Crisis” (March 11, 1998); Testimony of Professor Todd Zywicki, Joint House and Senate hearing on Administrative Oversight and the Courts and the Subcommittee on Commercial and Administrative Oversight: Consumer Bankruptcy Crisis (March 11, 1998); and the testimony of Tahira Hira, Subcommittee on Administrative Oversight and the Courts Hearing...
their financial obligations in the past are filing bankruptcy today in record numbers. See J. Judge Edith H. Jones and Todd J. Zywicki, "It's Time for Means Testing," 1999 B.U. L. Rev. 263. A recent study by the authors of this article that almost half of filers learned about their option to file for bankruptcy from friends or family. See, e.g., Vern McKinley, "Balancing Bankruptcy: Issuing Blame for the Explosive Growth," Regulation, Fall 1997, at 38. At the same time, there have been strong expressions of concern. House District Advisory Task Force sponsored by the U.S. Trade Commission that attorney advertising is leading consumers to file bankruptcy without being fully informed.

It is the strong view of the Congress that the Bankruptcy Code's generous, no-questions-asked policy of providing complete debt forgiveness under Chapter 7 without serious consideration of a bankrupt's ability to repay is deeply flawed and encourages a lack of personal responsibility.

Both H.R. 833 and its Senate counterpart S. 625 proposed amendments to section 707(b) of the Bankruptcy Code to require bankruptcy judges to dismiss a Chapter 7 case, or convert a Chapter 7 case to another chapter if a bankrupt has a demonstrable capacity to repay his or her debts. HR 2415 maintains the section 707(b) structure. In general, the agreement is that HR 2415 used the base for the means test. Like S. 625, a presumption arises that a Chapter 7 bankrupt should be dismissed from bankruptcy or converted to another chapter if, after taking into account secured debts and priority debts as well as living expenses, the bankrupt can repay over 5 years the lesser of 25 percent or more of their earned income. If the debtor is a small business, for example, the cases of debtors whose secured, nonpriority debts are over $100,000 will be dismissed under the means test (as will bankruptcies of other small businesses as discussed later) if their projected ability to pay over 5 years is over $10,000, even though that is considerably less than 25 percent of their earned income. Conversely, the cases of debtors whose debts in that category are less than $36,000 will only be dismissed under the means test if their projected ability to repay over 5 years is over $11,280. Thus, if the debtor is married and has no children, he or she is over the $11,280 threshold. Section 707(b) is an alternative procedure, the Chapter XIII Wage Earner's Plan, which allowed an individual to retain nonexempt assets by proposing a plan to pay his or her existing debts from future income, after which the wage earner was required to repay his or her debts in a specified percentage of his or her remaining income. The debate over Chapter XIII occurred years earlier in joint hearings before the Senate Judiciary Committees in 1932, during the Seventy-Second Congress. By the time it was enacted in 1938, Chapter XIII codified informal practices which had developed without explicit statutory authorization. In the mid 1930's in Birmingham, Alabama a former special referee in bankruptcy, Valentine Nesbitt, first advocated a bankruptcy option for Chapter XIII. See Weinstein, The Bankruptcy Law of 1938 (1938).

In 1980, Congress conducted hearings on S. 3485. Section 75 of this bill would have established a repayment plan for wage earners. Section 75 provided a method for an indebted wage earner to come into court without being labeled a "bankrupt," and get the benefit of a court injunction to fend off creditors while the wage earner arranged to repay his debts. The "repayment plan" was incorporated into Section 75, with certain modifications, eventually became Chapter XIII, enacted in 1938 as part of the Chandler Act.

In the 1960's, Congress considered several proposals. See H.R. 12784, 88th Cong., 2d Sess. (1964); H.R. 292, 89th Cong., 1st Sess. (1965); S. 613, 89th Cong., 1st Sess. (1965); H.R. 3040, 89th Cong., 2d Sess. (1965); S. 1714, 89th Cong., 2d Sess. (1967). Under these proposals, an individual debtor seeking relief under the liquidation provisions of the bankruptcy laws would be required to repay his debts in full if the court concluded that he could repay them, or he could pay substantial amounts of debt out of future earnings under a Chapter XIII plan. Importantly, one of these proposals, S. 613, was introduced by Senator Albert Gore, Sr., the father of the current Vice President. When he introduced S. 613, Senator Gore in an interview stated that Chapter XIII was "a special interest tax loophole, which the wealthy could use to avoid paying their fair share." Senator Gore, Sr., also wrote in the moral consequences of a lax bankruptcy system:

"I realize that many legislators, but especially responsible legislators, must bear the responsibility of writing laws which discourage immorality and encourage morality; which encourage honesty and discourage deadbeating; which make the path of the social malingerer and shirker significantly unpleasanter to persuade him at least to invest the way of the honest man."—Congress Record, Vol. 90, pt. 2 (1965).

Given the current bankruptcy crisis, Senator Gore's words from over 30 years ago seem prescient.

Following the 1978 amendments, in the early 1980s, Senator Dole introduced S. 2000 during the 97th Congress. In the House of Representatives, Congressman Evans introduced H.R. 4786, which eventually garnered 269 co-sponsors. Congress did not pass either of these proposals and, by the end of the 97th Congress, were reintroduced in the 98th Congress as H.R. 1169 and S. 445. As a result of these efforts, Congress created Section 707(b) of the Bankruptcy Code. It was expected that judges would dismiss Chapter 7 cases if granting relief would constitute a "substantial abuse" of the Bankruptcy Code. Pub. Law 105-165. The vigorous effort was made by bankruptcy judges who had the ability to pay a significant percentage of their debts "without difficulty"
to proceed under Chapter 13 instead of Chapter 7. However, the term ‘substantial abuse’ was not defined and creditors and trustees were expressly forbidden from presenting evidence to the bankruptcy court that granting a discharge in a particular case would result in a ‘substantial abuse.’

Despite Congress’s intent that section 707(b) would be primarily an inappropriate use of Chapter 7 by those with ability to pay, that section has not been effective. Although many factors are at work, much of the reason for this ineffectiveness is the ingrained view that ‘honest’ debtors have a ‘right’ to a Chapter 7 discharge even when they have ability to pay. To illustrate, the Fourth Circuit has referred to the ‘special circumstances’ approach to determining whether there is substantial abuse. In re Green, 934 F.2d 568 (4th Cir. 1991) (‘totality of circumstances’ test is appropriate when deciding section 707(b) cases in which ability to repay can be outweighed by other factors, like the debtor’s good faith or honesty). Some bankruptcy judges have taken the totality of the circumstances approach suggested by In re Green as a justification for either ignoring ability to pay completely, or not being dismissed from chapter 7); 874 (Bankr. M.D. Tenn. 1997) (Paine, disagreed and insisted that debtors with ability to repay should be dismissed from chapter 7, and, if possible, the bankruptcy court’s discretion with regard to the ‘special circumstances’ test will allow the presumption is not intended that the ‘special circumstances’ Congress intended to approve in In re Green, 934 F.2d 568 (4th Cir. 1991), to be rebutted if the debtor shows changes to expenses or changes to income not otherwise accounted for in the means test and that meet all of the requirements of the ‘special circumstances’ test. Other factors are not relevant. In applying the ‘special circumstances’ test, it is important to note that a debtor who requests a ‘special circumstances’ adjustment is requesting preferential treatment when compared to other consumers, and it is those other consumers who, by paying their debts, are entitled to receive the preferential treatment. It is also important to note that, because of the protections established for debtors whose income falls below the median income level, the preferential treatment provided under the ‘special circumstances’ standard primarily benefits higher income individuals. As indicated earlier, in order to ensure fairness with respect to the consumers who are required to discharge debts in bankruptcy, it is essential that the ‘special circumstances’ test establish a significant, meaningful threshold which a debtor must receive the preferential treatment. The House/Senate agreement incorporated in HR 2415 is premised upon the belief that the relief sought by a debtor who files for bankruptcy is financial in nature and the debtor’s right to obtain preferential relief under the ‘special circumstances’ provision should be assessed based on financial considerations only. Thus, the agreement is not intended to allow debtors to continue expenses unless they clearly demonstrate that they meet the ‘special circumstances’ test. Under this bankruptcy reform package, the Office of United States Trustee or bankruptcy administrator is required to file a Chapter 7 case if the bankrupt’s current monthly income equals or exceeds the state median income and the presumption of abuse applies. If the Office of United States Trustee or bankruptcy administrator determines after investigation that such a motion is not warranted because the proposed §707(b) motion can be rebutted, then it must file an explanatory statement with the bankruptcy court detailing why a motion to dismiss or convert is inappropriate. If the trustee or creditors disagree, they can commence a motion under §707(b).

Importantly, creditors are now explicitly given the right to bring a §707(b) motion before the bankruptcy court, although creditors and private trustees’ motions are restricted to cases in which the debtor’s current monthly income is substantially above the state median income. Moreover, HR 2415 gives Chapter 7 trustees important new financial incentives for ferreting out bankrupts who have repayment capacity and provides for appropriate penalties for bankrupts who recklessely or without reason file a Chapter 7 bankruptcy, or file schedules which misstate income, expenses or assets. HR 2415 also contains penalties for creditors who file inappropriate motions under section 707(b).

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HR 2415 requires the Federal Reserve Board to promulgate a table that would set forth information for use by credit card issuers in responding to cardholders who make inquires through telephone numbers. Finally, the Federal Reserve Board is authorized to study the types of information available to consumers regarding factors such as credit default and required payment requirements, and the consequences of default, including information related to minimum payments. The study would include, to the extent feasible, an indication of the availability of low minimum payment options as a cause of consumers experiencing financial difficulty.

HR 2415 amends TILA to require certain applications or solicitations for credit cards that include an introductory rate of less than one year, and all promotional material that accompany such applications or solicitations, to include the following relating to introductory rates:

- use the term "introductory" in immediate proximity to each listing of the introductory rate; and
- disclose when the introductory period will end and the annual percentage rate that will apply at the end of the introductory period.

In addition, HR 2415 requires a clear and conspicuous disclosure, in a prominent manner on or with an application or solicitation, of the rate, if any, that will apply if the introductory rate is revoked, and a general description of any additional circumstances or events that would result in such a rate.

HR 2415 also requires a credit card issuer to clearly and conspicuously provide disclosures regarding the key features of the credit plan, such as interest rate and basic fees, with Internet-based credit card applications and solicitations. These disclosures must be readily accessible to consumers in close proximity to the solicitations and these disclosures must be updated regularly to reflect the current account terms and fees. This information will be accessible to consumers in the term or content of the credit card account. HR 2415 also provides that, if a lender imposes a late fee for failing to make payment by the payment due date, the lender must state on each periodic statement the payment due date for, if the card issuer contractually establishes a different date, the earliest date on which the late fee may be imposed. The lender also must state the amount of the fee that will be assessed if payment is received after that date.

Importantly, HR 2415 amends TILA to provide that an open-end creditor cannot terminate an account prior to its expiration date solely because the consumer has not incurred finance charges on the account.

New disclosures are now required in connection with consumer credit plans secured by the consumer's principal dwelling in which the credit may exceed the fair market value of the dwelling. Under the amendment, a creditor must disclose at the time of application or renewal an application to the consumer for such a plan that interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for federal income tax purposes.

The Congress also directs that the Federal Reserve Board study the existing protections limiting consumer liability for unauthorized use of debit cards. In addition, the Board is directed to study the impact that extensions of credit to college students have on the rate of bankruptcy filings.

In addition to these new credit card disclosures, HR 2415 contains several important reforms which will protect individuals and help them understand their legal rights and remedies. Reaffirmations occur when a debtor agrees to pay a debt which would otherwise be wiped away in bankruptcy. Section 524 of the Bankruptcy Code sets the conditions which must be met before such agreements will be considered legally binding. The amendments contain new state law related to the state-law passed amendments related to the reaffirmation agreements, with slight changes affecting only credit union debt.

HR 2415 requires the Attorney General to designate prosecutors and investigators to enforce current criminal statutes designed to protect debtors in bankruptcy court from debtor-in-possession attorneys who attempt to collect payments through abusive tactics as well as enforcing those same statutes against debtors in appropriate cases. By committing substantial new resources to enforcing such practices and bankruptcy fraud, it is intended that the Department of Justice step up enforcement of these under-used statutes.

The bankruptcy reform package contains a provision which penalizes creditors who refuse to negotiate reasonable repayment schedules outside of bankruptcy. Under this provision, the amount that a creditor may collect in bankruptcy can be reduced if an approved credit counseling agency approved under the credit counseling provision of HR 2415 for the judicial district in which the debtor’s case is pending makes a reasonable offer of repayment at least 60 days prior to filing for bankruptcy that is rejected or unreasonably rejects this offer. During Senate consideration of S. 625, the Department of Justice indicated support for promoting alternative dispute resolution in this way but then suggested that the provision be clarified in such a way that it will not apply to governmental creditors. See Letter to The Honorable Orrin Hatch, Chairman, Committee on the Judiciary, April 9, 1999. Thus, if the Congress were to accept the suggestions of the Department of Justice, non-governmental creditors cannot subject to a standard that is greater than currently contained in the bankruptcy reform package, but the Internal Revenue Service would be free to avoid alternative dispute resolution. Given its history in dealing with taxpayers, it was considered inappropriate to create such a special exemption for the Internal Revenue Service.

Reducing Abusive Uses of the Bankruptcy Code

As the National Bankruptcy Review Commission correctly noted, many of the worst abuses of the bankruptcy code involve individuals who repeatedly file for bankruptcy with the sole intention of using the automatic stay (i.e., a court injunction which bars prepetition creditors from enforcing any claim in the bankruptcy case is filed). National Bankruptcy Rev. Comm. Rep., “Bankruptcy the Next Twenty Years,” Oct. 20, 1997 vol. 1, at 262. Accordingly, HR 2415 contains restrictions on repeat filers and on multiple owners who serially file. It is expected that these changes will dramatically reduce the number of inappropriate bankruptcy filings.

HR 2415 also requires bankruptcy petitioners to verify the accuracy of information contained in bankruptcy petitions. The proponent of the amendment is responsible to diligently inquire into the accuracy of the information provided on the schedules. Many Members of Congress are concerned that there is little incentive for individuals to list all of their assets or fully and accurately disclose their financial affairs, including their income and living expenses, when they file for bankruptcy, such laxity fosters an environment in which the overall financial condition of the bankrupt is likely to be inaccurate, with the result that the court and creditors could be informed when a bankrupt’s financial affairs are accurately disclosed. Accordingly, the random audit procedures will restore some integrity to the system, since material misstatements are required to be reported to the appropriate authorities.

Balanced bankruptcy reform must protect the status of child support. According to some estimates, more than one-third of bankruptcies involve spousal and child support obligations. And in many cases, women were creditors trying to collect court-ordered support from their former husbands. These support orders are a lifeline for thousands of families struggling to maintain self-sufficiency.

HR 2415 contains all of the child support provisions of the Senate Committee on Banking, Housing, and Urban Affairs. The amendment to Section 501 of the Bankruptcy reform (S. 625), including provisions closing various serious loopholes which allowed those who owed child support, alimony, or any other support obligations, to file bankruptcy and not pay support, is a major improvement. HR 2415 requires the Federal Reserve Board to notify the Internal Revenue Service of any change in address which results in a change of mailing address for child support orders. HR 2415 also requires the Federal Reserve Board to notify child support agencies of any change in a debtor’s address. HR 2415 also provides that where support orders are not paid, the Internal Revenue Service may deduct amounts directly from the proceeds of any tax refund due to the debtor.

The overwhelming majority of individuals who file for bankruptcy are not debtors who sell their personal possessions to pay for their bankruptcy attorneys’ fees, and who try to avoid any payment of those obligations. HR 2415 also contains provisions intended to speed up Chapter 11 for small business debtors, enact recommendations of the United Nations Commission on International Trade Law regarding transnational bankruptcy and clarify the treatment of tax claims in bankruptcy.

Importantly, HR 2415 provides new deadlines on tenants under non-residential leases to decide whether to reject or assume leases under section 365 of the Bankruptcy Code. Under current law, once a tenant under a commercial real property lease filed for Chapter 11 relief, it has 60 days to decide whether to accept or reject its lease, with extensions available. For many landlords, bankruptcy reform (S. 625), including provisions intended to speed up Chapter 11 for small business debtors, enact recommendations of the United Nations Commission on International Trade Law regarding transnational bankruptcy and clarify the treatment of tax claims in bankruptcy.

Enforced, HR 2415 provides new deadlines on tenants under non-residential leases to decide whether to reject or assume leases under section 365 of the Bankruptcy Code. Under current law, once a tenant under a commercial real property lease filed for Chapter 11 relief, it has 60 days to decide whether to accept or reject its lease, with extensions available. For many landlords, bankruptcy reform (S. 625), including provisions intended to speed up Chapter 11 for small business debtors, enact recommendations of the United Nations Commission on International Trade Law regarding transnational bankruptcy and clarify the treatment of tax claims in bankruptcy.

Thus, landlords are often left with significant uncertainty since they may have no clear indication as to whether a tenant will continue in a lease and the tenant may not be currently on post-petition rents. It is hoped that the provisions contained in the current bankruptcy reform agreement will mitigate the unfairness confronting landlords of non-residential leases. The House bill provides that an unexpired lease of nonresidential property will be deemed rejected if the trustee has not assumed or rejected it by the earlier of the date of confirm or 90 days. And in addition, the court could then grant an extension beyond 240 days after the date of the order for relief "only

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upon prior written consent of the lessor." The Senate bill provided that such a lease would be deemed rejected if the trustee has not acted by the earlier of the date of confirmation or the date of entry of the order for relief. No additional extension is permitted except "upon prior written consent of the lessor." Bankruptcy judges, then, were quite similar, especially in denying bankruptcy judges discretion in extending the deadline for assuming or rejecting a lease after an absolute period following the order for relief—240 days in the former and 120 days in the latter. Both the Departments of Justice and the Interior favored a 120 day deadline. There is no discretion in the bankruptcy judge.

HR 2415 provides that an unexpired nonresidential real property lease is deemed rejected if the trustee has not acted by the earlier of the date of confirmation of a plan or the date which is 120 days after the date of the order for relief. The court may extend the 120 day period for an additional 90 days, prior to the expiration of the 120 day period, upon motion of either the trustee or the lessor for cause, for a total of 210 days after the date of the order for relief. If the court has granted such 90 day extension, the court may grant a subsequent extension only upon prior written consent of the lessor. This may be in the form of (1) a motion of the lessor or (2) a motion of the trustee, provided that the trustee has a prior written consent of the lessor. The court must clearly explain both bills' denial of bankruptcy judges' discretion in extending this date: in no circumstance may the time to assume or reject unexpired nonresidential real property leases extend beyond the earlier of (1) the time of confirmation or (2) 210 days from the time of entry of the order for relief, without the prior written consent of the lessor, in the form of a lessor's motion, or in the form of a prior written consent to a trustee's motion. Moreover, no subsequent written consent to one extension beyond the 210 period does not constitute such consent for a subsequent extension: such extension beyond 210 days requires the separate written consent of the lessor.

Finally, HR 2415 adds language to Section 365(f)(1) of the Bankruptcy Code for the purpose of subsection (e) of Section 365(b). HR 2415 provides that section 365(f) is not only subject to Section 365(c), but also to Section 365(b), in the very rare situation in which full enforcement of contrary legal interpretations in case law are overruled.

SECTION BY SECTION EXPLANATION

TITLE VII: NEEDS-BASED BANKRUPTCY

Sections 101-103: Dismissal for Abuse and the Means Test

These three sections expand present 707(b) of the Bankruptcy Code to require a court to dismiss a chapter 7 petition filed by an individual debtor whose debts are primarily consumer debts (or with the debtor's consent, convert to another bankruptcy chapter) if the debtor fails to demonstrate the debtor's need for additional income, or that the debtor's net monthly income is below a threshold which indicates the debtor has ability to repay debts. Present law requires that an individual debtor's case be dismissed if it is a "substantial abuse" and the debtor's debts are primarily consumer debts, but it does not create a presumption against dismissal and prevents anyone other than the court or the United States Trustee from filing a motion to dismiss the case.

There has been concern that present 707(b) is not effective to prevent inappropriate use of chapter 7, and in particular debtors who have ability to repay their debts from using chapter 7 to obtain a discharge without repaying creditors what they can afford, needlessly costing consumers who pay their bills in higher prices. These sections reorganize present section 707(b) to change the standard for dismissal from "substantial abuse" to "abuse" in order to provide strengthened controls against abusive use of chapter 7. They also replace the presumption against dismissal with a presumption of dismissal if the debtor has ability to pay as determined by a new means test. The changes are intended to broaden rather than limit controls on inappropriate use of chapter 7. The means test—Section 102 establishes a means test enforced by required dismissal if the means test shows the debtor has ability to pay, and still file in chapter 7. Forms should be developed for these revised schedules which are clear and understandable, and promote accurate and efficient administration of the means test. The schedules should be filed with the debtor's petition. It is intended that the anti-fraud provisions of the bankruptcy and other laws be applied vigorously to prevent and deter abuse, as well as other fraudulent completion of the schedules.

The means test initially focuses upon the debtor's current monthly income according to standards set forth in these sections. The debtor's current monthly income is first determined by averaging the debtor's monthly income for the prior six months and excluding social security or certain war reparations income. Next, the debtor's monthly expenses are determined. These include month-to-month expenses and for reasonable and necessary expenses for the family, which are subject to adjustment if the debtor demonstrates there is no reasonable alternative. To claim special circumstances that justify additional expenses, the debtor must itemize, explain and document why the expense or income adjustment is reasonable and necessary in addition to meeting the special circumstances test and demonstrates there is no reasonable alternative to the expenses or income adjustment. If it is determined that special circumstances as described do exist, the debtor may recalculate income and expenses based on the adjustments and apply the threshold resulting net monthly income. This computation can only be rebutted by demonstrating that an expense or income adjustment appropriate under the special circumstances test causes the debtor's net income to be below the applicable threshold amount.

An important additional feature of the means test is the "safe harbor." If the debtor's net monthly income is less than the appropriate state median income as determined by current statistical information supplied by the Bureau of the Census, then the court may dismiss the case. Under subsection (e) of section 102 of HR 2415, creditors are permitted to report information supplied by the Bureau of the Census, that for such debtors, neither the judge, the United States Trustee, the bankruptcy administrator, or trustee may bring a motion under section 707(b). The safe harbor provides further limits motions against debtors whose current monthly income is less than the appropriate state median income as determined by current statistical information supplied by the Bureau of the Census, that for such debtors, neither the judge, the United States Trustee, the bankruptcy administrator, or trustee may bring a motion under section 707(b). The safe harbor provides further limits motions against debtors whose current monthly income is less than the appropriate state median income as determined by current statistical information supplied by the Bureau of the Census, that for such debtors, neither the judge, the United States Trustee, the bankruptcy administrator, or trustee may bring a motion under section 707(b). The safe harbor provides further limits motions against debtors whose current monthly income is less than the appropriate state median income as determined by current statistical information supplied by the Bureau of the Census, that for such debtors, neither the judge, the United States Trustee, the bankruptcy administrator, or trustee may bring a motion under section 707(b). The safe harbor provides further limits motions against debtors whose current monthly income is less than the appropriate state median income as determined by current statistical information supplied by the Bureau of the Census, that for such debtors, neither the judge, the United States Trustee, the bankruptcy administrator, or trustee may bring a motion under section 707(b).
case, and participate with them in the prepa-
ration and presentation of a motion to dis-
miss, as in Kornfield v. Schwartz, 164 F. 3d 778
(2d Cir. 1999). Contacts with the judge, how-
ever, are also advisable.

The bill provides that the Internal Rev-
ue Service standards relied upon for the means
test will be studied by the Executive
Office of United States Trustees, with a re-
port to the respective judicial committees of both Houses of Congress within 2 years of the effective date.

Disposable income test.—This section also
amends section 1325(b)(2) to define disposable
income for cases of debtors with current monthly
income in excess of the means test threshold,
subject to the same basic concepts, to the extent they
are applicable, that are used in applying the means
test. It is intended that there be a uniform, nationwide standard to determine disposable income used in chapter 13 cases, based upon means test calculations.

Prestat law requires that in a chapter 13
plan, all of the debtor’s disposable income be
used to pay creditors under the plan, but
does not define the term. This section both
requires (1) that all of the debtor’s disposable
income be used to pay unsecured credi-
tors, and (2) that for debtors whose current
monthly income is in excess of the apposite
means test threshold, the debtor’s disposable
income be determined using basic means test
concepts which define current monthly income
(section 101(10A)), and allowable ex-
pense allowances (section 1325(b)(2)) (A)(i),(ii),(iii).

To determine disposable income for those
over the applicable median income level, first,
current monthly income as defined in HR 2415 is determined. From that amount,
amounts reasonably necessary to be ex-
pired for the maintenance and support of
the debtor or a dependent of the debtor are
deducted. An appropriate allowance for the expenses
of providing support and maintenance are to be
determined in accordance with the standards of
section 707(b)(2)(A) and (B). Thus, the
debtor is allowed the amounts permitted for
food and housing under National Standards
and Local Standards issued by the Internal
Revenue Service. Actual expenses for other
amounts in categories specified as Other
Necessary Expenses are also allowed, just as
when applying the means test. Expenses for
secured debts which are paid outside of the
plan under 1326(c), and in chapter 7 cases, by
the United States trustee or bankruptcy administrator
under 1326(c), and for secured
debt paid under the plan should be what is
provided for in the plan as long as it is
not more than permitted by the standards that
same provision. Priority debt payments
under the plan are not reasonably necessary to
be expended and should not be included in
the calculation, since under this provision,
disposable income is determined for the pur-
poses of setting the amount which must be
paid to both priority and priority unse-
cured creditors. Payments under section 1326
determine the projected amount available to pay
priority unsecured creditors.

The definition provides for the adjust-
ment of the determination of disposable in-
come if the debtor has obligations to pay
child support, foster care payments or dis-
able taxes for a dependent child, and, for certain continuing charitable contribu-
tions as allowed under present law. As with
the means test, adjustments are also per-
mitted if the debtor is subjected to the Execu-
tive’s “special circumstances” provisions of the means test.

Once net monthly income is determined, it is
then determined what is the disposable incom-
ed Treasury. The applicable enactment period to determine the total amount
which the plan must apply over its duration to pay unsecured creditors. If the plan
does not apply all of disposable income to pay
unsecured creditors, the plan is not confirm-
able.

Administration of the means test.—Several
important additional provisions assist in the
efficient administration of the means test. En-
facement of the means test is in the first
instance the responsibility of the United
States trustee or bankruptcy administrator
for the district in which the chapter 7 case is
pending. The United States trustee or bank-
ruptcy administrator is required to deter-
mine whether debtors have accurately
 disclosed their income and expenses, and in
preliminary reviewing debtor’s claims that
special circumstances might justify
adjustments to otherwise allowed monthly
income and expense amounts. Case trustees,
with the concurrence of the judge, are
mentioned in the means test issues and raise them
by motions to dismiss, or by bringing them
to the attention of others involved in the en-
forcement process.

When the debtor’s chapter 7 petition is
first filed, the court is to review the debtor’s
income and expense schedule and determine
whether this is a case in which the presump-
tion in favor of dismissal applies. That will
be determinable on the face of the schedules,
since debtors are required to do the nec-
tessary calculations of the means test thresh-
old. If the presumptions arises, the court is
to notify creditors within ten days after
the case is filed of the dismissal of the case.

Next, the United States trustee or bank-
ruptcy administrator is required to review
the debtor’s filing to evaluate whether there
is abuse of the means test. The
United States Trustee or bankruptcy admin-
istrator is to file with the court a statement
whether the debtor’s case would or would not
be dismissed under the means test of section 707(b) not later than 10 days
after the date of the first meeting of credi-
tors. Moreover, if the debtor’s current
monthly income is above 150% of the median income level and the debtor’s
net income is more than the means test threshold, the trustee or
administrator must also either file with the court a motion to dismiss, or a state-
mation why no motion is being filed. However, if the
debtor’s gross income is between 100% and
150% of median income, and the debtor’s net
income determined in a special short-hand
calculation based on core expenses is under
the threshold, the trustee is relieved of any
obligation to file a motion to dismiss. This
is consistent with the substantial
requirements of the means test. Its
application is limited and is intended only to
permit the United States trustee or bank-
ruptcy administrator to use a short-hand
method of calculating the debtor’s income
available to pay creditors. If the short-hand
calculation of net income indicates that the
debtor does not meet ability to pay criteria, a
further administration of the means test is
not required. Otherwise, the full means test
calculation is to be made to determine
whether dismissal or conversion is appro-
perate. In other cases, a similar calculation
can be made since the short-hand method of
calculation is the stage of the full means
test calculation.

To ensure that debtors and creditors and
their respective counsel do not abuse the
process, they are specifically subjected to
the standards of Bankruptcy Rule 9011 with
respect to the claims and defenses debtors
and creditors and their counsel assert in sec-
tion 524 cases. In small bankruptcy cases
with less than 25 employees are exempted
from this requirement. In addition, the accu-
curacy of the schedules the debtor must file
is subject to the same scrutiny. The state-
ments of assets, debts and income, expenses
and means test calculations, is enforced by
a requirement that debtor’s counsel have no
knowledge of the information incorrectly
entered by debtor or after appropriate inquiry.
An attorney’s in-
quiry is expected to be more than a cursory
acceptance of the debtor’s word and must be
sufficient to verify or disprove any knowl-
edge, information or belief which would lead a
diligent attorney to doubt the accuracy of
the information.

Dismissal for abuse.—Dismissal under 707(b)
is also authorized when there is “abuse”. It is
intended that by changing the standard for dismissal from “likely to fail” to
“abuse”, stronger controls will be available to
the courts, the United States trustee or
bankruptcy administrator, private trustees
and creditors to limit the abusive use of
chapter 7 based on a wide range of cir-
stances. The “bad faith” and “totality of the
circumstances” of the debtor’s situation is
as now required as an additional. It is
intended that all forms of inappropriate and
abusive debtor use of chapter 7 will be cov-
ered by this standard, whether because of
the Bankruptcy Code, the debtor’s responsibil-
ity to pay. If a debtor’s case would be dismissed
today for “substantial abuse” as in re
Lamanna, 153 F. 3d 1 (1st Cir. 1998), it is in-
cluded in the petition filed, be subject to dis-
missal under H.R. 2415. Cases which have
decided that a debtor’s ability to pay should
not be considered when determining abuse,
and outweighing other factors. Other-
wise acting in good faith, are intended to be
overruled. In dealing with ability to pay
cases which are abusive, the presumption of
abuse is the safe harbor, and debtors from
application of the presumption will not be
relevant.

In order, the standard of abusive con-
duct is specifically intended to include con-
sideration of whether a chapter 7 filing is
being used without justification to secure re-
jection of a personal service contract.

Section 104. Notice of alternatives

This provision amends Bankruptcy Code
section 342(b) to expand on the contents of
the notice which an individual debtor whose
debts are primarily consumer debts must re-
cieve before filing a chapter 7 petition.
The content and the form of the notice is to be
prescribed by the United States trustee or
bankruptcy administrator for the district in
which the petition is filed, and must contain
a description of chapters 7, 11, 12 and 13, re-
view the benefits and costs of each chapter,
the services that are available from a non-
profit credit counseling agency, and a disclo-
sure of the debtor’s responsibilities in com-
pleting a petition with respect to the accu-
racy of the schedules and other information
provided. It is intended that this notice will
be in an easily understood form, designed to
assist debtors in better understanding the al-
ternatives for debt adjustment offered by the
Bankruptcy Code, the debtor’s responsibil-
ities in seeking such relief, and as uniform as
possible throughout the country.

Section 105. Debtor Financial Management
Training Test Program

The Executive Office of United States
Trustees is directed to develop financial
management training curricula and mate-
rials to educate individual debtors in per-
solvency financial management. The materials
are to be developed after consultation with
experts. The materials are to be tested in 6
districts over 18 months. At the end of the
test, a report of the results is to be
provided to the Speaker of the House and the
President pro temp of the Senate.

Section 106. Credit counseling

Credit counseling is an alternative to fil-
ing bankruptcy for some debtors. It is in-
tended that debtors be fully informed be-
fore they file bankruptcy about this less drastic
alternative to bankruptcy in all instances, but particularly when they have only
received information about their alternatives
from petition preparers or attorneys.
This provision establishes the requirement that before individual debtors file for bankruptcy, they must be made aware that credit counseling services are available. Debtors are not required to actually use the service, but must be aware that such services are available. The requirement is intended to ensure that debtors understand the consequences of bankruptcy and the alternatives available. If a debtor fails to comply with this requirement and is subsequently found to have filed bankruptcy fraudulently, the bankruptcy court may take actions against the debtor or the credit counseling agency.

Concern has been expressed that the bankruptcy relief debtors obtain under present law may not be adequate. Creditors and debtors must make good faith efforts to comply with the requirements imposed by this section. Creditors and debtors may accept payments from debtors who reaffirm or add an obligation to the plan. Creditors and debtors are reasonable. It does not require creditors to negotiate when reasonable, alternative repayment systems so long as they are reasonable. It does not require creditors to accept any alternative repayment proposal.

Credit counseling agencies and courses of instruction concerning financial management included in the program must be approved by the United States trustee or bankruptcy administrator for the district in which the courses are to be conducted. It is intended that the United States trustee or bankruptcy administrator will bring the matter to the court's attention by appropriate motion, if any. The presence of an attorney or bankruptcy administrator will not extinguish the requirement sua sponte. The United States trustee or bankruptcy administrator will bring the matter to the court's attention by appropriate motion, if any. The presence of an attorney or bankruptcy administrator will not extinguish the requirement sua sponte. It is intended that the United States trustee or bankruptcy administrator will bring the matter to the court's attention by appropriate motion, if any.

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This provision amends section 324(c)(2)(A) of the Consumer Credit Counseling Services Act of 1970 to require that the disclosure forms or comparable forms approved by the United States Trustee or bankruptcy administrator be used for all reaffirmations of debtors who reaffirm or add an obligation to the plan. Creditors and debtors must make good faith efforts to comply with the requirements imposed by this section. Creditors and debtors may accept payments from debtors who reaffirm or add an obligation to the plan.

This provision also clarifies that it is not a violation of the post-discharge injunction for a creditor that holds a claim secured in whole or in part by real property that is the debtor's principal residence to take actions in the ordinary course of business to seek or obtain periodic payments associated with a valid security interest in lieu of a mortgage or other encumbrance. That section is not barred by the injunction. Congress intends this provision to clarify the law in this area so as to provide a safe harbor for mortgage lending, but the existence of this clarifying provision is not intended to suggest that similar action taken by creditors whose debt is not secured or is secured by other types of property is a violation of the post-discharge injunction.

Credit unions are permitted to change the form to reflect that the debtor may fill out a simpler Part D when a credit union member is reaffirming a debt. The credit union member only needs to indicate that will pay the reaffirmed obligation, and there is no presumption of undue hardship or requirement of review by the judge.

Creditors and debtors must make good efforts to comply with the requirements imposed by this section. However, if there is no intention that errors in completing or using the disclosure forms or complying with the procedural requirements of this section will be considered, that section is not barred by the injunction. Enforcement of the injunction is an equitable proceeding in which the equities are weighed, courts take into account the good faith of the credit counseling agency.

It is intended that a single nationwide form as set out in the statute will be used for all reaffirmations in all bankruptcy courts, and that it will be the only disclosure required in the reaffirmation process. The nationwide form will assist those who teach budgeting and financial management in secondary schools, provide credit counseling, or assist those in financial difficulty in educating consumers about the benefits and disadvantages of reaffirmations so that consumers who must make good faith efforts to comply with the requirements imposed by this section are free from special requirements in particular localities. The statutory form, in addition to clearly explaining the reorganization process, will also explain the process when they reaffirm, also provides a form which may be used as the reaffirmation agreement and a form for the debtor's attorney's certification when the debtor is represented. Debtors must also fill out a Part D in which they state their ability to pay the amount being reaffirmed based upon their income, expenses, and projected plan payments, and reaffirmed debts. If debtors cannot complete the form showing they have ability to pay the amount being reaffirmed, the bankruptcy court will hold a hearing on the determination of undue hardship for a period of 60 days, and the reaffirmation must be submitted for review by the court even when the debtors' attorney certifies that reaffirmation is in the debtor's best interest. Since income and expenses for these purposes are those the debtor will have post-discharge, the standards of income and expenses under section 102 of HR 2415 are not relevant. The debtor's actual post-discharge income and expenses as the debtor determines them will control.

Creditors and debtors must make good efforts to comply with the requirements imposed by this section. However, there is no intention that errors in completing or using the disclosure forms or complying with the procedural requirements of this section will be considered, that section is not barred by the injunction. Enforcement of the injunction is an equitable proceeding in which the equities are weighed, courts take into account the good faith of the credit counseling agency. Creditors and debtors may accept payments from debtors before and after the filing of a reaffirmation agreement, and may accept and retain payments from debtors before and after the filing of a reaffirmation agreement. Creditors and debtors may accept payments from debtors before and after the filing of a reaffirmation agreement, and may accept and retain payments from debtors before and after the filing of a reaffirmation agreement.
to be broadly construed as honesty in fact under the circumstances. The narrow standard of good faith under the Truth in Lending Act is not intended.

The second requirement of present law are continued that debtors who do not have counsel who will certify that a reaffirmation is in the debtor’s best interest must have the reaffirmation approved by the court before it can be effective. Otherwise, a reaffirmation is effective upon filing the completed and signed statutory form and reaffirmation agreement with the court.

The provision also directs that United States attorneys in each district will designate a specific person within their offices to attend to the courts. The courts are left to determine how to create a coherent and consistent structure to deal with such obligations in bankruptcy.

The following basic principles were employed in the support amendments contained in these provisions:

1. Bankruptcy law has long recognized the legal and moral importance of the payment of obligations incurred by a debtor for the support of his or her spouse and children. As such, it has striven to avoid having bankruptcy become a haven for those who would avoid such obligations or an inadvertent impediment for those who wish to comply with those obligations. In the past, the treatment of domestic support in bankruptcy had developed somewhat haphazardly over time as new issues and concerns have been raised and addressed. Moreover, the treatment of domestic support owed to the courts, the government, or entities providing assistance to the creditor must be broadly construed as honesty in fact under former law.

Prior to HR 2415 the principle of favored treatment for all domestic support obligations had only been partially recognized in the Code. Domestic support, defined in any number of areas in which bankruptcy filings impacted domestic matters which were not dealt with at all. Accordingly, Congress undertook a comprehensive review of all aspects of the treatment of domestic support obligations under the Code to determine how to create a coherent and consistent structure to deal with such obligations in bankruptcy.

The following basic principles were employed in the support amendments contained in these provisions:

1. Bankruptcy should interfere as little as possible with the establishment and collection of on-going obligations for support, as allowed in State family law courts.

2. The Bankruptcy Code should provide a broad and comprehensive definition of support, which should then receive favored treatment in the bankruptcy process.

3. The Code should be structured to insure the continued payment of on-going support and support arrearages with minimal need for participation in the process by support creditors.

4. The bankruptcy process should be structured to allow a debtor to liquidate non-dischargeable debt to the greatest extent possible, consistent with the best interest of a bankrupt and emerge from the process with the freshest start feasible.

There were a number of areas under former law where these goals were not met. Support and debts in the nature of support were not treated uniformly in the Bankruptcy Code or by bankruptcy courts. Debts owed to the government and based upon the payment of government funds for the maintenance and support of children or former spouses could not be discharged while an arrearage accrued under an on-going order could not, even when the support debts were based on identical criteria. And contributing to a lack of uniformity, the decisional law was not consistent. Moreover, many debts which were incurred by a debtor based upon the responsibility of a governmental entity to provide support were not dischargeable debts. A debtor’s spouse, or children of the debtor, is now specifically included as a debtor to a governmental unit. As distinguished from former law as interpreted by the courts, the debt no longer need be owed to the person or entity filing the claim. It need only be recoverable by such entity. The definition is meant to preserve present statutory or decisional law affecting the dischargeability of domestic support owed to attorneys or other persons or entities providing assistance to the creditor. Support ordered to be paid to a legal guardian or responsible relative is also not dischargeable.

4. Under former law the support debt had to make “in connection with a separation agreement or divorce decree” part of the record of a court of record. Therefore, it was arguable that if the debt had not been reduced to an agreement, decree or order on the date a petition for relief was filed, it was not excepted from discharge. The new definition of a domestic support obligation specifies to the contrary that the debt may be established “or subject to establishment before or after an order for relief” to qualify as a non-dischargeable debt.

5. Finally the definition of a domestic support obligation contains a technical provision which has been assigned to a nongovernmental entity, unless the assignment is merely made for the purpose of collecting the debt. This definition covers existing case law.

Having created this definition of a “domestic support obligation,” HR 2415 uses it in two specific places. HR 2415 generally treats support related to domestic support obligations similarly, no matter how the debt arose or to whom the debt is owed.

Section 212. Priorities for claims for domestic support obligations

All domestic support obligation debts are given a first priority. Within that priority...
two categories of support debts are established. Support debts owed directly to support recipients, as of the date of the bankruptcy petition, are paid prior to debts owed or answered only to the extent that unpaid payments on the claim, the subsequent application and distribution of moneys are governed by the debtor's income was no longer property of the estate. This section specifically allows the government to offset payments by the debtor from property of the estate to the government. This provision is to nullify the Fifth Circuit en banc decision 7th Circuit panel. 3. A plan under Chapters 12, 13 may be confirmed and discharge in cases involving domestic relations. In this provision Congress has directed that unpaid payments on the claim, the subsequent application and distribution of moneys are governed by the debtor's income was no longer property of the estate. This section specifically allows the government to offset payments by the debtor from property of the estate to the government. This provision is to nullify the Fifth Circuit en banc decision 7th Circuit panel. 3. A plan under Chapters 12, 13 may be confirmed and discharge in cases involving domestic relations. In this provision Congress has directed that unpaid payments on the claim, the subsequent application and distribution of moneys are governed by the debtor's income was no longer property of the estate. This section specifically allows the government to offset payments by the debtor from property of the estate to the government. This provision is to nullify the Fifth Circuit en banc decision.
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Section 522(f)(1) allows a debtor to avoid judicial liens on exempt property, but contains an exception for liens which secured unassigned child support. This section extends to liens previously barred the trustee from recovering, as a preferential transfer, bona fide payments of an unassigned support obligations. This section extends the exception to all domestic support obligations.

Section 218. Disposable income defined

This section adds language to the disposable income test under chapters 12 and 13. The language already added by section 102 of this Act.

Section 219. Collection of child support

This section improves the information available to claimants when the person who owes support or alimony files for bankruptcy. In those cases, the chapter 7, 11, 12 or 13 trustee is to provide the claimant the State child support collection agency with information about the filing, and inform the claimant about the availability of free or low cost collection services through the State agency. Additionally, when the debtor is discharged, the trustee is to notify the claimant and the State agency of the fact of the discharge and certain information about the location of the debtor. If a debt has been determined to be nondischargeable or is reaffirmed, the trustee is also to notify the claimant and the State agency of the name of the creditor affected. Creditor whose names are the subject of a notification are required, when asked, to provide the latest information about the location of the debtor.

Section 220. Nondischargeability of certain educational benefits and loans

This provision makes certain student loans offered by non-governmental creditors nondischargeable.

Section 221. Amendment to discourage abusive bankruptcy filings

This provision inserts strong new regulation of bankruptcy petition preparers. It is intended that this regulation be strongly enforced.

Section 222. Sense of Congress

The sense of Congress is expressed that States should develop courses on personal finance for use in existing secondary schools or in courses or programs sponsored by Start College Coalition of governmental and private entities be encouraged. By educating children when they are young in the basics of personal financial management, inappropriate use of consumer credit can be reduced, and better ability of average citizens to manage financial crises can be promoted.

Section 223. Additional amendments

This section provides a new 10th priority under section 507 of the Bankruptcy Code for claims based on driving while intoxicated under the influence of drugs.

Section 224. Protection of retirement savings

This provision broadens the exemptions for retirement savings available under present law to cover all forms of pensions and savings plans allowing to be exempted from current income taxation under the Internal Revenue Code. It provides protection from creditors’ claims for tax-favored retirement plans or annuities that are already protected from creditors’ claims under current law. The section carries no implication that the protection from the bankruptcy estate established by section 540 of the Bankruptcy Code as applied in the Shamouti decision, and the line of cases following that decision, or by any provision of the Employee Retirement Income Security Act of 1974 or federal law that protect plan assets from creditors, is in anyway reduced. This amendment to the Bankruptcy Code is in accordance with longstanding Congressional policy of conserving and preserving plan assets for use as retirement security for participants in their retirement years. As such, it is intended to be in addition to the protections provided by current law and is in any way intended to supplant or supercede protections which exist in current law.

Section 224 covers plans that have received determination letters from the Internal Revenue Service as well as plans, such as public plans, that have received such determination letters but are intended to be operated in accordance with ERISA and the Internal Revenue Code, as applicable. It also covers plan assets that are transferred or directed to be transferred by a plan administrator to a plan sponsored by another employer or to an Individual Retirement Account. The same protection is provided when the plan assets are distributed directly to an employee upon termination of employment and within 60 days of the distribution of the employee transfers the distribution amount in another qualified retirement plan or into an Individual Retirement Account.

In addition, the Section provides that if there is an outstanding plan loan to a participant at the time of bankruptcy filing such loan is not to be discharged or a stay issued on any withholdings from the wages of the debtor that are being used to make level repayments of the loan. A stay of the withholding would result in a default and termination of the loan in which case the unpaid balance to become taxable income. The ensuing tax liability would take precedence over unsecured creditors’ claims. A plan loan is actually a special nontaxable distribution, and a participant is expected to return to the plan.

Under the asset limitation provision of this section, the maximum amount exempt for a traditional IRA or Roth IRA, other than a simplified employee pension under section 403(k) of the Internal Revenue Code or a simple retirement account under 408(p) of the Internal Revenue Code, is limited to $1,000,000, excluding rollover contributions under sections 402(c), 402(e)(6), 403(a)(4), and 403(a)(9) of the Internal Revenue Code, as amended; but no limited to $1,000,000, maximum amount is subject to adjustment under section 104 of the Code. In addition, the $1,000,000 maximum amount is subject to increase if the individual is 50 or over so as to encourage savings of critical importance in the present time.

Section 225. Protection of Education Savings

Section 225 protects certain educational savings in the event of bankruptcy. Qualified State Tuition Programs represent a joint effort by States and the federal government to encourage saving for post-secondary education. Congress has expressed a clear interest in encouraging the post-secondary education of children and committing individuals to save exclusively to cover the expenses of higher education through Qualified State Tuition Programs on a tax-favored basis. However, interest in promoting saving for post-secondary education would be frustrated if accounts in Qualified State Tuition Programs are pulled into the bankruptcy estate of the debtor because of certain rights of the donor.

Therefore, with certain exceptions, section 225 excludes the interest on a debtor’s bankruptcy estate funds and earnings on such funds contributed to an account established pursuant to a qualified state tuition program under section 529 of the Internal Revenue Code of 1986, as amended ("IRC"). The funds in these accounts may be used for qualified higher education expenses (including tuition, fees, room and board, and books). A designated beneficiary of the debtor and cannot be transferred to any person other than a qualified state tuition program, a qualified state tuition program’s agent, or as directed by the debtor. The person who makes the contribution and who also provides the debtor and his or her family member with the information about what services an attorney will provide the debtor and for what fee. Bankruptcy petition preparers must comply with these provisions as well as those imposed under the Code and section 221 of HR 2415.

Section 226. Definitions

This section defines various terms, including who is an "assisted person" which is defined as debtor with a "debtor relief agency". It is intended that these provisions be broadly interpreted since they define the scope of the protections which debtors must enjoy under the Internal Revenue Code. Authors, publishers, distributors or sellers of works subject to copyright protection when acting solely as such an author, publisher, distributor or seller are also covered by the definition. Thus an attorney who writes a book on how to file bankruptcy is not a debtor relief agency when promoting or selling the book. The term "debtor relief agency" represents debtors filing petitions, the attorney is a debtor relief agency because no
This section creates new section 526 of the Code which proscribes certain practices by debt relief agencies and provides for enforcement of violations of this section and new Code section 528.

Enforcement is provided for any violations of new Code section 526, 527 or 528. Intentional or negligent failures to comply with any requirements set under new Code section 526, 527 or 528 may result in suit to recover actual damages and reasonable attorneys fees or charges made by the agency, as well as any further monetary sanctions permitted by nonbankruptcy law. These damages and sanctions are in addition to any injunctive relief or civil penalties against intentional or negligent failures to comply with the requirements under this section.

This section creates a new section 528 of the Code that regulates agencies' advertising and marketing of their services. The agency is required to execute a written contract with the assisted person within three days (but before the petition is filed) of providing any bankruptcy assistance, and provide the person with an executed copy. If the agency does not execute a contract within that period of time, it must terminate its relationship with the assisted person.

The agency must also disclose in any advertisement that the services are with respect to bankruptcy relief. Congress is specifically concerned that debtors understand the services they are being offered in connection with bankruptcy. This section is intended to prevent agencies from describing their services ambiguously so as to obscure that the assisted person will be obtaining bankruptcy relief. Agencies must ensure that their services are with respect to bankruptcy relief is set forth in the section.

TITLES III—DISCOURAGING BANKRUPTCY ABUSE

Section 301. Enforcement of the fresh start

Present law makes nondischargeable any fee or charge for filing a case, motion, complaint or appeal or related costs or expenses. This section restricts the provision so that it applies only to matters filed by a prisoner.

Section 302. Discouraging bad faith repeat filings

This section is intended to strongly limit the practice of using bankruptcy filings and the automatic stay that arises under section 362 to abuse the bankruptcy process. Debtors who file bankruptcy only once in a one year period will not be affected. However, upon a second filing within one year, the automatic stay will not go into effect with respect to the property or the debtor's property on the 30th day after the second filing. The debtor can seek to have the automatic stay continued by filing under section 362 to prevent the trustee from accepting continued payments by not taking any actions to collect, since this provision applies. A "ride through" is the debtor's retention of collateral and maintenance of current payment obligations over the creditor's objection without reallocation and section 305, taken together, are intended to reverse the results of such cases as Capital Communications Fed. Credit Union v. Boord, 126 F. 3d 43 (2d Cir. 1997) cert. denied, 522 U.S. 1117 (1998).

Under this provision, an individual debtor is not permitted to retain possession of personal property subject to a security interest securing the purchase price of that personal property unless the debtor enters into a reaffirmation agreement which becomes effective under section 524(c) of the Code, or renews the contract under section 701(a)(1) or 109(g) or the filing violates a court order in a previous case barring the debtor from re-filing.

Section 304. Debtor retention of personal property security

This provision is intended to prevent "ride throughs" in the situations to which it applies. A "ride through" is the debtor's retention of collateral and maintenance of current payment obligations over the creditor's objection without reallocation and section 305, taken together, are intended to reverse the results of such cases as Capital Communications Fed. Credit Union v. Boord, 126 F. 3d 43 (2d Cir. 1997) cert. denied, 522 U.S. 1117 (1998).

Under this provision, an individual debtor is not permitted to retain possession of personal property subject to a security interest securing the purchase price of that personal property unless the debtor enters into a reaffirmation agreement which becomes effective under section 524(c) of the Code, or renews the contract under section 701(a)(1) or 109(g) or the filing violates a court order in a previous case barring the debtor from re-filing.

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Section 305. Relief from the automatic stay when the debtor does not complete intended surrender of consumer debt collateral

Like the previous section, this section is also intended to prevent "ride through" with respect to the automatic stay that the section covers. Any personal property of the estate or of the debtor securing a claim or subject to an unexpired lease under the case is dismissed or converted without completion of the plan, the creditor will receive the full amount of the claim allowed under section 502 without application of section 506. Thus, if the debt was incurred within 5 years prior to filing and the collateral consists of a motor vehicle acquired for the personal use of the debtor, the value of the collateral cannot be reduced to the current fair market value and therefore the amount the plan must pay under section 1325(b)(1)(A) may be the amount of the allowed claim under section 502 rather than the allowed secured claim under section 506. A similar result applies for any other personal property if the debt was incurred during the one year period preceding the filing.

The section provides that the automatic stay terminates if the debtor fails to timely (1) file a statement of intention covering the property of the estate, or (2) either redeem the property under section 702 of the Code, reaffirm the debt under section 524(c) of the Code, or assume an unexpired lease under section 365(p) of the Code (as amended by HR 2415), or (2) take the action specified in the statement of intention (unless the statement of intention specifies reaffirmation and the creditor refuses to reaffirm the contract). Although the automatic stay ends upon the expiration of the period for taking action, a creditor's claim to possession of collateral and accept continued payments by not taking any actions to collect, since this provision is for the creditor's benefit.

However, with the previous section, the trustee can bring a motion before the end of the period set by section 52(a)/2(2) asserting that the payment of the automatic stay has been suspended or terminated by reason of the occurrence, pendency or existence of a proceeding under this title, or the insolvency of the debtor.

Section 306. Giving secured creditors fair treatment in chapter 13

This provision changes the relationship of secured creditors and debtors in certain situations arising in chapter 13 proceedings. First, debtor's plan must be confirmed, it must provide that a creditor's lien will continue until the earlier of: (1) payment of the underlying debt under nonbankruptcy law; (2) discharge under section 1328. Nothing in this provision is intended to alter other requirements for confirmation. Such a confirmed plan must provide that the creditor will receive the full amount of the claim allowed under chapter 13 to chapter 7, the debtor does not retain any benefits of the chapter 13 case with respect to any secured creditor, unless the full amount of the secured creditor's claim has been paid in full, and unless a prebankruptcy default has been fully cured and not renegotiated. If the court finds from chapter 13 to another chapter and then converts to chapter 7, the courts should impose similar limitations.

Second, provision is made to allow a debtor and creditor to arrange for the debtor to assume a personal property lease rejected or not timely assumed by a trustee. On the other hand, in a chapter 11 or 13 proceeding, if the plan does not provide for assumption of the lease, the lease is deemed rejected as of the conclusion of the hearing on confirmation and the automatic stay automatically terminates.

Third, in a chapter 13 proceeding, a debtor's plan must provide that the debtor will make monthly payments if there are to be periodic payments to a personal property secured creditor or personal property lessor receiving distributions under the plan, and those payments must at least be in an amount sufficient to provide adequate protection for the lessor. This provision is not intended to lessen any of the other protections of secured creditors or lessors provided in the Bankruptcy Code.

In addition, debtors are required to continue to make payments to creditors holding claims secured by personal property and to personal property lessors provided in the order for relief. These payments are to be made directly to the creditor or lessor, and the amount of plan payments which the debtor must make can be reduced by the amount paid to the creditors or lessors. The debtor must provide an accounting of these payments to the chapter 13 trustee.

Section 310. Luxury goods

This section provides that certain debts are presumed to be nondischargeable under section 522(a)(2)(A) of the Bankruptcy Code. Under section 522(a)(2)(A), a debt is nondischargeable when it is incurred, among other things, by fraud. For example, fraud can occur when a cardholder misrepresents his or her intentions by using a credit card when the objective facts show that the cardholder did not or could not intend to repay. This bill provides that if a debtor incurs debt for the purpose of buying for personal, family or household needs and the purchase is of goods or services for $250 or more, and that debt is incurred in the 12 months prior to the filing of the case, that debt is presumed to be nondischargeable. This provision recognizes that debtors may use open end credit to purchase goods and services necessary for the support of the debtor shortly before bankruptcy, while identifying presumptively abusive behavior which warrants making the debt nondischargeable such as purchasing a single item of high value in the 12 months prior to the filing of the case without regard to cash advances. Cash advances under open-end credit plans aggregating more than $750 within 70 days of filing for bankruptcy are presumed to be nondischargeable. This presumption is carefully crafted to require the aggregation of all cash advances within 70 days of filing, even if they involve more than one card, to prevent creditors from trying to avoid the presumption by cutting up their cards. The further requirement to demonstrate that the cash advances were for "luxury goods" since such a requirement would be virtually unenforceable, given the difficulty of accounting for cash. The behavior itself is sufficient indicia of abuse.

Section 311. Automatic stay

This section provides that the automatic stay under section 362 will not apply in several situations in which residential tenants
file for bankruptcy. First, the automatic stay will not bar the continuation of an eviction action pending when the debtor files for relief. Second, eviction proceedings commenced before the filing of the bankruptcy petition cannot be generally used by the court to secure a debtor's property. Third, the automatic stay will not bar any evasion proceedings commenced by a creditor to prevent a transfer of the debtor's property or property of the estate. Section 321. Extension of period between bankruptcy discharges

The period of time which must elapse between bankruptcies is increased by this provision over the time period previously provided. The period involved is increased from six to eight years. Furthermore, a chapter 13 discharge cannot be granted if the debtor received a discharge under any chapter of title 11 within 5 years of the order for relief in the chapter 13 case.

Section 313. Definition of household goods

Section 522(f) of title 11 permits a debtor to receive a discharge under chapters 7 and 13 with respect to a debt owed to a creditor if the debtor wrongfully filed a false tax return. The definition of "household goods" this section is intended to clarify what this term means so that there can be a nationwide, uniform standard for what can be included in this category. Debtors and creditors alike can know whether a loan is truly secured by a type of secured credit.

Language in the Bankruptcy Code which provides to be made available to the court to creditors, a debtor must provide the trustee, creditors in chapter 7 and 13 cases and has established reasonable procedures to obtain copies of the petition and schedules filed in a case. The same rules apply to modifications.

The Fed. R. Bankr. Pro. already provide a debtor's debt to the creditor. Creditors will be required to provide the information required by section 521(a)(1) within 45 days of filing a petition, the case is automatically dismissed. On request of the court, the debtor must demonstrate to the court for good cause finds it is necessary to do so, but then only for a specified period of time. Otherwise, the stay automatically expires as to the requesting creditor.

Section 321. Chapter 11 plans filed by individuals

This section changes some chapter 11 provisions to bring the chapter more closely into conformity with chapter 13 when the debtor is an individual.

First, the property of the estate is expanded to include property to which the debtor has a present or future interest and the debtor to provide notice to the court for good cause finds it is necessary to do so, but then only for a specified period of time. Otherwise, the stay automatically expires as to the requesting creditor.

Section 321. Chapter 11 cases filed by individuals

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This section changes some chapter 11 provisions to bring the chapter more closely into conformity with chapter 13 when the debtor is an individual.
are subject to the relevant state law homestead exemption. For this purpose, equity ac-
quired in a principal residence prior to the 2-
year period and rolled over into another 
principal residence after the 2-year period is 
not subject to the $100,000 cap, but is subject 
to the relevant state law homestead exemp-
tion. This rollover provision does not apply 
to the sale of a principal residence in one 
state and the purchase of another principal 
residence in another state.
Section 323. Excluding employee benefit plan 
participant contributions and other prop-
erty from the automatic stay
Amounts which have been withheld from 
wages of employees for payment as contribu-
tions to retirement plans or health insurance 
plans do not constitute part of the estate. Con-
tribution to such plans are property of the 
estate. It is not intended that this provi-
sion will affect money which has been paid 
over and received by the respective plans for 
the purposes the withholding or contribu-
tions have been made.
Section 324. Exclusive jurisdiction in matters in-
volved bankruptcy professionals
This section corrects court exclu-
sive jurisdiction of any property of the debt-
or as of the commencement of the case, of 
property of the estate, and of all claims that 
involves bankruptcy professionals (on em-
ployment of professional persons) or disclo-
sure rules under that section.
Section 325. United States Trustee Program fil-
ing fee increase
This section increases the filing fees for 
chapters 7 and 13 cases, and changes the shar-
ing percentages with respect to such fees.
Section 326. Sharing of compensation
Section 504 of the Bankruptcy Code re-
stricts the extent to which those being paid 
compensation for representation in Bank-
ruptcy case may share such compensation or 
reimbursement. This section creates an ex-
ception from those rules to permit bona fide 
public service attorney referral programs op-
erating in accordance with non-Federal law 
regulating attorney referral services to share 
such compensation or reimbursement.
Section 327. Fair valuation of collateral
This section is intended to make clear that 
when value is determined under title 11, it 
shall be determined based solely upon what 
would cost the debtor to purchase a re-
placement for the same property and condi-
tion of the property, without deductions for 
other costs or expenses of any kind. In personal, 
family or household transactions, replace-
ment value shall be based upon what a retail mer-
chant would charge for the property, consid-
ering age and condition at the time value is 
determined.
Section 328. Defaults based on nonmonetary ob-
ligations
The requirements of section 365 are altered 
so that certain defaults relating to nonmon-
eyary obligations of the debtor under an unex-
pired lease shall not be cured. Furthermore, 
such defaults are excepted from the ordinary rules applying to 
impaired cases. Technical changes are also 
made to remove certain provisions relating to
TITLE IV—GENERAL AND SMALL BUSINESS
BANKRUPTCY PROVISIONS
Section 401. Adequate protection for investors
This section creates a definition for a “se-
curities self-regulatory organization” and 
then provides an exception to the automatic 
stay for dealings in securities through the 
activities by such an organization involving 
the debtor.
Section 402. Meetings of creditors and equity se-
curity holders
This section gives the court the authority, 
for cause, not to convene a meeting of credi-
tors or secured creditors of the debtor with-
out first obtaining a court order to recon-
vene. This would save time and expenses in 
those instances where the court deter-
mines there would be little or no meaningful 
benefit to be derived from a creditors meet-
ing.
Section 403. Protection of refinance security interest
This provision alters the preference pro-
visions of section 547 of the Bankruptcy Code 
with respect to when a transfer is made for 
the purposes of that section. A transfer is 
deemed made at the time it takes effect if it 
is perfect at that time; otherwise, it takes ef-
flect between the parties. Present law pro-
vides only a 10 day period.
Section 404. Executory contracts and unexpired leases
HR 2415 cures some abuses in the Bank-
ruptcy Code regarding executory contracts 
and unexpired leases. HR 2415 amends Sec-
tion 365(b)(4) of the Bankruptcy Code. It im-
proves a firm, bright line deadline on a real 
debtor’s decision to assume or reject a lease, 
absent the lessor’s consent. It permits a 
bankruptcy judge to reject a lease on a 
date which is the earlier of the date of con-
firmaion of a plan or the date which is 120 
days after the date of the order for relief. 
Assumption may be granted, within the 120 
day period, for an addi-
tional 90 days, for cause, upon motion of the 
trustee or lessor. Any subsequent exten-
sion can only be granted by the judge upon 
the prior written consent of the lessor: ei-
ther by the lessor’s motion for an extension, 
or by a motion of the trustee, provided that 
the trustee executed a formal written approval 
of the lessor. This provision is designed to re-
move the bankruptcy judges discretion to 
grant extensions of the time for the real 
debtor to decide whether to assume or reject 
a lease after a maximum possible period of 
210 days from the time of entry of the order 
of relief. Beyond that maximum period, 
there is no authority in the judge to grant 
further time unless the lessor has agreed in 
writing to the extension.
HR 2415 also amends Section 365(f)(1) of the 
Bankruptcy Code. It makes clear that all of 
the provisions of Section 365(b) are adhered 
to and that Section 365(f) does not override 
Section 365(b). Congress made clear, in Sec-
ction 365(b)(1), that the lessor’s consent 
may not assume an executory contract or unex-
pired lease of the debtor, unless the trustee 
makes adequate assurance of future performance 
under the contract or lease. In Section 365(b)(3), 
Congress provided that for purposes of the 
Bankruptcy Code, “adequate assurance of 
future performance of a lease of real prop-
erty includes adequate assurance that the 
trustee will be able to assume or reject the 
contract or lease.”
Regrettably, some bankruptcy judges have 
not followed this Congressional mandate. 
Under another provision of the Code, Section 
365(f), a number of bankruptcy judges have 
allowed the assignment of a lease even 
though terms of the lease are not being fol-
lowed.
For example, if a shopping center’s lease 
with an educational retailer requires that 
the premises shall be used solely for the pur-
pose of conducting the retail sale of edu-
cational items, as the lease provided in the 
Simon Property Group v. Learningsmith case, 
then the premises can be leased for a mix of 
retail uses in his shopping centers, even if the 
retailer files for bankruptcy.
Instead, in the Learningsmith case, the 
judge allowed the assignment of the lease 
to a candle retailer because it offered more 
money than an educational store to buy the 
premises. This is contrary to the purpose of 
the Code. As a result, the lessor lost control 
over the nature of its very business, oper-
ating a particular mix of retail stores. If the 
landlords file for bankruptcy in that 
shopping center, the same result can occur.
The bill remedies this problem by amending 
Section 365(f)(1) to make clear it operates 
to all provisions of 365(b). The legal holding 
in the Learningsmith case, and other cases like it which do not enforce 
Section 365(b), particularly 365(b)(3), are 
outlawed.
Thus, this section adds language to Sec-
tion 365(f)(1) for the purpose of assuring that 
Section 365(f) does not override any part of 
Section 365(b). The legal holding in the 
Learningsmith case, and other cases like it which do not enforce 
Section 365(b), particularly 365(b)(3), are 
outlawed.
Section 405. Creditors and equity security hold-
ers committees
This section is intended to permit small 
business interests to obtain representation 
on creditors’ committees even though no small 
business would be selected. This section is 
under the standards for selecting members of 
creditors’ committees in the present Bank-
ruptcy Code. Bankruptcy judges are given 
discretion to increase the size of a committee 
to place a small business concern on the 
committee as a fully voting member if the 
court determines that the small busi-
ness creditor holds the aggregate amount of 
which is disproportionately large in compar-
ison to the annual gross revenue of 
that creditor. Congress intends that this 
standard would be liberally applied in favor of 
a small business concern. For example, 
a claim that was more than 5% of the net profit 
and debt service of the small business 
would be disproportionately large, 
since if the claim is not paid, it would cause 
a 5% reduction in profitability, often the 
difference between the court determines that the 
small busi-
ness creditor holds the aggregate
Section 410. Venue of certain proceedings

Section 411. Period for filing plan under chapter 11

This new provision is designed to deal with the time and expense of reorganization cases by providing the court’s exclusive jurisdiction to file a plan of reorganization may not be extended beyond 18 months after the date for relief in the case. No change is made to current law for cases where the court or the debtor is unable to file a plan of reorganization within 120 days from the order for relief. In such cases, the court may extend the deadline to file a plan of reorganization for a reasonable time and expense of reorganization cases.

Section 412. Fees arising from certain ownership interests

Section 413. Creditor representation at first meeting of creditors

This section permits either a creditor owed a consumer debt or any representative of that creditor to appear at and participate in the meeting of creditors in a case under chapter 7 or 13. The debtor must be notified in writing of the right to retain counsel to represent the debtor at the meeting. The court may, in its discretion, allow the creditor to be represented by counsel at the meeting.

Section 414. Definition of disinterested person

This section permits consideration in setting compensation of persons for their services in representing the interests of creditors in a case under chapter 7 or 13 even if the creditor or representative of the creditor is not a disinterested person. The court must determine whether the person is disinterested and whether the compensation is fair and reasonable.

Section 415. Factors for compensation of professional persons

This section permits consideration in setting compensation of whether the professional is board certified or otherwise has demonstrated skill.

Section 416. Appointment of elected trustee

Section 417. Utility service

Section 418. Bankruptcy fees

This provision permits a court to waive filing fees if it finds that a debtor is unable to pay the fees in installments and that the debtor is not primarily engaged in debt collection, and the debtor is below the official poverty line. The court is expected to examine carefully the debtor’s projected future income over the period during which installment payments must be made before concluding that the debtor is truly unable to pay in installments. The mere fact that the debtor is experiencing debt difficulty is not, in and of itself, determinative of whether a debtor can pay in installments. “Filing fees” cover any fee which must be paid in order to file a petition, a bankruptcy case, or an adversary case under title 11, but not fees for motions or adversary complaints.

Section 419. More complete information regarding assets of the estate

This section directs the Advisory Committee on Bankruptcy Rules of the Judicial Conference to propose for adoption amended rules and forms directing chapter 11 debtors to provide information about the value of the debtors’ estates. The new rules are designed to facilitate uniform national forms. These provisions have three chief aims: (1) to provide information to the court and to the public about the value of the debtors’ estates; (2) to provide information to the court and to the public about the debtor’s ability to pay; and (3) to provide information to the court and to the public about the debtor’s eligibility for protection under chapter 11.

Section 420. Applicability of Chapter 11 protections

This new provision is designed to deal with the time and expense of reorganization cases by providing the court’s exclusive jurisdiction to file a plan of reorganization may not be extended beyond 120 days after the order for relief in the case. No change is made to current law for cases where the court or the debtor is unable to file a plan of reorganization within 120 days from the order for relief. In such cases, the court may extend the deadline to file a plan of reorganization for a reasonable time and expense of reorganization cases.
records. These provisions are designed to as-
sist the debtor, the courts, and the United States
trustee in effectuating expeditious administra-
tion of small business cases. They are based on
recommendations of the National
Bankruptcy Review Commission's
small business proposal.
Section 437. Plan filing deadline

Section 1121 of the Bankruptcy Code is
amended in small business cases to
require a plan be filed within 300 days after the peti-
tion date. This deadline is based on the as-
sumption that the typical small business
debtor is likely to file a plan and disclosure
statement within 300 days. Any request for
extension of this deadline is an appro-
priate occasion to require the debtor to jus-
tify the delay in filing. In the broadest sense of
relief the debtor received automatically
upon the filing of the petition. The amend-
ment does this by requiring the debtor to show
that it is more likely than not that the debtor
will confirm a plan within a reason-
able time if the extension is granted.
Section 438. Plan confirmation deadline

This section provides that a plan shall be
confirmed by 175 days after the order for re-
lief, unless extended by the court under
section 1121(e)(3) of the Code. If a plan is not
confirmed within the period and is not extended, it is expected that the case
will be dismissed or converted, as appro-
priate.
Section 439. Duties of the United States trustee

In small business cases, there is rarely an
active, functioning creditor’s committee. As a
result, the debtor in possession is generally
not subject to the creditor supervision con-
templated when chapter 11 was first enacted.
To fill this void and to provide adequate su-
pervisory role, section 506 of the judi-
cial Code is amended to explicitly authorize the United States
Trustee to visit the business premises of the debtor and ascertain the status of the
case in small business cases. One of these duties is to conduct
initial debtor interview promptly after the order for relief and before the official credi-
tors meeting under section 341 of the Bankruptcy Code. At this meeting, the
United States Trustee should investigate the
debtor’s viability, ascertain what the debtor’s busi-
ness plan is, and explain the debtor’s reporting and other compliance obligations.
In addition, section 1116 of the
Bankruptcy Code authorizes the United States
Trustee to visit the business premises of the
debtor and ascertain the status of the case. This duty applies to all chapter 11
cases, not only small business cases.
Section 440. Scheduling conferences

This section provides that a plan shall be
confirmed by 175 days after the order for re-
lief, unless extended by the court under
section 1121(e)(3) of the Code. If a plan is not
confirmed within the period and is not extended, it is expected that the case
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In addition, section 1116 of the
Bankruptcy Code authorizes the United States
Trustee to visit the business premises of the
debtor and ascertain the status of the case. This duty applies to all chapter 11
cases, not only small business cases.
amounts owed with respect to nonresidential real property leases become administrative expenses.

**Title V—Municipal Bankruptcy Provisions**

Section 501. Petition and proceedings related to Chapter 9

This section amends section 921(d) of the Code to clarify that the special rules with respect to commencement of a case of a unit of general purpose government other than a fire district or a county are not applicable to proceedings related to the general rules on commencement of voluntary cases under section 301 of the Code. As a conforming change, section 301 is amended to divide it into subsections, subsection (a), which provides that a voluntary case is commenced by the filing of a petition, and subsection (b), which provides that the commencement of a case in need of relief. Section 301 as amended will continue to govern the voluntary cases which it now covers, except those covered by section 921(d).

Section 502. Applicability of other sections to chapter 9

Section 901(a) of the Code, which lists the sections of title 11 which apply to chapter 9 cases, is amended to include sections 555, 556, 559, 560, 561, and 562. These sections provide an exception to the stay of proceedings to allow the liquidation of various types of securities contracts. The amendment is necessary because of the ability to benefit from complications when certain executory contracts, municipal bonds, for instance, come due and must be redeemed.

**Title VI—Bankruptcy Data**

Section 601. Improved bankruptcy statistics

It has been obvious for some time that despite the scope and frequency of bankruptcy relief, organized statistics with respect to what occurs during and as a result of the bankruptcy process are not available. It is strongly felt that there should be a concerted effort by the federal government to collect, maintain and disseminate broad information about the bankruptcy system and how it operates. Such information should include how much debt is discharged in different types of bankruptcy cases, as well as other information relative to assessing how well the bankruptcy system is serving both debtors in need and the wider group of citizens who pay in higher credit prices for the disadvantages of the bankruptcy process.

This section creates a standardized and centralized method for collecting relevant bankruptcy statistics for cases involving primarily individual debtors. It provides that a case file be opened under chapters 7, 11, and 13. The statistics will be collected by the clerk in each district. The Director of the Administrative Office of the United States Courts will compile the statistics, producing a centralized data source. The Director will make the statistics available to the public. Furthermore, by October 31, 2002, the Director will issue an annual report to the Congress which include the statistics as well as an analysis of the information.

The Director’s compilation of statistics will be comprehensive. The requirements of the compilation, as outlined in the new section 159(c)(4), are self-explanatory. It is intended that the information required under Section 159(c)(3)(H) should also include the cases involving sanctions imposed on debtor’s counsel under Section 707(b) of the Bankruptcy Code.

Section 602. Uniform rules for the collection of bankruptcy data

This provision complements Section 601 by requiring the Attorney General to issue rules requiring the establishment of uniform forms for maintaining, for a period of time specified by bankruptcy courts and monthly operating reports filed by chapter 11 debtors in possession. The information that should be contained in these reports is self-explanatory. The reports must also be made publicly available for physical inspection (at one or more central filing locations), and by electronic access through the Internet or other appropriate media.

Section 603. Audit procedures

This section requires the Attorney General to establish procedures for auditing the accuracy and reliability of information supplied by individual debtors in connection with their bankruptcy cases under chapter 7 and chapter 13 of the Bankruptcy Code. The procedures must be generally accepted auditing standards and performed by independent certified public accountants or independent licensed public accountants. This amendment gives the Attorney General discretion to develop alternative auditing standards not later than two years after the date of enactment of H.R. 2415. Should the Attorney General develop alternative auditing standards, such standards are expected to have integrity and reliability comparable to generally accepted auditing standards. It is intended that the Attorney General in developing auditing standards, and any others who set procedures or practices to be used in the audits to supervise them, will be in doing so consult with the Department of Justice which enforces bankruptcy fraud and bankruptcy crimes, including the bankruptcy crimes in the Attorney General’s office and bankruptcy fraud and crime units in the United States Attorneys’ offices.

The audits are to be performed on randomly selected cases and should include at least 1 out of every 250 cases in each Federal judicial district. Audits are required for those schedules of income and expenses which reflect greater than average variances from the statistical norm of the district in which the schedules were filed. The aggregate results of an audit will be made public and is required to include the percentage of cases, by district, in which a material misstatement of income, expenditures or assets is reported.

A report of each audit must be filed with the court and transmitted to the United States trustee. Each report must clearly and, to the extent feasible, provide a commercial misstatement of income, expenditures or assets. In any case where a material misstatement of income, expenditures or assets has been determined by the bankruptcy court, the trustee must give all creditors in the case notice of the misstatement(s). Where appropriate, the matter could be referred to the U.S. Attorney for possible criminal prosecution.

Furthermore, the Bankruptcy Code is amended to make it a duty of the debtor to supply certain information to an auditor. This section also adds, as grounds for revocation of a chapter 7 debtor’s discharge, a chapter 7 debtor’s failure to satisfactorily explain a material misstatement discovered as the result of an audit and the failure to make available all necessary documents or property belonging to the debtor that are requested in connection with such audit.

Section 604. Sense of Congress regarding availability of bankruptcy data

This section expresses the sense of the Congress that it is a policy of the United States that all data collected by the bankruptcy clerks in electronic form (to the extent such data relates to public records as defined in section 159(c) of the Bankruptcy Code) should be made available to the public in a usable electronic form in bulk, subject to appropriate privacy concerns and safeguards.

The Conference of the United States. Those privacy concerns and safeguards should be developed keeping in mind that the data covered is already of public record.

It is also the sense of Congress that a single bankruptcy data system should be established that uses a single set of data definitions and forms to collect such data and that data for any particular bankruptcy case be aggregated in such electronic format.

**Title VII—Bankruptcy Tax Provisions**

Section 701. Treatment of certain tax liens

The conference agreement follows the House bill. Section 701 makes several amendments to section 724 of the Bankruptcy Code to make greater protection available to owners of ad valorem tax liens on real or personal property of the estate. Many school boards and other governmental units rely on the collection of unpaid ad valorem taxes. Often, governments are unable to collect despite the presence of a lien because, under current law, these liens may be subordinate to certain claims against and expenses of the bankruptcy estate. The conference agreement would seek to protect the holders of these tax liens from, among other things, erosions of their claims’ status by expenses incurred under chapter 11 of the Bankruptcy Code. Under the conference agreement, subordination of ad valorem tax liens is still possible under section 724(b). However, the purpose of the amendment to section 724 is to limit the administrative expenses and priority claims for postpetition “wages, salaries, and commissions” and claims for “contributions to an employee benefit plan’’ to the purpose of paying chapter 11 administrative expenses is not permitted. Also, section 701 requires the chapter 7 trustee to utilize the other estate to pay the ad valorem tax lien if the trustee could resort to section 724 of the code to subordinate liens on personal and real property of the estate.

In addition, the conference agreement prevents a bankruptcy court from determining the amount or legality of ad valorem tax obligations if the applicable period for contesting or redefining the amount of the claim under nonbankruptcy law has expired. This addresses those instances where debtors or trustees use section 506 of the Bankruptcy Code as a means to have bankruptcy courts set aside these types of taxes, to the detriment of the local communities that depend on them for revenue.

Section 702. Treatment of fuel tax claims

The conference agreement follows the Senate bill. The amendment simplifies the filing of claims by states against truckers for unpaid fuel taxes by modifying section 503 of the Bankruptcy Code by requiring of all states to file a claim for unpaid fuel taxes (as is the case under current law), the designated “base jurisdiction” under the interstate fuel tax agreement would file a claim on behalf of all states. This claim would be treated as a single claim.

Section 703. Notice of request for a determination of taxes

The conference agreement follows the Senate bill. Under current law, debtors may request that the government determine administratively the tax liability under section 505(b) of the Bankruptcy Code in order to receive a discharge of those liabilities. There are no requirements as to the content or form of such requests.

The conference agreement requires that each bankruptcy court clerk maintain a list of under which government entities may determine administratively the tax liability. Such a list may be revised under the Bankruptcy Code may be served at the address of the appropriate taxing authority of
that governmental unit. The conference agreement also provides that governmental entities may describe where further information concerning additional requirements for filing such requests may be found.

Section 704. Rate of interest on tax claims

The conference agreement follows the Senate bill with a modification and a technical correction. Under current law, there is no uniform treatment for payment of tax claims. Bankruptcy courts have used varying standards to determine the applicable rate. The conference agreement adds section 511 to the Bankruptcy Code to simplify the interest rate calculation. The agreement provides that for all tax claims (federal, state, and local), including administrative expense taxes, there shall be determined in accordance with applicable non-bankruptcy law and as of the calendar month in which the plan is confirmed.

The conference agreement modifies the Senate bill to clarify that the applicable non-bankruptcy law interest rate would apply to administrative expense taxes, as well as to all other tax claims.

Section 705. Priority of tax claims

The conference agreement follows the Senate bill with a modification and a technical correction. Under current law, in section 507(a) of the Bankruptcy Code, taxes are entitled to a priority if they arise within certain time periods. In the case of income taxes, a priority arises, among other things, if the tax return was due within 3 years of the filing of the bankruptcy petition or if the assessment of the tax was made within 240 days of the filing of the petition. The 240-day period is tolled during the time that an offer in compromise is pending (plus 30 days). Though the statute is silent, most courts have held that the 3-year and 240-day time periods are tolled during the pendency of a previous bankruptcy case.

The conference agreement codifies the rule tolling priority periods during a previous bankruptcy and adds an additional 90 days. The agreement also includes tolling provisions to adjust for the collection due process rights provided by the IRS Restructuring and Reform Act of 1998. During any period in which the government is prohibited from collecting a tax as a result of a request by the debtor, the priority is tolled, plus 90 days. Also, during any time in which there was a stay in proceedings, Bankruptcy Code or collection of an income tax was precluded by a confirmed bankruptcy plan, the priority is tolled, plus 90 days. The conference agreement modifies the Senate bill to apply the priority tolling periods to non-income taxes as well.

Section 706. Priority property taxes incurred

The conference agreement follows the Senate bill with a modification and a technical correction. Under current law, in section 507(a)(8) of the Bankruptcy Code, property taxes are entitled to a priority if they arise within certain time periods. In the case of income taxes, a priority arises, among other things, if the tax return was due within 3 years of the filing of the bankruptcy petition or if the assessment of the tax was made within 240 days of the filing of the petition. The 240-day period is tolled during the time that an offer in compromise is pending (plus 30 days). Though the statute is silent, most courts have held that the 3-year and 240-day time periods are tolled during the pendency of a previous bankruptcy case.

The conference agreement codifies the rule tolling priority periods during a previous bankruptcy and adds an additional 90 days. The agreement also includes tolling provisions to adjust for the collection due process rights provided by the IRS Restructuring and Reform Act of 1998. During any period in which the government is prohibited from collecting a tax as a result of a request by the debtor, the priority is tolled, plus 90 days. Also, during any time in which there was a stay in proceedings, Bankruptcy Code or collection of an income tax was precluded by a confirmed bankruptcy plan, the priority is tolled, plus 90 days. The conference agreement modifies the Senate bill to apply the priority tolling periods to non-income taxes as well.

Section 707. No discharge of fraudulent taxes in chapter 13

The conference agreement follows the Senate bill with a modification. Under current law, tax claims are not dischargeable under chapter 11 discharges the debtor from all liability. The conference agreement would except, in the case of corporations, from the discharge provisions of chapter 11, unpaid tax obligations that resulted from a corporate debtor’s fraudulent tax returns. It also prevents the discharge of any unpaid tax obligations that resulted from a corporate chapter 11 debtor’s willful evasion of applicable tax laws. Further, the conference agreement amends the Senate bill to prevent the discharge of tax claims made by a corporate debtor or a corporation that continued in business after the bankruptcy petition was filed.

Section 708. No discharge of fraudulent taxes in chapter 11

The conference agreement follows the Senate bill with a modification. Under current law, tax claims are not dischargeable under chapter 11 discharges the debtor from all liability. The conference agreement would except, in the case of corporations, from the discharge provisions of chapter 11, unpaid tax obligations that resulted from a corporate debtor’s fraudulent tax returns. It also prevents the discharge of any unpaid tax obligations that resulted from a corporate chapter 11 debtor’s willful evasion of applicable tax laws. Further, the conference agreement amends the Senate bill to prevent the discharge of tax claims made by a corporate debtor or a corporation that continued in business after the bankruptcy petition was filed.

Section 709. Stay of tax proceedings limited to pre-petition taxes

The conference agreement modifies the Senate bill to apply the priority tolling periods to non-income taxes as well.

Section 710. Priority property taxes incurred

The conference agreement follows the Senate bill with a modification and a technical correction. Under current law, many provisions of the Bankruptcy Code are keyed to the word ‘‘assessed.’’ While this word has an accepted meaning in the Federalist and other opinion, the word ‘‘assessed’’ may not be clear to the reader. The conference agreement modifies the Senate bill with a modification. The conference agreement amends the Senate bill with a modification. The conference agreement amends the Senate bill with a modification.

Section 711. Periodic payment of taxes in chapter 13

The conference agreement follows the Senate bill with a modification. Under current law, tax claims are not dischargeable under chapter 11 discharges the debtor from all liability. The conference agreement amends the Senate bill with a modification. The conference agreement amends the Senate bill with a modification.
the trustee’s final report, whichever is ear-
er, in order for the claim to be entitled to
distribution as an unsecured claim.

Section 714. Income tax returns prepared by tax
authorities

The conference agreement follows the Sen-
ate bill. In general, taxpayers cannot be dis-
charged from taxes unless a return was filed.
Courts have struggled with what constitutes filing a return. The conference agreement directs the Secretary of Treasury to file a return on be-
half of a taxpayer if either (1) the taxpayer pro-
vides information sufficient to complete a return; or (2) the debtor can obtain suf-
ficient information through testimony or
otherwise complete a return.

The conference agreement modifies section
122(a) of the Bankruptcy Code to provide that a return filed on behalf of a taxpayer who has provided information sufficient to complete a return constitutes filing a return (and the debt cannot be dis-
charged).

Section 715. Discharge of the estate’s liability
for unpaid taxes

The conference agreement follows the Sen-
ate bill. Under the Bankruptcy Code, a debt-
or may request a prompt audit to determine whether the debtor has provided information sufficient to allow the debtor to file any unfiled returns. The conference agreement directs the Secretary of Treasury to file a return on be-
half of a taxpayer if either (1) the taxpayer pro-
vides information sufficient to complete a return constituting filing a return (and the debt cannot be dis-
charged).

Section 716. Requirement to file tax returns to
colocate chapter 13 plans

The conference agreement follows the Sen-
ate bill with a modification. Under current law, a debtor may be entitled to the benefits of chapter 13 plans if the debtor’s return is delinquent in his tax returns. Without access to tax return information, creditors cannot obtain full information about the debtor’s status and history. The conference agreement directs the Secretary of Treasury to file a return on behalf of a taxpayer if either (1) the taxpayer pro-
vides information sufficient to complete a return (and the debt cannot be dis-
charged).

The conference agreement modifies section
122(a) of the Bankruptcy Code to provide that a return filed on behalf of a taxpayer who has provided information sufficient to complete a return constitutes filing a return (and the debt cannot be dis-
charged).

Section 717. Standards for tax disclosure

The conference agreement follows the Sen-
ate bill. Under current law, before a chapter
11 (business bankruptcy) plan may be sub-
mitted to creditors and stockholders for a vote, the proponent of the plan must file a disclosure statement in which holders of claims and interests are given “adequate in-
formation” on which they can make a deci-
sion as to whether or not to vote in favor of the plan. A chapter 11 plan’s tax con-
sequences represent an important aspect of
that plan.

The conference agreement amends section
1125(a) of the Bankruptcy Code to require that a chapter 11 plan discuss the potential material Federal tax con-
sequences of the plan to the debtor and to hold-
ers of claims and interests in the case.

Section 718. Section 205(a) of the Tax Code

The conference agreement follows the Sen-
ate bill. Under current law, a petition for bankruptcy triggers an automatic stay of the setoff of any debt owing to the debtor, unless the government does not request an audit of the debt-
or’s tax returns. Therefore, if the govern-
ment does not request an audit of the debt-
or’s tax returns, the court will allow the debtor to file any unfiled returns.

The conference agreement amends section
362(b) of the Bankruptcy Code to allow the setoff to occur unless setoff would not be permitted under applicable tax law because of a pending action to determine the amount of the tax. In that circu-
stance, the governmental authority may hold the refund pending resolution of the ac-
ction.

Section 719. Special provisions relating to
the treatment of State and local taxes

The conference agreement follows the Sen-
ate bill, conforming state and local income tax administrative issues to the Internal Revenue Code. For example, under federal law, a bankruptcy petitioner filing on March 5 has two tax years—January 1 to March 4, and March 5 to December 31. However, under state law, the tax years are divided differently—January 1 to March 5, and March 6 to December 31. The conference agreement amends section
362(b) of the Bankruptcy Code to allow the setoff of any debt owing to the debtor, unless the government does not request an audit of the debt-
or’s tax returns. Therefore, if the govern-
ment does not request an audit of the debt-
or’s tax returns, the court will allow the debtor to file any unfiled returns.

The conference agreement modifies section
122(a) of the Bankruptcy Code to provide that a return filed on behalf of a taxpayer who has provided information sufficient to complete a return constitutes filing a return (and the debt cannot be dis-
charged).

Section 720. Dismissal for failure to timely file
a tax return

The conference agreement follows the Sen-
ate bill. Under existing law, there is no de-
finite rule concerning whether a bank-
ruptcy court should dismiss a bankruptcy case if the debtor fails to file a post-petition tax return after entering bankruptcy. The conference be-
lieve that it is good policy to require that these returns be filed.

Thus, the conference agreement amends section
521 of the Bankruptcy Code to allow a taxing authority to request that the court dismiss or convert a bankruptcy case if the debtor fails to file a post-petition tax return or obtain an extension on such a return. The conference agreement provides that the court could allow the debtor to file any unfiled returns, or to obtain an extension, or the court would be required to dismiss or convert the case.

This Title adds a new chapter to the Bank-
ruptcy Code (the “Code”) for transactional bankruptcy cases. This Title adds a new chapter to the Bank-
ruptcy Code (the “Code”) for transactional bankruptcy cases. This Title introduces the Model Law on Cross-Border Insolvency ("Model Law"), which was pro-
mulgated by the United Nations Commission on International Trade Law ("UNCITRAL") at its Tenth Session, May 12–19, 1997. The conference agreement modifies section
122(a) of the Bankruptcy Code to provide that a return filed on behalf of a taxpayer who has provided information sufficient to complete a return constitutes filing a return (and the debt cannot be dis-
charged).

Section 721. Amendments to add Chapter 15 to
title 11, United States Code

Each of the sections of new chapter 15 is discussed in order.

Section 1501. Purpose and scope of application

The chapter introduces into the Bank-
ruptcy Code the Model Law on Cross-Border Insolvency ("Model Law"), which was pro-
mulgated by the United Nations Commission on International Trade Law ("UNCITRAL") at its Tenth Session, May 12–19, 1997. The conference agreement modifies section
122(a) of the Bankruptcy Code to provide that a return filed on behalf of a taxpayer who has provided information sufficient to complete a return constitutes filing a return (and the debt cannot be dis-
charged).

Section 1502. Amendment to add Chapter 15 to
title 11, United States Code
section 109(b) exclusions so that foreign proceedings of foreign insurance companies are eligible for recognition and relief under chapter 15 as they had been under section 304. However, because the Model Law has the effect of leaving to State regulation any deposit, escrow, trust fund or the like posted by a foreign insurer under State law.

Section 1509. Right of direct access

This section implements the purpose of article 9 of the Model Law, enabling a foreign representative to commence a case under chapter 15 as it would be aided by the Uniform Bankruptcy Laws. Under the Model Law ("competent court") as well as the United States, a federal system like that of the United States with many different courts, state and federal courts when referred to them by the district court that will rule on the petition is determined pursuant to a revised section 1410 of Title 28 governing venue and transfer. The United States has granted comity suspension or dismissal under section 1507. Additional assistance in this chapter by filing a petition directly with the foreign proceeding as a condition to further rights and duties of the foreign representative. If recognition is granted, the foreign representative will have full capacity under U.S. law (subsections (b)(1)), may request such relief in a state or federal court other than the bankruptcy court. This section is intended to permit further development of international cooperation begun under section 304, but is not to be the basis for denying of limiting relief otherwise available under this chapter. The additional assistance is made conditional on the court's consideration of the factors set forth in the current subsection 304(c) in a context of a reasonable balancing of interests following current case law. The reference to a system of full bankruptcies (often called "ancillary proceedings") in each state where assets are found. Under the Model Law, notwithstanding the recognition of a foreign representative in the United States, chapter 15 as they had been under section 304 is misleading, since those factors are essentially elements of the grounds for granting comity. Therefore, in addition to subsection (2) of this section, comity is raised to the introductory language to make it clear that it is the central concept to be addressed.

Section 1508. Interpretation

This provision follows Conceptually Model Law article 8 and is a standard one in recent UNCITRAL treaties and model laws. Language changes were made to express the concept clearly in language which accords with that of the bankruptcy laws of the United States.

Interpretation of this chapter on a uniform basis will be aided by the Guide and the Reports cited therein, which explain the reasons for the terms used and often cite their origins as well. Uniform interpretation will also be aided by reference to Model Law article 9. The UNCITRAL Case Law On Uniform Texts, which is a service of UNCTRAL. CLOUT receives reports from national reporters all over the world concerning court decisions interpreting treaties, model laws, and other text promulgated by UNCITRAL. Not only is the concept somewhat persuasive, but they are important to the current uncertainty of interpretation. To the extent that the United States courts rely on these sources, their decisions will more likely be regarded as persuasive elsewhere.

Section 1509. Right of direct access

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of cases involving foreign proceedings with- out requiring a section 304 petition or even referring to the requirements of that section. Even if the result is correct in a particular case, it is undesirable that there should be a different rule applying to a state or federal court unfamiliar with the statutory requirements. Such an application could be made after denial of a petition under this chapter. This section con- centrates the recognition and deferral process in one United States court, ensures against abuse, and empowers a court that will determine the current status of all foreign proceedings involving the debtor.

Subsection (d) has been added to ensure that a foreign representative cannot seek re- lief in courts in the United States after being denied recognition by the court under this chapter.

Subsection (c) makes activities in the United States by a foreign representative subject to applicable United States law, just as 28 U.S.C. section 959 does for a domestic trustee in bankruptcy.

Subsection (f) provides a limited exception to the prior recognition requirement so that collections, which is proper to the debtor, for example an account receivable, by a foreign representative may proceed without commencement of a case or recognition under this chapter.

Section 1510. Limited jurisdiction

Section 1510, article 10 of the Model Law, is modeled on section 306 of the Code. Although the language referring to conditional relief in section 1510 has been included, the court has the power under section 1522 to attach appro- priate conditions to any relief it may grant. Nevertheless, the authority in section 1522 is not intended to override the limitations of jurisdic- tion over the foreign representative be- yond the boundaries of the case under this chapter and any related actions the foreign representative may take, such as commencing a case under another chapter of this title.

Section 1511. Commencement of case under section 301 or 302

This section follows the intent of article 11 of the Model Law, but adds language that conforms to United States law or that is otherwise necessary in the United States. In particular, the section makes clear that, where applicable, the importance of full information and coordina- tion among them.

Article 11 does not distinguish between voluntary and involuntary proceedings, but seems to have implicitly assumed an invol- untary proceeding.

Subsection (a)(2) goes farther and permits a voluntary filing, with its much simpler re- quirements, if the foreign proceeding that has been recognized is a main proceeding.

Section 1512. Participation of a foreign repre- sentative in a case under this title

This section follows article 12 of the Model Law with a slight alteration to adjust to United States procedural terminology. The effect of this section is to make the recog- nized representative, with the current court, present in any pending or later commenced United States bankruptcy case.

Throughout this chapter, the word “case” has been defined for the word “pro- ceeding” in the Model Law when referring to cases under the United States Bankruptcy Code, to conform to United States usage.

Section 1513. Access of foreign creditors to a case under this title

This section mandates nondiscriminatory or “national” treatment for foreign credi- tors, except as provided in subsection (b) and section 1514. It follows the intent of Model Law article 13, but the language required al- ternation to fit into the Bankruptcy Code.

The Model Law permitted the word “evidentiary” to be inserted to clarify the use of United States bankruptcy terminology that the ultimate burden is on the foreign representa- tive. The term “registered office” is the term used in the Model Law to refer to the place of incorpora- tion or the equivalent for an entity that is not a natural person. This assumption that the place of the reg- istered office is also the center of the debt- or’s main interest is included for speed and convenience in proof where there is no seri- ous controversy.

Section 1517. Order granting recognition

This section closely follows article 17 of the Model Law, with a few exceptions. The decision to grant recognition is not de- pendent upon any findings about the nature of the foreign proceedings of the sort pre- viously mandated by section 304(c). The re- quirements of this section, which incor- porates the definitions in section 1502 and sections 101(23) and (24), are all that must be fulfilled to attain recognition.

This section was suggested as a requirement for recognition on more than one occasion in the negotiations that re- sulted in the Model Law. It was rejected by the United Nations, which noted that the United States was one of the leading coun- tries opposing the inclusion of a reciprocity requirement. In this regard, the Model Law conforms to section 304, which has no such requirement.

The drafters of the Model Law understood that only a main proceeding or a non-main proceeding with the requirements of section 1502 (that is, one brought where the debtor has an establishment) were entitled to recog- nition under this section. The Model Law text is slightly modified to clear this point by referring to the section 1502 definition of main and non-main pro- ceedings, as well as to the general definition of a foreign proceeding in section 101(29).

Naturally, a petition under section 1515 must show that proceeding is a main or a qualifying non-main proceeding in order to win recognition under this section.

Consistent with the position of various civil law representatives in the drafting of the Model Law, recognition carries with the effects set forth in section 1520, so those effects are not viewed as orders to be modified, as are orders granting relief under sections 1519 and 1521. Subsection (4) states the grounds for non-granting recognition. On the other hand, the effects of recognition (found in section 1520 and includ- ing an automatic stay) are subject to modi- fication under section 302(d), made applica- ble by section 1533(2), which permits lifting the stay of section 1520 for cause.

Paragraph 3(d) of section 17 of the Model Law has been omitted as an unnecessary re- quirement for United States purposes, be- cause a petition submitted to the wrong court will not result in the wrong proceeding under other provisions of United States law.

The reference to section 350 refers to the routine closing of a case that has been com- pleted by the foreign representative will includ- ing a final report from the foreign representa- tive in such form as the Rules may provide or a court may order.

Section 1518. Subsequent information

This section follows article 18 of the Model Law, except to eliminate the word “same” which is ren- dered unnecessary by the definition of “debt- or” in section 1502 and to provide for a for- mal document to be filed and expedient as possible, the court may hear proof on any element stated. The ultimate burden as to each element is on the foreign representa- tive, although the court is entitled to shift the burden to the extent indicated in section 1516. The word “proof” in section (3) has been changed to “evidence” or “transcripts” clear- er using United States bankruptcy terminology that the ultimate burden is on the foreign representa-
requirement of complete and candid reports to the court of all proceedings, worldwide, involving the debtor. This section will en-
force that such information is provided to the court. Any failure to comply with this section will be subject to the sanctions available to the court for violations of the statute. The section leaves to the Rules the form of the required notice and related questions of notice to parties in inter-
est, the time for filing, and the like.

Section 1519. Relief may be granted upon peti-
tions for relief. This section generally follows article 19 of the Model Law.
The foreign representative court will have jurisdiction to grant emergency relief under Rule 7065 pending a hearing on the petition for recognition. This section does not expand or reduce the scope of section 105 as determined by cases under section 105 nor does it modify the sweep of sections 555 to 560. Subsection (d) precludes injunctive relief against police and regulatory action under section 1519, leaving section 105 as the only avenue to such relief. Subsection (e) makes clear that this section contemplates injunctive relief and that it is subject to specific rules and a body of jurisprudence. Subsection (f) was added to complement amendments to the Code provisions dealing with financial contracts.

Section 1520. Effects of recognition of a for-
eign main proceeding. In general, this chapter sets forth all the relief that is available as a matter of right based on recognition. Additional relief may be provided under section 1507 and this chapter have no effect on any relief currently available under section 105.
The stay created by article 20 of the Model law is imported to chapter 15 from existing provisions of the Bankruptcy Code. Subsection (a) combines subsections 1(a) and (b) of article 20 of the Model Law, because section 362 imposes the restrictions required by those two subsections and additional restrictions as well.

Subsections (a)(2) and (4) apply the Code sections that impose the restrictions called for by subsection 1(c) of the Model Law. In both cases, the provisions are broader and more complete than those contemplated by the Model Law. These subsections apply to actions against the debtor under section 362(a) and with respect to the prop-
erty of the debtor under the remaining sections. The only property covered by this sec-
tion is property within the territorial juris-
diction of the United States as defined in section 101(7). This applies to achieve effect on property of the debtor which is not within the terri-
torial jurisdiction of the United States, the foreign representative would have to com-
mence a case under another chapter of this title.

By applying section 361 and 362, subsection (a) makes applicable the United States ex-
ceptions and limitation to the restraints im-
posed on creditors, debtors, and other in a case under this title, as stated in article 20(2) of the Model Law. It also introduces the con-
cept of adequate protection provided in sections 363 and 362.

These exceptions and limitations include those in section 362(d), (c), and (d). As one result, the court has the power to termi-
nate the stay pursuant to section 362(d), for cause, including a failure of adequate protection.

Subsection (a)(2), by its reference to section 363 and 552 adds to the powers of a for-
eign representative of a foreign main pro-
ceeding an automatic right to operate the debtor’s business and exercise the power of a trustee under section 363 and 542, unless the court disapproves. A foreign representa-
tive of a foreign main proceeding may need to continue a business operation to maintain value and granting that authority automati-
cally would not allow for its further prosecution. Subsection (c) provides that there is not stay of the commencement of a full United States bank-
rruptcy case. This essentially provides an es-
cape hatch through which any entity, includ-
ing the foreign representative, can flee into a full case. The full case, however, will re-
main subject to subchapter IV and V on co-
operation and coordination of proceedings and to section 305 providing for stay or dis-
missal.

Section 108 of the Bankruptcy Code pro-
vides the tolling protection intended by Model Law article 2(3), so no exception is neces-
sary as to claims that might be extingu-
ished under the United States bankruptcy law. Subsection (c) is designed to limit relief to 
the foreign representative, can flee into a full case. The full case, however, will re-
main subject to subchapter IV and V on co-
operation and coordination of proceedings and to section 305 providing for stay or dis-
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Section 108 of the Bankruptcy Code pro-
vides the tolling protection intended by Model Law article 2(3), so no exception is neces-
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ished under the United States bankruptcy law. Subsection (c) is designed to limit relief to 
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operation and coordination of proceedings and to section 305 providing for stay or dis-
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Section 108 of the Bankruptcy Code pro-
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missal.
except where assets are subject to the jurisdiction of another recognized proceeding. In a full bankruptcy case, the United States bankruptcy court generally has jurisdiction over assets outside the United States. Here that jurisdiction is limited to cases involving cash, checks, and other property, and is subject to certain limits on other cases.

Section 1529. Coordination of a case under chapter 15 and a foreign proceeding This section follows the Model Law almost exactly, but subsection (a) adds a reference to section 305 to make it clear the bankruptcy court may continue a case under that section, to determine the status of a case under the Model Law, to determine an outcome in a foreign proceeding, or to order bankruptcy proceedings commenced in a foreign main proceeding whenever possible.

Section 1530. Coordination of more than one foreign proceeding This section follows exactly article 30 of the Model Law.

It ensures that a foreign main proceeding will be given priority in the United States, consistent with the overall approach of the United States to favoring assistance to foreign main proceedings.

Section 1531. Presumption of insolvent based on recognition of a foreign main proceeding This section follows the Model Law exactly, inserting a reference to the standard for an involuntary case under this title. Where an insolvent proceeding has begun in the home country of the debtor, and in the absence of contrary evidence, the foreign representative should not have to make a new showing that the debtor is not a foreign representative should not have to make a new showing that the debtor is not a foreign proceeding.

The presumption does not arise for any purpose outside this section.

Section 1532. Rule of payment in concurrent proceedings This section follows the Model Law exactly and is very similar to prior section 503(b), which is repealed. The Model Law language is somewhat clearer and broader than the equivalent language in prior section 1001(b).

Section 1001. Definitions

Title XI—HEALTH CARE AND EMPLOYEE BENEFITS

This title amends the Bankruptcy Code to deal with the problems presented when a health care business, such as a hospital or nursing home, uses for bankruptcy under chapters 7, 9 or 11.

Subsection 1001(a) defines the terms “health care business,” “patients,” and “patient information” which are required to be defined in section 1103(e) of the Bankruptcy Code (11 U.S.C. ‘101’).

Subsection 1001(b) provides for payment in full of all claims entitled to section 507 priority under chapter 7, and section 507 claims under chapter 11 with respect to claims in connection with a health care business bankruptcy case.

Subsection 1001(c) provides for compensation of an ombudsman to act as patient advocate.

Subsection 1001(d) adds a new section 323 in subchapter II of chapter 9, extending the protections of section 1123(c) to cases under chapter 9.

Subsection 1001(e) adds a new section 330 in subchapter III of chapter 9, extending the protections of section 1123(c) to cases under chapter 9.

Subsection 1001(f) amends section 1123(c) to provide for compensation of an ombudsman to act as patient advocate.

Subsection 1001(g) amends section 1123(c) to provide for compensation of an ombudsman to act as patient advocate.

Subsection 1001(h) amends section 1123(c) to provide for compensation of an ombudsman to act as patient advocate.

Subsection 1001(i) amends section 1123(c) to provide for compensation of an ombudsman to act as patient advocate.

Subsection 1001(j) amends section 1123(c) to provide for compensation of an ombudsman to act as patient advocate.

Subsection 1001(k) amends section 1123(c) to provide for compensation of an ombudsman to act as patient advocate.

Subsection 1001(l) amends section 1123(c) to provide for compensation of an ombudsman to act as patient advocate.

Subsection 1001(m) amends section 1123(c) to provide for compensation of an ombudsman to act as patient advocate.

Subsection 1001(n) amends section 1123(c) to provide for compensation of an ombudsman to act as patient advocate.

Subsection 1001(o) amends section 1123(c) to provide for compensation of an ombudsman to act as patient advocate.

Subsection 1001(p) amends section 1123(c) to provide for compensation of an ombudsman to act as patient advocate.

Subsection 1001(q) amends section 1123(c) to provide for compensation of an ombudsman to act as patient advocate.

Subsection 1001(r) amends section 1123(c) to provide for compensation of an ombudsman to act as patient advocate.

Subsection 1001(s) amends section 1123(c) to provide for compensation of an ombudsman to act as patient advocate.

Subsection 1001(t) amends section 1123(c) to provide for compensation of an ombudsman to act as patient advocate.

Subsection 1001(u) amends section 1123(c) to provide for compensation of an ombudsman to act as patient advocate.

Subsection 1001(v) amends section 1123(c) to provide for compensation of an ombudsman to act as patient advocate.

Subsection 1001(w) amends section 1123(c) to provide for compensation of an ombudsman to act as patient advocate.

Subsection 1001(x) amends section 1123(c) to provide for compensation of an ombudsman to act as patient advocate.

Subsection 1001(y) amends section 1123(c) to provide for compensation of an ombudsman to act as patient advocate.

Subsection 1001(z) amends section 1123(c) to provide for compensation of an ombudsman to act as patient advocate.

Subsection 1001(aa) amends section 1123(c) to provide for compensation of an ombudsman to act as patient advocate.

Subsection 1001(bb) amends section 1123(c) to provide for compensation of an ombudsman to act as patient advocate.

Subsection 1001(cc) amends section 1123(c) to provide for compensation of an ombudsman to act as patient advocate.

Subsection 1001(dd) amends section 1123(c) to provide for compensation of an ombudsman to act as patient advocate.

Subsection 1001(EE) amends section 1123(c) to provide for compensation of an ombudsman to act as patient advocate.

Subsection 1001(FF) amends section 1123(c) to provide for compensation of an ombudsman to act as patient advocate.

Subsection 1001(GG) amends section 1123(c) to provide for compensation of an ombudsman to act as patient advocate.

Subsection 1001(HH) amends section 1123(c) to provide for compensation of an ombudsman to act as patient advocate.

Subsection 1001(SS) amends section 1123(c) to provide for compensation of an ombudsman to act as patient advocate.

Subsection 1001(TT) amends section 1123(c) to provide for compensation of an ombudsman to act as patient advocate.

Subsection 1001(UU) amends section 1123(c) to provide for compensation of an ombudsman to act as patient advocate.

Subsection 1001(VV) amends section 1123(c) to provide for compensation of an ombudsman to act as patient advocate.

Subsection 1001(XX) amends section 1123(c) to provide for compensation of an ombudsman to act as patient advocate.

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Section 1105. Debtor in possession; duty of trustee to transfer patients

Section 1106 amends sections 704(a) of title 11, stating that the trustee is to use all reasonable and best efforts to transfer patients from a health care facility being closed to another nearby and comparable health care facility, which maintains a reasonable quality of care.

Section 1106. Exclusion from program participation

Section 1106. Exclusion from program participation not subject to automatic stay

This section permits the Secretary of Health and Human Services to exclude the debtor from participation in the Medicare program or other Federal healthcare programs without violating the automatic stay.

Title XII—Technical Amendments

Section 1201. Definitions

This section makes technical corrections to the definitions of the Bankruptcy Code, alters the definitions for “single asset real estate” and “transfer,” and renumbers the definitions.

Sections 1202–1212. Miscellaneous technical corrections

These provisions make technical changes to the Bankruptcy Code provisions on adjustment of dollar amounts, extensions of time, dismissal, bankruptcy petition preparers, conversion, administrative expenses, discharge, discriminatory treatment, and property of the estate provisions.

Section 1213. Preference

This provision overrules Levitt v. Ingersoll Rand Financial Corp. (In re V.N. Deprizio Const. Co.), 874 F.2d 1196 (7th Cir. 1989). If a transfer is avoided because it was made during the period 90 days–1 year before bankruptcy to a non-insider creditor for the benefit of an insider, the transfer is avoided only with respect to the insider. It is not avoided with respect to the non-insider creditor. Therefore, neither the transferred property nor its value may be recovered from the non-insider creditor.

Sections 1214–1217. Miscellaneous technical corrections

These sections make technical changes to the Bankruptcy Code provisions on postpetition transactions, property of the estate, preference, bankruptcy petition preparers, railroad line abandonments, discharge under chapter 12, bankruptcy cases and proceedings, and bankruptcy judgeships.

Section 1220. Amendments to section 362 of title 11

Section 1220 amends section 547(c)(3)(B) of the Bankruptcy Code extending the applicable period for a security interest in property acquired by the debtor from 20 days to 30 days after the debtor receives possession of the property.

Section 1221. Extensions

Section 1221 amends sections 544(a), 355(a), 355(b), and 554 of the Bankruptcy Code to restrict the right of a trustee to use, sell, or lease property acquired by a seller of goods that has sold goods to the trustee by extending the recovery period from 90 days to 1 year for goods that are not such a corporation, but only if the vendor had no claim against the debtor when the goods were sold.

Section 1222. Miscellaneous

This section makes technical changes to the Bankruptcy Code provisions on extensions of time, dismissal, bankruptcy petition preparers, conversion, administrative expenses, discharge, discriminatory treatment, and property of the estate provisions.

Section 1223. Bankruptcy judgeships

This section may be cited as the “Bankruptcy Judgeship Act of 2000.” It authorizes the appointment of additional temporary bankruptcy judgeships in the districts that follow:

- (A) One additional bankruptcy judgeship for the eastern district of California.
- (B) Two additional bankruptcy judgeships for the central district of California.
- (C) One additional bankruptcy judgeship for the district of Delaware.
- (D) Two additional bankruptcy judgeships for the southern district of Florida.
- (E) One additional bankruptcy judgeship for the southern district of Georgia.
- (F) Two additional bankruptcy judgeships for the district of Maryland.
- (G) One additional bankruptcy judgeship for the eastern district of Michigan.
- (H) One additional bankruptcy judgeship for the southern district of Mississippi.
- (I) One additional bankruptcy judgeship for the district of New York.
- (J) One additional bankruptcy judgeship for the eastern district of New York.
- (K) One additional bankruptcy judgeship for the northern district of New York.
- (L) One additional bankruptcy judgeship for the southern district of New York.
- (M) One additional bankruptcy judgeship for the southern district of North Carolina.
- (N) One additional bankruptcy judgeship for the western district of North Carolina.
- (O) One additional bankruptcy judgeship for the eastern district of Pennsylvania.
- (P) One additional bankruptcy judgeship for the district of Puerto Rico.
- (Q) One additional bankruptcy judgeship for the western district of Tennessee.

This section also amends section 152(a)(1) of title 11 to extend the list of judgeships to include the districts of North Carolina, Delaware, the district of Puerto Rico, and the northern district of New York.

Section 1224. Reclamation

The section also amends section 546(c) of title 11, U.S. Code, to exempt from the automatic stay a special tax or special assessment on real property, unless the amount is not ad valorem, imposed by a governmental unit, if such special tax or assessment comes due after the filing of the bankruptcy petition.

Section 1225. Judicial education

This section amends section 1101 of title 28, U.S. Code, to establish a Judicial Education and Training Program to provide training and other education for judges and other personnel of the bankruptcy court system.

Section 1226. Compensation

This section amends section 121 of title 11, U.S. Code, to provide for compensation for the work of a bankruptcy judge, including expenses for travel, the cost of living, and other expenses necessary for the performance of the judge’s duties.

Section 1227. Amendment to section 362 of title 11

This section amends section 362(b)(18) of title 11, U.S. Code, to provide that a trustee may sell property in the case of a Chapter 7 case, and that the sale may be made in a manner consistent with the best interests of the estate.

Section 1228. Judicial education

This section provides that the Director of the Federal Judicial Center, in consultation with the Director of the Executive Office of U.S. Trustees, shall develop and conduct such training as may be necessary for the courts implementing this Act, focusing in particular on the use of the section 362(b)(18) mechanism.

Section 1229. Reclamation

This section amends section 362(b)(18) of title 11, U.S. Code, to provide that a trustee may sell property in the case of a Chapter 7 case, and that the sale may be made in a manner consistent with the best interests of the estate.

Section 1230. Judicial education

This section provides that the Director of the Federal Judicial Center, in consultation with the Director of the Executive Office of U.S. Trustees, shall develop and conduct such training as may be necessary for the courts implementing this Act, focusing in particular on the use of the section 362(b)(18) mechanism.

Section 1231. Judicial education

This section provides that the Director of the Federal Judicial Center, in consultation with the Director of the Executive Office of U.S. Trustees, shall develop and conduct such training as may be necessary for the courts implementing this Act, focusing in particular on the use of the section 362(b)(18) mechanism.

Section 1232. Judicial education

This section provides that the Director of the Federal Judicial Center, in consultation with the Director of the Executive Office of U.S. Trustees, shall develop and conduct such training as may be necessary for the courts implementing this Act, focusing in particular on the use of the section 362(b)(18) mechanism.

Section 1233. Judicial education

This section provides that the Director of the Federal Judicial Center, in consultation with the Director of the Executive Office of U.S. Trustees, shall develop and conduct such training as may be necessary for the courts implementing this Act, focusing in particular on the use of the section 362(b)(18) mechanism.

Section 1234. Judicial education

This section provides that the Director of the Federal Judicial Center, in consultation with the Director of the Executive Office of U.S. Trustees, shall develop and conduct such training as may be necessary for the courts implementing this Act, focusing in particular on the use of the section 362(b)(18) mechanism.

Section 1235. Judicial education

This section provides that the Director of the Federal Judicial Center, in consultation with the Director of the Executive Office of U.S. Trustees, shall develop and conduct such training as may be necessary for the courts implementing this Act, focusing in particular on the use of the section 362(b)(18) mechanism.
case is not subject to certain of the trustee's avoiding powers. However, the seller may not reclaim the goods unless the seller makes a reclamation demand in writing: (A) not later than the date of the date of receipt of such goods by the debtor; or (B) not later than 20 days after the date of commencement of the case. Subsection 540(c)(2) states that a failure to provide notice in a manner required under paragraph (1), does not itself bar a seller from making a claim under section 503(b)(8).

As amended, subsection 546(c) contains certain exceptions to the seller's reclamation rights. In these cases, the buyer's rights do not apply to claims with respect to grain or fish covered in subsection 546(d). Second, another exception is the priority claims for postpetition debts of a governmental unit under subsection 507(c) with respect to an erroneous refund or tax credit. Finally, reclamation claims are also made subject to the prior rights of holders of security interests in such goods or the proceeds of the sale of such goods.

Subsection (b) of this section, amends section 503(b) of title 11 to add a new paragraph (8) which provides for an administrative expense allowance for the value of goods received not later than 30 days after filing, if the goods were sold to the debtor in the ordinary course of the debtor's business.

Section 1230. Providing requested tax documents to the court

Section 315 of HR 2415 amends section 521 of the Bankruptcy Code to insert a new subsection which requires the debtor to provide certain tax documents. Subsection (a) requires the debtor to provide any tax returns and other tax information available in any financial case. If a debtor fails to do so, then the provision provides sanctions.

Subsection (a) withholds a discharge in a chapter 7 case where the debtor has failed to provide any tax documents available to the court. Similarly, subsection (b) provides that the court shall not confirm a reorganization plan under chapter 11 or chapter 13 unless and until requested tax documents have been filed with the court. For these purposes, failure to provide a tax return to the trustee is considered a refusal to provide it to the court. Subsection (c) provides that the bankruptcy court must retain all documents submitted in support of an individual's bankruptcy petition under chapter 7, 11, 12, or 13 for a period of not more than 3 years after the conclusion of the case. In the event of a pending audit or enforcement action, the court may extend the time for retention of the documents beyond the 3 year minimum.

Section 1231. Encouraging creditworthiness

Subsection (a) expresses that it is the sense of Congress that: (1) some lenders may offer credit only to consumers, without taking all the steps necessary to ensure that consumers have the capacity to repay the resulting debts; and (2) the availability of credit may be a factor contributing to consumer insolvency. Subsection (b) authorizes the Federal Reserve Board to conduct a study of credit industry practices with respect to soliciting and extending credit. Subsection (c) requires that, not later than 12 months after the date of enactment of this Act, the Board shall make public a report on the findings of its study of the credit industry. The Board may then issue regulations that would require additional disclosures to consumers and take any other action consistent with statutory authority, to encourage responsible lending practices and greater personal responsibility on the part of consumers.

Section 1232. Property no longer subject to reclamation

This section amends section 541(b) of the Bankruptcy Code to clarify thatawned, tangible personal property (other than securities or written or printed evidence of indebtedness or title) cannot be treated as property of the bankruptcy estate once the statutory redemption period has run and the unclaimed goods have not been redeemed. Thus,awned personal property is not part of a debtor's bankruptcy estate, after the time to make the redemption under the proceeding due process has expired. This codifies what most courts have held, and will relieve the courts and persons from the burden of having to repeatedly rule on whether specific transactions are subject to the automatic stay.

Section 1233. Trustees

This section amends 28 U.S.C. 586(d) to allow private trustees, appointed to a case under section 521 of title 11, to make public a report on the findings of its study of the case under section 586(b), to obtain judicial review when they are terminated or cease to be assigned cases. Judicial review shall be available to individuals appointed under subsection 504(b) where the court selects a person to serve as a trustee under section 505(a) or 506(c). The trustee must first exhaust all administrative remedies which, if the trustee elects, shall include a hearing on the record. The final agency decision will be upheld unless it is found unreasonable and without cause based upon the administrative record before the agency. This section also amends 28 U.S.C. 586(b) to provide that it would be uniformly applied under section 586(b) to seek judicial review of a final agency decision to deny a claim for actual, necessary expenses. Before seeking judicial review, the claimant must exhaust all available administrative remedies and the final agency decision will be upheld unless it is unreasonable and without cause based on the administrative record before the agency. Subsection (b) of section 1237 of this Act, merely makes conforming changes substituting "section 586(d)" for "section 586(d)" in three sections of the Code.

Section 1236. Exemptions

This section corrects a cross reference.

TITLE XIII—METHAMPHETAMINE AND OTHER CONTROLLED SUBSTANCES

This title increases the controls on the manufacture and sale of certain illegal drugs.

TITLE XIV—CONSUMER CREDIT DISCLOSURE

Section 1401. Enhanced disclosures under an enhanced credit

This section would amend section 127(b) of the Truth in Lending Act ("TILA") to require new minimum payment disclosures on monthly billing statements sent to cardholders. Under this section, the front page of each monthly billing statement must include a new minimum payment disclosure. The disclosure must be based on the minimum payment required under the level of minimum payments required under the applicable credit plan and whether the creditor is subject to enforcement by the Federal Trade Commission ("FTC"). It is intended that the Federal Reserve Board ("FRB") will implement the new disclosures in a manner that will enable creditors to preprint the disclosures on the billing statements they send to cardholders. Disclosures by federally regulated financial institutions. Financial institutions that are subject to enforcement by a federal agency other than the FTC must provide a minimum payment warning that will vary depending upon whether the institution's credit plan contains a minimum payment that is 4% or less, or more than 4%, of the outstanding balance. If the institution's credit plan requires minimum payments that are 4% or less of the outstanding balance, the institution will include the following on the front of the monthly billing statement:

"Minimum Payment Warning: Making only the minimum payment will increase the interest you pay and the time it takes to repay your balance. For example, only the typical 2% minimum monthly payment on a balance of $1,000 at an interest rate of 12% would take 80 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum payments, call this toll-free number: ...

If the financial institution requires a minimum payment of more than 4% of the outstanding balance, the institution would make the same minimum payment disclosure example. Specifically, in such cases, the institution would indicate that "[m]aking a typical 5% minimum monthly payment on a balance of $1,000 at an interest rate of 12% would take 24 months to repay the balance in full." However, such an institution may elect to use
the example applicable to plans requiring minimum payments of 4% or less if it chooses to do so.

Federal regulated financial institutions also would be required to include in the disclosure a toll-free telephone number that the institution’s open-end credit account holders may use to obtain information through use of a touch-tone telephone or similar device, so long as account holders without a touch-tone telephone or similar device are provided an opportunity to speak to an individual. The FRB is charged with developing charts or tables showing how long it could take to repay various balances, assuming the limited number of repayment assumptions specified in the bill. It is intended that the FRB, in preparing the charts or tables, will use the same methodology as that used in calculating the 88-month and 24-month repayment periods set forth in the disclosures in new paragraphs (11), (A), (B) and (C) of TILA section 127(b). The FRB chart or table, if it provides for an individual account holder, would be required to include in the disclosure information regarding the account holder’s outstanding balance. This section mandates new disclosures required to occur after the publication of final regulations by the FRB.

This section adds new disclosure that must be made by creditors who make either open-end or closed-end loans to consumers if the loan exceeds the fair market value of the consumer’s principal dwelling. This section provides that, in connection with credit applications and credit advertisements for such loans, the creditor would be required to disclose to the consumer that the loan exceeds the fair market value of the dwelling, the interest on the portion of the credit that exceeds the fair market value of the dwelling, the interest on the portion of the credit that is not to take effect until the later of: (A) 12 months after the date of enactment of this Act; or (B) 12 months after the publication of final regulations by the FRB. This section adds a new disclosure that must be made by creditors who make either open-end or closed-end loans to consumers if those loans are secured by the consumer’s principal dwelling. This section and any regulations promulgated by the FRB to implement this section will not take effect until the later of: (A) 12 months after the date of enactment of this Act; or (B) 12 months after the publication of final regulations by the FRB.

Effective date. New section 127(b)(11) of TILA and any regulations promulgated by the FRB to implement section 127(b)(11) will not take effect until the later of: (A) 12 months after the date of enactment of this Act; or (B) 12 months after the publication of final regulations by the FRB.

This section mandates new disclosures regarding introductory rates on open-end credit card accounts if those rates will be in effect for less than 1 year ("temporary rates"). This section provides that an application or solicitation for a credit card account, which is described in section 127(c)(1) of TILA must comply with the following requirements if the account offers a temporary rate:

1. Each time the temporary rate appears in the written materials, the term ‘‘introductory rate’’ must appear clearly and conspicuously in immediate proximity to the rate itself.
2. If the rate that will apply after the temporary rate expires will be a fixed rate, the creditor must disclose the time period in which the introductory period will expire and the annual percentage rate that will apply after the end of the introductory period. This disclosure must be made clearly and conspicuously in a prominent location closely proximate to the first listing of the temporary rate. This disclosure does not apply to any listing of a temporary rate on an envelope or other enclosure in which an application or solicitation is mailed.

Information, call this toll-free number:

1. If the annual percentage rate that will apply after the temporary rate expires will be a variable rate, the creditor must disclose the time period in which the introductory period will expire and an annual percentage rate that was in effect within in 60 days before the date of mailing the application or solicitation for a credit card account that will apply after the expiration of the variable rate will be a variable rate, the creditor must disclose the time period in which the introductory period will expire and the annual percentage rate that will apply after the end of the introductory period. This disclosure must be made clearly and conspicuously in a prominent location closely proximate to the first listing of the temporary rate. This disclosure does not apply to any listing of a temporary rate on an envelope or other enclosure in which an application or solicitation is mailed.

This section also adds a new disclosure that must be made by creditors who make either open-end or closed-end loans to consumers if those loans are secured by the consumer’s principal dwelling. This section and any regulations promulgated by the FRB to implement this section will not take effect until the later of: (A) 12 months after the date of enactment of this Act; or (B) 12 months after the publication of final regulations by the FRB.

Section 1403. Disclosure related to ‘‘introductory rates’’

This section mandates new disclosures regarding introductory rates on open-end credit card accounts if those rates will be in effect for less than 1 year ("temporary rates"). This section provides that an application or solicitation for a credit card account, which is described in section 127(c)(1) of TILA must comply with the following requirements if the account offers a temporary rate:

1. Each time the temporary rate appears in the written materials, the term ‘‘introductory rate’’ must appear clearly and conspicuously in immediate proximity to the rate itself.
2. If the rate that will apply after the temporary rate expires will be a fixed rate, the creditor must disclose the time period in which the introductory period will expire and the annual percentage rate that will apply after the end of the introductory period. This disclosure must be made clearly and conspicuously in a prominent location closely proximate to the first listing of the temporary rate. This disclosure does not apply to any listing of a temporary rate on an envelope or other enclosure in which an application or solicitation is mailed.

This section also adds a new disclosure that must be made by creditors who make either open-end or closed-end loans to consumers if those loans are secured by the consumer’s principal dwelling. This section and any regulations promulgated by the FRB to implement this section will not take effect until the later of: (A) 12 months after the date of enactment of this Act; or (B) 12 months after the publication of final regulations by the FRB.

Section 1404. disclosures related to late payment deadlines and penalties

This section requires that the existing TILA credit card application and solicitation disclosures must be made with a solicitation to open a credit card account via the Internet. It also requires that the new introductory rate disclosures required under section 1403 of this Act must be made in connection with Internet solicitations, as applicable. All disclosures required under this section must be made in a clear and conspicuous manner. The disclosures must be readily accessible to consumers in close proximity to the solicitation to open a credit card account, and updated regularly to reflect current terms and fees applicable to the credit card account. It is intended that the disclosures can be made using a ‘‘link’’ or similar method to view the disclosures. This section and any regulations promulgated by the FRB to implement this section will not take effect until the later of: (A) 12 months after the date of enactment of this Act; or (B) 12 months after the publication of final regulations by the FRB.
Section 1406. Prohibition on certain actions for failure to incur finance charges

This section prohibits a creditor under an open-end consumer credit plan from terminating an consumer plan prior to its expiration date (e.g., expiration of the card in the case of a credit card account) solely because the consumer has not incurred finance charges. A consumer who makes it clear, however, that the creditor may terminate the account if it is inactive for three or more consecutive months. New sections 1501 and any regulations promulgated by the FRB to implement new section 127(h) will not take effect until the later of: (a) 12 months after the date of enactment of this Act; or (b) 12 months after the publication of final regulations by the FRB.

Section 1407. Dual use debt card

This section permits the FRB to conduct a study of existing consumer protections, including voluntary industry rules, that limit the liability for consumers when a consumer's ATM card or debit card is used to access the consumer's asset account without the consumer's authorization.

Section 1408. Study of bankruptcy impact of credit extended to dependent students

This section directs the FRB to conduct a study of the impact that the extension of credit to certain students has on the rate of bankruptcy. Specifically, the study must examine the bankruptcy impact of extending credit to students who are claimed as a dependent by their parents or others for federal tax purposes and who are enrolled within 1 year of successfully completing all requirements for secondary education. The study will recommend a full-time basis in post-secondary educational institutions. The results of the study must be reported to Congress within 1 year after the date of enactment of the Act.

Section 1409. Clarification of clear and conspicuous

This section directs the Board, in consultation with other federal banking agencies, the National Credit Union Administration and the FTC, to promulgate regulations, including examples of model disclosures, to provide guidance regarding the meaning of "clear and conspicuous" as used in sections 127(b)(11)(A), (B) and (C) and 127(c)(6)(A)(ii) and (iii) of TILA as added by this Act.

TITLE XV—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

Section 1501. Effective date; application of amendments.

The amendments made by the Act take effect 180 days after the date of enactment, except as provided elsewhere in the Act. These amendments apply only with respect to cases commenced after the effective date.

Mr. HATCH. Thank you. We are in agreement on what this legislation does.

Mr. DODD. Mr. President, I rise today to speak about the Bankruptcy Reform Conference Report that is being considered by the Senate. Let me start by saying that there is strong opposition to this bill—in its current form—by consumer advocacy groups such as the National Women's Law Center, the Association for Children for Enforcement of Support, and the Consumer Federation of America.

This conference report is an illustration of what happens when a sound idea is submitted to an unsound process. The idea of reforming the Bankruptcy Code to stop obvious abuses was an idea that had broad support. It was a bipartisan issue. Regrettably, however, this modest and sensible idea—the idea that we should close the loopholes that a small number of people were using to game the system—has been warped into legislation that goes far beyond its original purpose.

The evidence shows that abusive filings are the exception, not the rule. The median income of the average American family filing for a chapter 7 bankruptcy is just above $20,000 per year, according to the General Accounting Office. The majority of people who file bankruptcy are single women who are heads of households, elderly people trying to cope with medical costs, again people who have lost their jobs, or families whose finances have been complicated by divorce.

For the most part, we were talking about working people or elderly people on fixed incomes, who through no fault of their own have fallen on hard times and need the protection of bankruptcy to help put their lives back together. It is also worth noting that last year, the per capita personal bankruptcy rate dropped by more than 9 percent, and again this year the bankruptcy rate has dropped.

The impact that this legislation would have on single-parent households is particularly disturbing to me. Single parents have one of the hardest jobs in America. Most work all day, cook meals, keep house, help their children with homework, and schedule doctors' appointments, parent-teacher meetings, and extracurricular activities. Life isn't easy for working single parents and often the financial assistance they receive in the form of alimony or child support is critical to keeping the families from falling into poverty. I believe that the conference report before the Senate would frustrate the efforts of single-parent families to collect support payments.

I understand that the proponents of this bill believe that they have treated single-parent families fairly. But what I am worried about is the unintended—perfectly foreseeable—consequences of allowing more debts to survive bankruptcy.

In the last 100 years, the Bankruptcy Code has given women and children an absolute preference over all others who have claims on a debtor's estate. Under the well-established rule, if a divorced person files for bankruptcy, the court doesn't require that person's ex-spouse or child to compete with creditors for the funds needed to pay child support and alimony. Instead, alimony and child support are taken out of the debtor's monthly income first and if there is anything left over, it is made available to commercial creditors. If there is nothing left over, then the commercial or consumer debts are discharged and the debtor's only remaining obligation is to the ex-spouse and children.

This conference report would change the rules. For the first time, it would make credit card and other consumer debts essentially nondischargeable. So, while a divorced spouse would still be obligated to pay alimony and child support, his or her other unsecured debts would remain intact.

Proponents of this bill say this does no harm to divorced spouses and their...
children because ex-spouses are still at the front of the collections line. But there is a huge practical difference between being first in line and being the only one in line. Under current law, non-support debts are often discharged and child support payments can be legally diverted to creditors, allowing them to collect even if the child’s basic needs are not met. This puts the well-being of a child at a disadvantage and elevates the status of the unsecured creditor.

I understand the perspective that says that all debts should be paid—but when debtors simply cannot pay all of their debts, then I believe that our laws should protect the interests of children and families first. Under this legislation, a child support payment could very well be reduced in order to satisfy an unsecured commercial creditor. In my view, that change would place the well-being of a child at a disadvantage and elevate the status of the unsecured creditor.

Low-income children and families will be put at a practical disadvantage by this bill and will ultimately suffer greater economic deprivation because they cannot afford to compete with sophisticated creditors.

Mr. President, Congress should reform the Bankruptcy Code, but we need to do so in a responsible and effective way. In my opinion, this conference report—even though it was well-intentioned—has not answered this call.

Mr. BIDEN. Mr. President, today we reach a point that has been far too long in coming: a vote on final passage of bankruptcy reform. Just two days ago, the Senate voted overwhelmingly—67 to 31—to end debate on this legislation. I expect the same strong endorsement in today’s vote.

For many months now, we have all been aware of, it has been a prolonged and complicated process that has brought us to this point today. In one of our very first votes this year, the Senate passed bankruptcy reform legislation by the overwhelming margin of 83 to 14. Similar legislation passed the House last year, 313 to 108. I personally believe that we should not have waited for legislation that passed both Houses by overwhelming margins, many months ago, to finally reach the floor of the Senate in the last hours of this session.

For vast, bipartisan majorities of both houses, the idea that we need to restore some balance to our bankruptcy code is not controversial. The legislation before us today does indeed tighten current law. It assures that those who have the ability to pay—but only those with the ability to pay—will need to complete at least a partial repayment plan. This fundamental change will affect probably fewer than 10 percent of the people who file for bankruptcy, and only those who have the demonstrated ability to pay.

I believe that this change will inevitably lead to conflicts between commercial creditors and single parents who are owed support and alimony payments. Sure, they will be first in line, but single parents will be competing with large creditors. Creditors, I might add, who are well-represented by teams of lawyers for the money they need to feed and clothe and educate their children.

I think this last line from the letter deserves special stress: “No one who has a genuine interest in the collection of support should permit such inexplicit and speculative fears to supplant the explicit and clear advantages which this reform legislation provides to those in need of support.”

Mr. President, I can think of no stronger rebuttal to the arguments we have heard recently than the supposed effects of this legislation on the women and children who depend on alimony and child support.

Finally, Mr. President, I want to briefly address two issues that have been raised by the President, and by opponents of this legislation. I honestly believe that compared to the many substantial victories for Senate positions, those two issues fall far short of justifying a change in the overwhelming support bankruptcy reform has received in the last two sessions of Congress.

First, there is the issue of the home-stead cap. One of the most egregious examples of abuse under current law is the re-affirmation process. This bill also imposes new requirements on credit card companies to explain to their customers the implications of making minimum payments on their bills every month.

The importance of this legislation that I think deserves much more emphasis is its historic improvement in the treatment of family support payments—child support and alimony.

Compared to current law, there are numerous specific new protections for those who depend on those payments. The improvements are so important that they have the endorsement of the National Child Support Enforcement Association, the American College of Atorneys Association, and the National Association of Attorneys General.

These are the people who are actually in the businesses of making sure that family support payments are made. One passage from a letter sent to members of the Senate Judicary Committee deserves repeating here, Mr. President. Referring to the very real advantages which this legislation would provide to the women and children who depend on those support payments, they say that, and I quote “dear of this legislation based on vague and unarticulated fears” would be “throwing out the baby with the bathwater.”

Mr. President, I want to end today’s remarks with a quote from the letter of the American College of Attorneys: “One passage from a letter sent to members of the Senate Judiciary Committee deserves repeating here, Mr. President. Referring to the very real advantages which this legislation provides to those in need of support.”

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few of the millions of bankruptcies that have been filed in recent years. Nevertheless, it is an abuse that should be eliminated. Senator KOHL and Senator SESSIONS have been the leaders in the Senate on this. They are the reason why we needed a strong provision—a “hard cap” of $100,000 on the value of a home that could be exempt from creditors in bankruptcy.

That provision is not in the bill before us today, Mr. President, but the worst abuse—the last-minute move to shelter assets from creditors—has been eliminated. To be eligible for any state’s homestead exemption, a bankruptcy filer must have lived in that state for the last two years before filing. If you buy a home within two years of filing, your exemption is capped at $100,000. That is a huge improvement over current law.

So I say to my colleagues: if you want to eliminate the worse abuse of the homestead exemption, then you will have to do it in the conference report before us today.

That brings us to the last of the major issues—one that we have come to call the Schumer Amendment, because of the energy and dedication of my friend and colleague from New York.

We all know of the confrontations—sometimes peaceful, sometimes tragically violent—that have occurred in recent years between pro-life and pro-choice groups over access to family planning services. Because of the threat to the Constitutional rights of the people who run those clinics and their patrons, Congress passed, and President Clinton signed, the Free Access to Clinic Entrances Act in 1993. That law makes it a crime—punishable by fines as well as imprisonment—to block access to family planning clinics.

Some of those who have been arrested and prosecuted under that law have appealed their convictions, and indeed the Supreme Court has dropped key provisions from the Senate rules of the Constitution, the Federal Trade Commission Act, that contains important provisions for the Senate. It gives the FTC, that has been approved by the Senate, or the FTC, that is what I hoped it would be. I will vote for it.

I urge my colleagues to join me.

Mrs. FEINSTEIN. Mr. President, I support bankruptcy reform, and I voted in favor of the Senate bankruptcy bill, this past February. Simply put, people who can afford to repay their debts, should repay their debts.

However, I cannot support the version of bankruptcy legislation outlined in the Conference Report to H.R. 2415. The Conference Report has dropped key provisions from the Senate, including, I am disappointed, and I have not protected creditors against irresponsible creditor practices. Thus, I intend to vote “No”.

Let me recount my concerns.

First, the Conference Report lets wealthy individuals continue to purchase multimillion dollar homes that are shielded from creditors’ bankruptcy claims. The Senate bill curbed this abuse, voting 76-22 to approve the Kohl amendment placing a $1,000,000 non-residential cap on a homestead exemption.

The Conference Report has also replaced the Kohl amendment with a two-year ownership or residency requirement that wealthy debtors can easily sidestep.

Debtors should not be able to avoid their obligations by funneling money into extravagant estates. The Conference Report lets this egregious practice continue.

Second, I am proud to be an original cosponsor of Senator Schumer’s amendment to prevent anti-abortion extremists from using bankruptcy laws to avoid paying civil judgments against them. The Senate passed the Schumer amendment by an overwhelming 90-17 vote. That puts a woman’s right to choose and the ongoing effectiveness of the Freedom of Access to Clinic Entrances, FACE, Act. The FACE Act has led to successful criminal and civil judgments against groups that use intimidation and outright violence to prevent people from obtaining or providing reproductive health services. I am deeply disappointed that the Conference Report has omitted this important provision.

Third, I had hoped the Conference Report would work to improve the limited consumer credit card protections in the Senate bill. Unfortunately, the Conference Report has gone the other way—consumer protections have been deleted. For example, the Senate passed an amendment by Senator BYRD that would have required any credit card solicitation on the Internet to be accompanied by information from the Federal Trade Commission, FTC, that gives consumers advice about selecting and using credit cards. The Conference Report dropped this provision.

Additionally, the Conference Report deleted an amendment by Senator LEVIN that would have made it clear that consumers do not owe interest for on-time credit card payments. Presently, many credit card solicitations advise consumers that interest is not charged on payments made within a grace period (such as 25 days). However, it is the law that the fine agreement state that if the entire debt is not paid back, the cardholder is liable for interest on the full amount charged. Say $995 is paid off of a $1,000 credit debt, most people reasonably assume that they owe interest on just the unpaid $5. Not so. The credit card company will charge consumers interest retroactively on the full $1,000. This important amendment would have brought interest charges in line with consumer expectations.

When analyzing legislation, it is often telling to review the opinions of those groups with no financial stake in the outcome. Overwhelmingly, the non-partisan experts on bankruptcy—the judges, trustees, and academicians—have expressed serious concerns or opposition to this bankruptcy bill. These organizations include the National Bankruptcy Conference, NBC, the National Conference of Bankruptcy Judges, NBC, the National Association of Consumer Credit Counseling Trustee, NACTT, the National Association of Bankruptcy Trustees, NABT, and law professors from many of our nation’s law schools.
On October 30, 2000, for example, 91 law professors wrote to me that the "bill is deeply flawed," and will not achieve balanced reform. The professors state that "... the problems with the bankruptcy bill have not been resolved, particularly provisions that deliberately affect women and children."

Congress should also take note that, after soaring to record levels in the mid-1990s, bankruptcy filings declined in recent years. In 1998, bankruptcy filings totaled 3,442,546. In 1999, bankruptcy filings totaled 3,139,540 cases, a decline of almost 10 percent from the previous year.

A final note, Mr. President. When the 107th Congress convenes, the Senate will be evenly divided for the first time in over a century. If we are to govern, to conduct the nation's business, we have to be able to work across party lines. The bankruptcy Conference Report we are considering this afternoon is a case study of how not to govern. There was no conference; this report emerged as the product of negotiations held exclusively between House and Senate Republicans. Maybe if they had consulted with the minority, they could have fashioned a bill that the majority could support. But they didn't. They deliberately excluded us. The result is a Conference Report the President has vetoed.

Bankruptcy reform requires a balance fair to both debtors and creditors. This bill doesn't measure up. I intend to vote no on passage of the Conference Report to H.R. 2415. I hope that Congress will revisit bankruptcy reform in the 107th Congress, and work in a bipartisan way to address known abuses in our bankruptcy laws.

Mr. KERRY. Mr. President, I strongly believe that reform of our bankruptcy laws is necessary. During the 106th Congress, I supported legislation to reform bankruptcy laws and end the abuse of the system. However, I am unable to support the Conference Report of the Bankruptcy Reform Act because I believe it is unfair and unbalanced, was completed without appropriate consideration by the Majority party, and is unfair to many working families and single mothers. Sponsors of bankruptcy reform have justified the legislation by arguing that the bill is necessary because we are in a "bankruptcy crisis." I am among those who believe that, too often, bankruptcy is used as an economic tool to avoid responsibility for unsound decisions and reckless spending. There has been a decline in the stigma of filing for bankruptcy, and appropriate changes are necessary to ensure that bankruptcy is no longer considered a lifestyle choice. However, I must point out that the current numbers show that the bankruptcy rate is lower than it was when the bill was first introduced. Indeed, if the bankruptcy reform act had been enacted into law, the sponsors would undoubtedly now be taking credit for this turn-around in the bankruptcy numbers. However, the current decline came about without Congressional intervention, demonstrating that to some degree, free-market forces work to correct any over-use of the bankruptcy system. Creditors and credit card companies, in an effort to maximize their profits, can and do respond to an unexpected increase in personal bankruptcies by curtailing new lending to consumers who are credit risks. However, the bill that will game the system, and we should narrowly craft legislation to address such abuse. Unfortunately, this bill fails to take a balanced approach to bankruptcy reform. I had hoped that through a legitimate legislative process we would arrive at a compromise that would have ended the abuses but still provided our most vulnerable citizens with adequate protections. This bill does just the opposite: It harms those who have made sound bankruptcy protection and protects those who don't. For instance, the bill's safe harbor will not benefit individuals in most need of help. Because the safe harbor is based on the combined income of the debtor and the debtor's spouse, many single mothers who are separated from their husbands and who are not receiving child support will not be able to take advantage of the safe harbor provision. In other words, a single mother who is paying child support will not be able to take advantage of the safe harbor provisions that a delinquent spouse from a well-off spouse is further harmed by this bill, which will deem the full income of that spouse available to pay debts for the safe harbor determination. Moreover, the bill jeopardizes the post-bankruptcy collection of child support. By creating many new types of nondischargeable debts in favor of credit card companies, the bill would place banks in direct competition with single parents trying to collect child support. In support of that proposition, the bill gives creditors new levers to coerce reaffirmations, in which debtors must agree to pay back debts that otherwise would have been discharged, so that those debts also will compete with child support obligations. Finally, the claim on the bill's sponsors that it "puts child support first" is an example of the worst kind of Washington cynicism. Although the bill moves child support claims from seventh to first priority in Chapter 7 cases, the provision is meaningless because almost no Chapter 7 cases involve any distribution of assets to creditors. Few debtors have any assets to distribute to priority unsecured creditors after secured creditors receive the value of their collateral. Therefore, this change would affect fewer than 1 percent of cases. On the other hand, the conference report protects wealthy debtors by allowing them to use overly broad homestead exemptions to shield assets from their creditors. The homestead exemption has been used by wealthy individuals to shelter millions of dollars in expensive homes to avoid repaying their creditors. The Conference Report would delete the Senate amendment that provided a firm homestead cap of $100,000 and instead allow wealthy debtors to retain expensive homes while filing for bankruptcy, so long as the debtor owned the property for two years before filing. If the bankruptcy reform bill states with unlimited homestead amounts to take advantage of this loophole. The bill changes nothing, as long as the well-counseled debtor makes his homestead purchase at least 24 months before filing. But, the 24-month rule unfairly differentiates between consumers who are sophisticated enough to plan in advance for homestead protection and which are not.

The whole point of bankruptcy reform is to create accountability for both creditors and debtors. The reforms that I hope will be part of the Senate's bankruptcy reform bill end the abuses but overall, the Senate's bankruptcy reform bill is unfair to working families and single parents trying to collect child support. Finally, the conference report does not include an amendment I supported in the legislation passed by the Senate in 1998 and should be part of any reform bill. The conference report also excludes Senate-passed amendments that would have provided credit information in electronic credit card applications over the Internet and protections against fees being imposed on credit card payments made within the creditor-provided grace period. It also does nothing to discourage lenders from further increasing the debt of consumers who are already overburdened with debt.

I am also very disappointed that the conference report does not include an amendment offered by Senator Collins and myself, which was included in the Senate bill, that would make Chapter 12 of the Bankruptcy Code, which now applies to family farmers, applicable for fishermen. I believe that this provision would have made bankruptcy a more effective tool to help fishermen reorganize effectively and allow them to keep fishing while they do so.

Finally, this bill is the result of a conference process that was a sham. In October, the House appointed conferees for the Bankruptcy Reform Act and without holding a conference meeting, the Majority filed a conference report striking international security legislation and rejecting it with a reference to a bankruptcy reform bill introduced earlier that same day. This makes a mockery of the legislative process and deems the United States Senate I
am hopeful that during the 107th Congress, we can develop bipartisan legislation that would encourage responsibility and reduce abuses of the bankruptcy system.

Mrs. MURRAY. Mr. President, I come to the floor today to express my disappointment with the Bankruptcy Conference Report. I reluctantly will be voting no on the final conference agreement because it fails the fairness test and because it fails to protect the most vulnerable families facing dire financial times.

I have supported bankruptcy reform in the past. I continue to support fair and balanced reforms to prohibit the misuse of the bankruptcy code and to prohibit individuals from using the code as a shield against honoring their financial commitments. We need reform because we all pay for the abuses. Working families struggling with the cost of credit deserve reform. Families trying to save to purchase their first home can be added to a long list of families forced on them due to abuse of our bankruptcy laws.

Unfortunately, the final product presented to the Senate is unacceptable. In an attempt to prevent a fair and open debate, the conference report bypassed the normal legislative process, and Senators have been denied the opportunity to improve the legislation. Clearly this conference report has been driven by special interests and not the interests of working families. It does not ensure that mothers and children who depend on child support and alimony payments won’t lose out to big special interests. It does not require any responsible actions by credit card companies in educating or informing consumers to the cost of debt.

This conference report is vastly different from the bill that passed the Senate in March. I supported that bill. The conference report before us, however, will make it impossible for families to seek bankruptcy protection when they are hit with overwhelming financial problems often caused by events beyond their control. In many cases, families are forced into bankruptcy due to unexpected medical bills caused by a disabling accident or condition. Many women are forced into bankruptcy due to the break up of their family and their inability to collect court ordered child support. These families are forced to turn to bankruptcy simply because credit card companies made reckless decisions in issuing credit to individuals unable to manage debt or unaware of the costs of managing debt.

This conference report also eliminates the Schumer Clinic Violence Amendment that I cosponsored and that I believe must be part of any reform bill. We cannot allow those who use violence or the threat of violence to shield themselves from financial responsibility by running to the bankruptcy court. Without the Schumer amendment, the Bankruptcy Code will continue to be subject to exploitation by perpetrators of violence against women. Protecting access to reproductive health clinic providers is not an abortion issue, but a women’s health and safety issue.

Violent anti-choice groups provide legal defense to violent protesters on how to use the Code to protect their assets against possible financial liability. Their criminal debts are simply excused under the current Code. This conference report fails to close that loophole. The Schumer amendment was adopted on an 80 to 17 vote, but the final conference agreement simply dropped this bipartisan anti-violence amendment.

We know that this conference report will be vetoed and has little or no chance of becoming law. The decision to push this through in a partisan manner has jeopardized bankruptcy reform. As a result, working families will suffer. I am hopeful that with the new Congress and the need to work in a bipartisan manner on bankruptcy reform in the next Congress, I will continue to work for reform that is balanced, fair and that protects women against violence and intimidation. I want reform, but not at the expense of the American people.

Mr. President, I hope all of my colleagues will honor the mandate we all received in the election. The American people did not give one party or one philosophy a mandate to govern. They want the Senate and the House to work together to craft a bankruptcy reform that will put aside political bickering and special interest and work to solve the problems facing real people and real families.

Mr. LEVIN. Mr. President, earlier in the year, when the Bankruptcy Reform bill was before the Senate, I voted in favor of the bill. I said at the time that “over the course of debate, the Senate adopted more than 40 amendments, making this a more reasonable approach to bankruptcy reform.” However, I also said that “should this legislation come back from conference... without the modest amendments we adopted in the Senate, I will consider opposing the bill at that time.” The bill before us is one I cannot support. The negotiators who worked out the differences between the Senate and House passed versions of the bill, deleted or weakened many of the provisions that were key components of the Senate approved bankruptcy reform bill. Both of the amendments that I sponsored were deleted from the final version of the bill. One of those amendments simply required a study to define credit card companies use of credit and zip codes to determine creditworthiness. The other amendment I sponsored would have prohibited credit card companies from applying interest charges on the paid portion of a balance during a so-called grace period.

Another provision that was deleted was Senator SCHUMER’s amendment, which passed by an enormous margin in the Senate. The Schumer Amendment would have ensured that perpetrators of clinic violence, who incurred debt as a result of unlawful acts, could not discharge that debt in bankruptcy proceedings.

I am also concerned that the Senate-passed proposal to bar debtor abuse by closing the homestead loophole was weakened in conference. The homestead loophole permits debtors in certain states to shield luxurious homes, while shedding thousands of dollars of other assets in bankruptcy. The Senate passed an amendment to create a $100,000 nationwide cap on the homestead exemption, thus closing the loophole. The conference report still allows for such abuse of the system so long as the expensive home was purchased two years in advance of the bankruptcy filing. This provision allows sophisticated debtors with the resources to plan ahead for bankruptcy to game the system.

Furthermore, I am disappointed with the unusual legislative process the majority used to file this conference report. The bill before us today, H.R. 2415, was originally introduced as the American Embassy Security Act. Last August, when the Senate passed this legislation and requested a conference with the House, it dealt with State Department and international security matters. More than a year later, the House appointed conferees, stripped the international security provisions from the bill and replaced them with a version of a bankruptcy reform bill. That is the wrong way to legislate.

Mr. President, I believe that bankruptcy reform could have been resolved in a fair and bipartisan way. Unfortunately, it was not handled in this way and so I cannot lend my support to the bill.

Mr. ROBB. Mr. President, throughout my career I have been a staunch advocate for fiscal responsibility, believing that the American people have made every effort to pay our own way and not leave our debts to our children. That same principle of fiscal responsibility compelled me to be an early co-sponsor of the bankruptcy reform bill. I believe that, whenever possible, individuals should take personal responsibility for debts that they incur and pay what they owe.

Under our current bankruptcy system, debtors can be absolved of their financial obligations without being monitored by the government. I believe that, as a government, we have an obligation to make payment on our own, and not leave our debts to our children.

While I have supported bankruptcy reform throughout this Congress, however, I am extremely disappointed with how we got to this point in the process. There has been much talk about the need for bipartisanship recently, but there is little evidence of bipartisanship in the process used to develop this conference report. In fact, that process
represents the exact opposite of bipartisanship. The minority was locked out of the deliberations completely.

In addition, I’m concerned that important provisions that I supported and which passed overwhelmingly in the Senate were included in this legislation, specifically the amendment involving violence against abortion clinics and the amendment involving the homestead exemption. I continue to support those provisions, but they were not in the bill as originally sponsored. And while I had hoped that those provisions would be included in the final package, the absence of those provisions doesn’t diminish the basic proposition contained in the underlying bill which caused me to lend my support to the measure in the first place.

Let me conclude by acknowledging the help and friendship of many of those who have called me or my office over the last few days urging me to change my position on this legislation. Many of the people who oppose this bill are among those with whom I most often find common cause and have supported me strongly over the years. It is particularly painful for me not to be able to oblige them in this respect. I made a decision in May of last year to cosponsor this legislation, and there have been no major substantive changes between then and now that would compel me to change my position. So while I regret having to say “no” to so many of my friends, I cannot in good conscience turn my back on a principle which is so fundamental to me—the principle of personal responsibility. As a result, I will maintain the position I have held since this bill was introduced and will vote for final passage.

Mr. HATCH. Mr. President, let me begin by saying that H.R. 2415 is one of the most important legislative efforts to reform the bankruptcy laws in decades.

I would like to express my thanks to the people who have worked on this legislation. First, I want to acknowledge the Majority Leader, who has worked diligently to keep this legislation on its course. Thanks to his commitment to moving this legislation, we are in a position to eliminate the abuses in the current bankruptcy system, while at the same time, enhance consumer protections.

I also acknowledge the Ranking Member of the Senate Judiciary Committee, Senator LEAHY, who has worked with me to reach agreement on many of the bill’s provisions. In addition, I want to commend my colleagues from Senator GRASSLEY and TORRICELLI, the Chairman and ranking minority member of the Subcommittee on Administrative Oversight and the Courts, respectively, for their hard work in drafting this legislation, and for their tireless efforts and input. My thanks also goes to Ed Haden and Sean Costello, counsel to Senator Sessions. I also would like to express my gratitude to the Senate Legislative Counsel, and in particular, Laura Ayoud of that office, whose hard work made this bill a better product. Without the dedication and efforts of these loyal public servants, the important reforms in this legislation would not have been possible. Thank you.

UNANIMOUS CONSENT AGREEMENT—H.J. RES. 127

Mr. GRASSLEY. Mr. President, I have been asked to propose this unanimous consent request which, I have been told, has been approved on both sides.

I ask unanimous consent that immediately following the vote on the passage of the bankruptcy legislation, the Senate proceed to the consideration of H.J. Res. 127, the continuing resolution. I further ask unanimous consent that the resolution be read a third time and that the Senate proceed to a vote on passage of the resolution, with no intervening action or debate.

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

BANKRUPTCY REFORM ACT OF 2000—CONFERENCE REPORT—Continued

THE PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, how much time do I have remaining?

THE PRESIDING OFFICER. The Senator from Minnesota has 2 minutes remaining.

Mr. WELLSTONE. Mr. President, responding to my friend from Iowa, the President has called Senators and for good reason: This is a piece of legislation that has very little balance. I will give the example again of LTV workers in the iron range of Minnesota which is going to shut down in February. One month later, there could be
an illness in a family, a medical bill, the worker no longer has a job and cannot pay the mortgage.

Under this piece of legislation, what would be the income that is calculated? Would it be the income of this family with the household unemployed? No. Under this bill, in order to see whether this family could file under chapter 7, you would look over the past 6 months and average out the income all the months he or she was working. But they do not have a job. Most of the people file for chapter 7 because of a major medical bill. It is 50 percent. Only about 3 percent game this system.

Now we have a piece of legislation that does not ask the credit card companies to be accountable, does not do anything about their egregious practices, targets the most vulnerable people, and has very little balance. This piece of legislation should be defeated. That is why the President is opposed to it. That is why my colleagues, civil rights, women, children, consumer organizations, all oppose this piece of legislation. I say to my colleagues, it is too harsh. It is without balance. I know there is a powerful economic constituency behind it, but I hope you will vote against it.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I rise to congratulate all the Senators who have been working on this issue and, in particular, the chairman who is standing here, Senator GRASSLEY, and has been here many times.

Today, in an extended session, we will finally reform the bankruptcy laws of America. They are very important because credit in America, be it from banks, from individual lenders, wherever, is really the heartbeat of what makes us tick and permits us to give our citizens material means. Without credit, things do not work in America.

Every now and then, we have to fix the bankruptcy laws so they work in behalf of not only the debtors but the creditors of America. That is what we are doing here. I think it will pass overwhelmingly.

My thanks to those who have worked so hard on it. I cannot claim to be one of them.

Again, Senator Chuck GRASSLEY has got great persistency, and this is a tribute to him and a good start to his chairmanship of the Finance Committee.

I yield the floor.

Mr. GRASSLEY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The hour of 3:45 p.m. having arrived, the question is on agreeing to the conference report to accompany H.R. 2415.

The clerk will call the roll.

Mr. FITZGERALD (when his name was called). Present.

Mr. REID. I announce that the Senator from Louisiana (Ms. LANDRIEU) is necessarily absent.

The PRESIDING OFFICER (Mr. CRapo). Are there any other Senators in the Chamber desiring to vote?

The record was announced—yeas 70, nays 28, as follows:

[Rollcall Vote No. 297 Leg.]

YEAS—70

Abraham Dorgan McCain
Allard Enzi McConnell
Ashcroft Fritz Miller
Bayh Gorton Murkowski
Benett Graham Nickles
Biden Graham Robb
Bingaman Grams Roberts
Bond Grassley Roth
Breaux Gregg Santorum
Brownback Hagel Sessions
Bryan Hatch Shelby
Bunning Helms Smith (NH)
Burns Hollings Smith (OK)
Byrd Hutchinson Snowe
Campbell Hutchinson Spetzer
Chafee, L. Inhofe Stevens
Cleland Jeffords Thomas
Cochran Johnson Thompson
Collins Kerrey Thurmond
Conrad Klay Torricelli
Craig Lincoln Voinovich
Crapo Lott Warner
DeWine Landrieu
Domencic Mack

NAYS—28

Akaka Inouye Murray
Baucus Kennedy Reed
Boxer Kerry Reed
Daschle Kohl Rockefeler
Dodd Lautenberg Sarbanes
Durbin Leahy Schumer
Edwards Levin Weldon
Feingold Lieberman Wyden
Feinstein McCain
Harkin Boxer

ANSWERED "PRESENT"—1

Fitzgerald

NOT VOTING—1

Landrieu

The conference report was agreed to.

Mr. GRASSLEY. Mr. President, I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRASSLEY. Mr. President, I want to thank all of the people who helped get this bill passed.

Senator HATCH, Senator SESSIONS, Senator TORRICELLI, and Senator BIDEN have all been very helpful. I thank them publicly for their hard work. I even want to thank Senator LEAHY. I also want to thank the staff who have been helpful: Makan Delrahim and Renee Augustine of Senator HATCH’s staff; Ed Haden and Brad Harris of Senator SESSION’s staff; Jennifer Leach of Senator TORRICELLI’s staff; Jim Greene of Senator BIDEN’s staff; Kolan Davis and John McMickle of my staff. I also want to thank the staff of Pagán and Bruce Cohen of Senator LEAHY’s staff.

I want to emphasize the great amount of work and expertise toward this successful effort of my Counsel, John McMickle. Without his hard work the bill would not have been the good product and compromise it is.

Mr. LEAHY. I congratulate Senator GRASSLEY, the Chairman of the Administrative Oversight Subcommittee and my good friend Senator HATCH, the Chairman of the Judiciary Committee for their work on this measure. They doggedly pursued this passage here today. They showed leadership and we made some progress.

ORDER OF BUSINESS

Mr. LOTT. Mr. President, I know that Senators are interested in the schedule.

First, just very briefly, I want to recognize the achievement that has just taken place. A lot of hard work went into this bill over a long period of time by, of course, Senator GRASSLEY, Senator HATCH, Senator LEAHY, and Senator TORRICELLI. But it also took cooperation from Senator WELLSTONE. Whether he is for it or against it, I think again it showed that when we try we can get a final result which gets some 70 votes.

I commend all of them.

This upcoming vote on the continuing resolution should be the last vote of the week. It will be necessary to pass an additional continuing resolution on Friday. However, we are not aware of any request on the other side of the aisle for a rollcall vote.

Tomorrow’s continuing resolution should carry us over until Monday or Tuesday, and we will make further announcements to update Members as to the schedule for next week.

During this time, we will be putting the finishing touches on the appropriations bills and a final determination on the Medicare adjustments.

We are working in a bipartisan way and in a bicameral way with the administration.

We hope to be able to finish the business for the year and for this Congress before the end of next week. It will take a lot more work, but we are making some progress in that direction.

MAKING FURTHER CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 2001

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of H.J. Res. 127, which the clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 127) making further continuing appropriations for the fiscal year 2001, and for other purposes.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on passage of the joint resolution.

The clerk will call the roll.

The assistant legislative clerk called the roll.
Mr. NICKLES. I announce that the Senator from Arizona (Mr. KYL) and the Senator from Pennsylvania (Mr. SPECTER) are necessarily absent.

Mr. REID. I announce that the Senator from Louisiana (Ms. LANDRIEU) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 96, nays 1, as follows:

Yeas—96

Abraham Enzi Mack
Akaka Feingold McCain
Allard Feinstein McConnell
Ashcroft Fitzgerald Mikulski
Baucus Frist Miller
Bayh Gorton Mohiydin
Bennett Graham Murkowski
Biden Gramm Murray
Bingaman Grams Nickles
Bond Grassley Reed
Boxer Gregg Reid
Breaux Hagel Robb
Brownback Harkin Roberts
Bryan Hatch Rockefeller
Bunning Helms Robs
Burns Hollings Santorum
Byrd Hutchinson Sarbanes
Campbell Hutchinson Schumers
Chafee, L. Inhofe Sessions
Cleland Inouye Shelby
Cooper Cochran Smith (NH)
Collins Johnson Smith (OR)
Conrad Kennedy Snowe
Craig Kerry Stevens
Crapo Kerry Thomas
Daschle Kohl Thompson
DeWine Leiberman Thurmond
Dodd Levin Torricelli
Domenici Lieberman Voinovich
Dorgan Lindell Warner
Durbin Lott Wellstone
Edwards Lugar Wyden

Nays—1

Leahy

Not Voting—3

Kyl Landrieu Specter

The joint resolution (H.J. Res. 127) was passed.

Mr. SESSIONS. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Michigan.

PRIVILEGE OF THE FLOOR

Mr. ABRAHAM. Mr. President, I seek unanimous consent to have the members of my staff be allowed the privilege of the floor for the brief period of time that I make some remarks here related to my tenure in the Senate.

The staff members are: Adam Condo, David Carney, Meagan Vargas, Tom Glegola, Vance Poole, Bob Carey, Katja Bullock, Carrie Cabelka, Alex Hageli, Tyler White, Rachael Bohlander, Kevin Kolvar, Joe McGuire, Katie Packer, Cesar Conda, Tim Davis, Margaret Murphy, J. Jessica Moore, Sue Welsh, Majida Dandy, Lillian Smith, Julie Teer, Jim Pitts, Michael Ivanenko, Chase Hutto, Stuart Anderson, Lee Lieberman Otis, and Randa Fahmy Hudome.

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

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

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

SERVICE IN THE SENATE

Mr. ABRAHAM. Mr. President, it is rare in this Chamber for incumbent Senators who have lost on election day to still have the privilege of addressing the Senate again, and in that capacity of finishing out their terms. For me, if there is a silver lining behind this extended session of which we are a part, it is because it gives me a chance to thank people—friends, supporters, staff, colleagues, and others—who have made it possible for me, a grandson of immigrants, to serve and succeed here.

I begin today by making some comments and thanking people who have made a difference. First, I thank my Senate colleagues with whom I have worked over the last 6 years. I especially express my gratitude for the majority leaders under whom I have served—Senator Bob Dole and Senator TRENT LOTT—for their confidence in me, for making me part of their circle of key advisers, for their support on both legislative and political matters and, most importantly, for their friendship.

I extend the same heartfelt thanks to the other members of our leadership teams over the last 6 years: To Senator DON NICKLES for whom I served as deputy whip for 4 years; to our conference committee chairman, THAD COCHRAN, who served when I first arrived here, and Senator CONNIE MACK; to our Senate campaign committee chairman, MITCH MCCONNELL, and the late Senator PAUL COVERDLE; to the Chairman of the Republican Policy Committee Senator LARRY CRAPO; to our new Conference Chairman MITCH MCCONNELL; to the Chairman of the Small Business Committee, KIT BOND, whose friendship has helped me in legislative battles of recent years. I have only been on that committee 2 years, but his leadership also has been important to my success in the Chamber.

I extend my thanks to all of my colleagues. There are many close friends who are part of this Chamber, people with whom my family and I have become close in the last 6 years and others who have already departed the Chamber but with whom we remain close.

Senator CHUCK HAGEL from Nebraska is here with me today. I especially thank him for his great friendship and support. Senators SANTORUM, SUSAN COLLINS, JUDD GREGG and MIKE DEWINE have also done me the honor of helping me in my legislative efforts as well as being my friends over these last six years, and for that I want to thank them. And finally for my Republican colleagues, I want to thank all the other members of my freshman class, the folks with whom I came in 1995, and who helped so substantially change the direction of this country:

Senators SANTORUM, Senator INHOFE, Senator THOMPSON, Senator FRIST, Senator ASHCROFT, Senator KYL, Senator SNOWE, Senator GRAMS, and as I mentioned before, Senator DEWINE.

I reach across the aisle and thank the many colleagues on the Democratic side who whom have worked on so many bipartisan issues in the last 6 years:

To CARL LEVIN, our senior Senator from Michigan with whom I have worked very closely on many issues of importance to our State;

To TED KENNEDY, my ranking member on the Senate Immigration Subcommittee which I chaired. We have been very successful in passing a number of pieces of legislation through the bipartisan cooperation we have achieved in that subcommittee;

To JOE LIEBERMAN, who has been the lead cosponsor of my American Community Renewal Act, and other progrowth initiatives;

To RON WYDEN, my partner in so many high-technology initiatives;

To RUSSELL FEINGOLD, BOB GRAHAM, and others who have worked closely with me.

I also thank the many friends and supporters and mentors who have helped me to arrive in the Senate and in a lengthy political career in my State of Michigan. There are many
people who are part of that success. It would be impossible to name all of them. I want to single out, though, four people who played particularly important roles:

Former Michigan Senator Bob Griffin whom I worked with and staffs I worked on many years ago and a role model for me in that he was the last Republican Senator from my State and a man whose integrity and leadership in the Senate were well recognized. He served ultimate loyalty to the Republican side. His guidance and friendship from the time I was in college has meant a great deal to my political success and my personal success as well.

My great Governor John Engler, who has been a political friend and colleague in Michigan politics since 1971. Without his support and help, I would not have been successful in my campaign for the Senate or other roles I played in Michigan politics.

To former Congressman Guy Vander Jagt with whom I served as co-chairman of the National Republican Congressional Committee in 1991 and 1992 when I made my first appearance on the legislative side of Washington working on Capitol Hill for the first time.

And especially to a great friend, former Vice President Dan Quayle on whose staff I served as deputy chief of staff in 1990 and 1991, my first assignment in Washington in Government service at the Federal level.

I thank all of those individuals, and the others I have not had a chance today to name, for having helped me get to this role and being effective in it.

There are today on the floor a great number of people who have worked on my Senate staff. I am proud of them and proud to have them with me. They only reflect a percentage of the many folks who served in the State of Michigan and their country in the context of working on my staff. There are so many people that I could try to single out this one I have listed, but I will submit the names of everybody for the Record.

The people who served on my senior staff: Tony Antone, Cesar Conda, Kate Hinton, Randa Fahmy Hudome, Joe McMonigle, Katie Packer, Jim Pitts, Larry Purpuro, Laurie Bink Purpuro, and Sue Wadel.

To those folks who served over the years on my press and communications staff: Joe Davis, Nina Delorenzo, Steve Hessler, Richard Hedges, Cesar V. Conda, Rachel Bohlander, Bob Carey, Ann Coulter, Joanna Herman, Special Assistant. To those folks in the libraries and the Congressional Research Service, and in the Cloakrooms.

To all of those people, and others I have probably forgotten, I say thank you because it has really been a very enjoyable part of this job to work with such nice people, people who give 100 percent to this Chamber and to the people who work in the, at the Capitol Police, who help us in so many ways that go unnoticed, to the folks in the libraries and the Congressional Research Service, and in the Cloakrooms.

In particular, I would note Greg Andrews, Joe Cella, Larry Dickerson, Sharon Eineman, Tom Frazier, Phil Hedges, Eunice Myles Jeffries, Stuart Larkins, Renee Meyers, John Petz, Elroy Sailor, Lillian Simon, and Billie Wimpfheimer.

And there are many others who have served and whose names I ask unanomous consent to have printed in the Record.

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

**STAFF OF SENATOR SPENCER ABRAHAM (R-MICHIGAN)**

Mohammed Abouharb, Staff Assistant; Stuart Anderson, Director of Immigration Policy and Research; Gregory Andrews, Regional Director; Anthony Antone, Deputy Chief of Staff; Sandra Baxter, Assistant to the Chief of Staff; Beverly Betel, Staff Assistant; Rachel Bohlander, Legislative Assistant; David Boruch, Computer Specialist; Michell Brown, Staff Assistant; Katja Bullock, Office Manager; Carrie Cabelka, Staff Assistant; Cheryl Campbell, Regional Director; Rob Fee, Administrative Director; David Carney, Mail Room Manager; Joseph Celita, Regional Director; Cesar V. Conda, Administrative Assistant; R. Joseph, Systems Administrator; Adolph Condon, Systems Administrator; J. Cool, Staff Assistant; Ann H. Couter, Judicial Counsel; Majda Dandy, Executive Assistant; Anthony Daunt, Staff Assistant; Joe Davis, Director of Communications; Nina De Lorenzo, Press Secretary; Larry D. Dickerson, Chief of Staff/Michigan Operations; Joanne Dickow, Legal Advisor; Hope Durant, Executive Assistant to the Chief of Staff; Sharon Eineman, Senior Caseworker; Paul Erhardt, Special Assistant; F. Chase Hutto, Junior Counselor; Ethan Jaffee, Staff Assistant; David Glancy, Staff Assistant; Thomas Gregola, Special Assistant; Todd Gustafson, Regional Director; Alex Hageli, Staff Assistant; Mary Harden, Staff Assistant; Phil Hendges, Regional Director; Thomas McMonigle, Regional Director; Joanna Herman, Special Assistant.

Melissa Hess, Staff Assistant; Stephen Hessler, Deputy Press Secretary; Kate Hinton, Press Secretary; Randa Fahmy Hudome, Counselor; F. Chase Hutto, Junior Counselor; Elizabeth Kessler, General Counsel; Kevin Kolevar, Senior Legislative Assistant; Jack Koller, Systems Administrator; Peter Kulick, Case Worker; Kristi Kiefer, Staff Assistant; Patricia LaBelle, Regional Director; Brandon L. LaPerriere, Legislative Assistant; Stuart Larkins, Staff Assistant; Matthew Latimer, Special Assistant; Joseph P. McMonigle, Administrative Assistant; General Counsel; Eileen McNulty, West Michigan Director; Meg Mehner, Special Assistant; Page Moore, Caseworker; Jennifer Millerwise, Staff Assistant; Denise Mills, Staff Assistant; Maureen Mitchell, Staff Assistant; Sara Moleski, Regional Director; Jessica Morris, Secretariat; Margaret Murphy, Press Secretary; Tom Nank, Southeast Michigan Director; James Patrick Nell, Director of Scheduling; Shawn Petz, Michigan Region, Legislative Director; Nae-Rea Ohm, Special Assistant; Lee Liberman Otis, Chief Judicial Counsel; Kathryn Packer, Director of External Affairs; Chris Pavelich, Regional Director; John Petz, Southeast Michigan Director; James Pitts, Chief; Brian Laperriere, Staff Assistant; John Potbury, Regional Director; Toshia Pruden, Caseworker; Laurine Bink Purpuro, Deputy Chief of Staff; John Petz, Elroy Sailor, Special Assistant; David Seitz, Mail Room Manager; Dan Senor, Director of Communications; Sherry Shiner, Regional Director; Anthony Shumsky, Regional Director; Alicia Sikkenka, Special Assistant; Lillian Simon, Staff Assistant; Lillian Smith, Director of Scheduling; Anthony Spearman-Leach, Regional Director; J. Cool, Mail Room Manager; Anne Stevens, Special Assistant; Matthew Suhr, Special Assistant; Julie Teer, Press Secretary; Amanda Trivax, Staff Assistant; Meagan Vargas, Special Assistant; Shawn Vasel, Staff Assistant; Olivia Joyce Vesperas, Staff Assistant; Sue Wadel, Legal Advisor; Seth Waxman, Caseworker; Jennifer Wells, Caseworker; La Tonya Wesley, Special Assistant; Tyler White, Special Assistant; Daniel Willhauck, Legislative Counsel; and Billie Kops Wimmer, State Director.

Mr. ABRAHAM. Mr. President, I also acknowledge that in addition to this great staff—and I do want to thank them here on the floor for their great performance on my behalf and the many achievements I am going to talk about in a minute that we have been able to accomplish—I also note that none of us would have been able to get much done as we did without the help of the tremendous staff that serves us in the Senate as a Chamber: The people who work the floor, our pages, the folks who work at the front here who handle the clerk roles, and the parliamentary roles, and so on. I thank them.

I thank the people who serve on the leadership staffs of both parties who have been great friends and who have helped us to chart the very complicated parliamentary waters we have to so often navigate, the folks who work on the staffs of the committees on which we have served that have helped us to pass legislation, and to the folks who work on the Michigan staff, from the Capitol Police, who help us in so many ways that go unnoticed, to the folks in the libraries and the Congressional Research Service, and in the Cloakrooms.

I thank you for what I consider to be the most tremendous honor that any American can have of being able to represent him by their friends and neighbors in their State, and for their tremendous support throughout my 6 years in the Senate.
I am very proud of the accomplishments I have achieved. I have worked very hard—I hope in most cases in an effective way—to help the people of Michigan, to make sure my constituents have had their voices heard in the Senate, and to make certain that the federal government is responsive to their needs.

Speaking of accomplishments, although I spent only a relevantly brief time here in the Senate, I am very proud of what my staff and I have been able to accomplish for the people of Michigan and for the country.

In 1994, a group of freshmen were elected here. Eleven of us came in to basically create a new majority. In 1995, I came to the Senate as part of a historic class of Republican Senators—the class that gave Republicans control of Congress for the first time in decades. I believe we were sent to Washington to accomplish a very clear agenda: to balance the federal budget, to reform welfare, to reform the welfare system, and to make Washington more accountable.

I am proud to say, as I look back on our 6 years, that I believe we have delivered on those promises.

We balanced the budget in 1998— and we have kept it balanced every year since. We have done it this past year without using one penny of the Social Security trust fund surplus to get the job done.

We reformed the welfare system, reducing the welfare rolls by over a third.

We provided parents with a $500-per-child tax credit and investors a cut in the capital gains tax.

And we made Congress more accountable by requiring Members to live by the same rules and regulations and mandates we impose on the rest of the country.

I am proud of those achievements, which I think, of course, are achievements of this body as a whole.

I am also proud of some of the things which I have been able to accomplish during the last 6 years. I am very proud of the fact that, including today, I have never missed a single rollcall vote on the floor of the Senate. I have just cast, I think, my 2,002nd consecutive rollcall vote.

In my view, voting in the Senate is the single most important duty that we as Senators, perform on behalf of our constituents. It is what the people of our States elect us to do. I am glad I have been here every single day for the people of Michigan to perform that responsibility.

I am also proud of the fact that in a fairly short period of time I have been able to author 22 pieces of legislation that have been signed into law. I am proud of that legislative record.

As a member of the Judiciary Committee, I have been strongly interested in drug and crime issues. My first bill to become law prevented the U.S. Sentencing Commission from reducing prison sentences for crack-cocaine offenders. Had that bill not passed, the sentences would have been automatically reduced.

Later, with my staff, we wrote the Prison Conditions Litigation Reform Act, which helped reduce prisoner lawsuits and reduced our prisons from dragging back to local authorities.

And just a few months ago, the President signed into law the Samantha Reid Date-Rape Drug Prohibition Act. Samantha Reid was a Rockwood, MI, teenager who died after drinking a can of Mountain Dew she did not know had been laced with the deadly date rape drug GHB. Our law amends the Controlled Substances Act by adding GHB to the list of Schedule 1 controlled substances, which also includes heroin and cocaine.

As a member of both the Judiciary and Commerce Committees, I focused on a wide range of high-technology issues that I believe are critical to the continued growth and prosperity of this nation.

My American Competitiveness and Workforce Improvement Act increased the number of skilled professional visas to help with critical labor shortages, especially in the entrepreneurial high-tech age.

The law also funds 10,000 new college scholarships annually for low-income students for studies in math, engineering, and computer science, and job training for unemployed Americans through the Jobs Partnership Act.

I was also the author of two new laws dealing with electronic commerce: the Government Paperwork Elimination Act and the Electronic Signatures and Global and National Commerce Act.

The first law set forth a timetable for Federal agencies to accept electronically signed and transmitted records and forms from businesses and individuals. The second law ensured that contracts agreed to over the Internet using electronic digital signatures would have the same legal validity as contracts agreed to in the paper world using pen and ink signatures.

Both of these laws have laid the groundwork, I think, for continued growth and expansion of electronic commerce in the years to come.

Other laws which I have been involved with—I am especially proud of the passage, this year, of the Neotropical Migratory Bird Conservation Act; the College Scholarship Fraud Prevention Act; and in the previous year, the Child Passenger Protection Act.

I am especially proud of having been the Senate sponsor of legislation that confirmed the Congressional Gold Medal on one of my constituents, Mrs. Rosa Parks.

One area that I spent a great deal of time working on in this Chamber, as many know, is the area of immigration. As a member of the Appropriations Committee, I am especially proud of the role that I tried to play in changing the tone of the debate over immigration in this Chamber. In the mid-1990s, my party—the Republican Party—in my judgment, seemed to have lost its way on immigration. It had strayed from the inclusive, proimmigration philosophy of President Ronald Reagan toward the more protectionist and nativist views of a vocal minority within the Republican Party.

In 1997, I helped lead a bipartisan group of Senators—from Phil Gramm, Mike DeWine, and Sam Brownback, to Russ Feingold, Joe Lieberman, Paul Wellstone, and others—to defeat a misguided effort to establish legal immigration to this country.

I believe, with all of my heart, that America should remain—as President Reagan said—the "Shining City on the Hill," welcoming those who play by the rules and who contribute to society.

I would say, despite the ugly campaign that was run in my State against me by some of these anti-immigrant hate groups, I am absolutely confident that the bipartisan coalition for legal immigration that was built in this Chamber will remain strong long after I have left the Senate.

I am also proud of what I have been able to deliver to the people of the State of Michigan on issues important to that State.

I am very proud of what I have been able to do with respect to increasing transportation funding; stopping an effort to move to Washington control of the Great Lakes; ensuring funding for the Great Lakes; restoring Medicare reimbursements for Michigan hospitals; and protecting our auto workers' jobs with respect to issues that threaten the auto industry.

I intend to continue to fight—perhaps not in the elective political arena or in public life specifically, but in whatever roles that I might be able to play—for tax and regulatory policies that strengthen American competitiveness and economic growth, to ensure our national security, tough laws against criminals, and to have immigration policy that respects America's great traditions, having schools that are second to none, training for 21st-century jobs, community renewal efforts to empower the poor, and a transportation and infrastructure system that makes us prepared to be competitive in the 21st century.

As I close, I have a few moments upon which I will reflect. When one comes to the end of a 6-year period here, there are a lot of memories. It is probably possible for one to speak long into the night about the various things one recalls. I do remember being sworn in here that first day just a few steps in front of me by Vice President Gore, holding our family Bible and very nervously taking the oath of office because it was such an important moment in my life.

I remember the first day I sat in the President's chair or a majority in the Senate. I considered it to be quite an important honor to be given that duty. Then by the second and third day that I performed it, I realized exactly how...
that responsibility was viewed by the other Members of this Chamber. This week I asked once again to have the chance to preside because I wanted to never forget just exactly how meaningful it is to serve in this Chamber.

I recall our first Gill with regard to sentencing and seeing it signed into law. I remember standing at this desk and casting the very first vote on the impeachment trial that we had in January of 1999 with respect to the President. I think an unbelievably historic moment to have been a part. And of course I will never forget today, the chance to be here with colleagues and staff and friends speaking one last time in the Senate. Indeed, it is these moments, the chance to stand up and to make one's case for one's State, for one's beliefs, that will stay with me probably more than any other.

In closing, I will just make a few short observations. First, this institution is run by great people. All too often we tend to take for granted the truly extraordinary political leaders who work here every day. I personally consider it a great honor and privilege to serve with people who will long be recognized, probably for the entire history of our country, as giants in this Chamber — leaders such as Senator Strom Thurmond, retiring Member Bob Dole, our President pro tempore, this Chamber — leaders such as Senator Strom Thurmond, retiring Member Bob Dole, our President pro tempore, this Chamber — leaders such as Senator Strom Thurmond, retiring Member Bob Dole, our President pro tempore. Indeed, I think the Senate really does reflect democracy at its finest. Over 150 years ago, De Tocqueville observed: "I confess that in America I saw more than America; I saw the image of democracy itself, with its inclinations, its character, its prejudices, and its passions, in order to learn what we have to fear or hope from its progress."

Some say this America, this image of democracy in the danger exists. But I say, that it does exist, right here in this great Chamber.

I will miss the Senate. I will miss the institution, and I will miss the people. Being a Senator has been my dream. I hope that in my 6 years here, I have contributed in some small way to the rich history of what has been and forever will be called “the world’s greatest deliberative body, in the world’s greatest democracy.” It is a long distance from being the grandson of immigrants to this floor.

I know when my grandparents came here, they never dreamt that their grandson or anyone in the family would end up as a Member of the U.S. Senate, but they came to America because they wanted to live in a place in which something such as that could happen. This is the one country where something such as that not only can happen, but in many other families happened all the time. It is the greatest thing about America. I am proud and believe, as I leave the Chamber, that I have helped contribute in my own small way during these 6 years to making sure that America always remains that country.

I thank everyone I have mentioned, but I especially thank my family, some of whom are here today, my wife Jane and my daughters Betsy and Julie, without whom none of this would have been possible for me. Their support in every way and their love and affection have made the difference in my life. As I lead I only say that I hope all Americans will in their own way find a way to appreciate the greatness of this democracy. I hope all of my colleagues will continue to fight to make sure that that tradition, that Nation which my grandparents and so many others fought for, so many others strove to come to be part of, will always be available to those who seek freedom and liberty and opportunity and that that dream will be forever part of our great country.

I yield the floor.

Mr. HAGEL. Mr. President, I ask unanimous consent to that the quorum call be rescinded.

The PRESIDING OFFICER. The clerk will call the roll.

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

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

ANNIVERSARY OF PEARL HARBOR DAY

Mr. THURMOND. Mr. President, I rise today in remembrance of those who relinquished their lives at the Japanese attack on Pearl Harbor. As President Franklin Delano Roosevelt said at the time, December 7, 1941, will remain a “date which will live in infamy,” for it was on this date that the Japanese forces attacked our unsuspecting Nation.

The first Japanese assault struck the United States naval base at Pearl Harbor, Hawaii, on the island of Oahu, at 7:55 a.m. The base was just awakening early Sunday morning when the sound of Japanese torpedo planes could be heard. The American armed forces in the Pacific were caught completely off guard. When a war warning was issued two weeks prior, Hawaii was not mentioned as a possible target. At the time, the American military thought that the Philippines or Malaysia would be a possible area of attack, not the island of Hawaii. Therefore, Pearl Harbor was not prepared for the onslaught of
terror that occurred that devastating morning.

The Japanese attack consisted of 363 planes that came in two waves with the second only 45 minutes after the first. The United States had concentrated almost its entire fleet of 94 vessels, including 8 battleships, at Pearl Harbor, and this proximity made an easy target for the Japanese. Additionally, to prevent against saboteurs, the Army's planes at Oahu were aligned wing tip to wing tip on airfields. Therefore, the Japanese were able to easily diminish the threat of any American defense. Before noon, when the Japanese attack concluded, 2,403 American servicemen and civilians were killed and an additional 1,178 were wounded.

December 7, 1941, is the day our land, our people, and our spirit were brutally attacked. However, the Japanese forces failed to defeat the patriotism of the American people and our undying belief of the enthusiasm that people were able rally around one another with the knowledge and the confidence that America would prevail, and the great losses we suffered at Pearl Harbor would not be in vain. As a veteran of World War II, and a proud American, I would like to recognize the patriotism, the bravery, and the extreme sacrifices of those who were at Pearl Harbor on December 7, 1941, including our own Senator DAN INOUYE. These fine men and women are true American heroes, and our country forever owes them a great debt of gratitude.

COUNTRY DOCTOR OF THE YEAR

Mr. LOTT. Mr. President, today, I rise to pay tribute to the Country Doctor of the Year, Dr. Howard Clark of Morton, MS. Clark was selected for this award out of 501 doctors from 41 States by a national physicians association. This was not an easy problem. Joyce got it done.

Mr. HATCH. Mr. President, at the end of December, one of my charter staff members will be retiring. Joyce Newton has been on my staff since I took office as the Senator from Utah in January 1977. As a fresh new Senator, I was the beneficiary of Joyce's decade of previous experience as a caseworker for former Representatives Frank Horton and John Conlan and as a staffer at the Office of Management and Budget.

But, during these last 24 years, Joyce has helped countless Utahns with Social Security snafus, international adoptions, military transfers, and a whole host of other special needs and problems. Joyce has always been there to offer a sympathetic ear or to jump start a slow or reluctant bureaucracy. Joyce has been known to come to the office in the early hours of the morning in order to telephone an embassy halfway around the globe.

She has been known to go to bat for constituents even when the grounds for their congressional appeals were shaky.

And, Joyce has been tenacious. She has pursued cases as far as she could. If we were unsuccessful in resolving a constituent problem, it was never for lack of trying—it was only for lack of more avenues.

I remember the “Books for Bulgaria” project. How could we get literally hundreds of pounds of books to Bulgaria at little or no cost to be used by a nonprofit organization for educational outreach in that distressed country? This was not an easy problem. Joyce somehow managed to solve it.

I remember the young woman from England who needed specialized surgery to cure a rare condition that prevented her from walking. Doctors at the University of Utah had pioneered a new technique not available anywhere else, but various INS rules needed to be sorted out in order for her to come and remain in our country long enough for recovery and rehabilitation. There is a woman able to walk today because Joyce got it done.

I have always had complete confidence in Joyce. When she phoned an agency, she was phoning for me. No Senator or Representative can possibly do this work by himself or herself. It takes dedicated, caring, and competent people to work through the various redtape entanglements that often snare our citizens.

These constituent service staffs too often work in the background. They don't attend signing ceremonies. They don't meet with celebrities or national leaders. They don't have bills and photographs, plaques or certificates on their office walls. Joyce Newton was one of these devoted individuals on Capitol Hill who labored quietly on behalf of the citizens of America. And, she got it done.

There are thousands of citizens in my State—seniors, children, service men and women, families—who may not remember Joyce Newton's name. But, they will always remember what she did for them.

We are sorely going to miss Joyce Newton on the Hatch staff. And, today I want to thank her publicly for all of her dedicated hard work over these last many years and wish her all the best in a much deserved, well-earned retirement.

BOB LOCKWOOD

Mr. HATCH. Mr. President, I pay public tribute to Bob Lockwood, who is finally retiring. I say “finally” because Bob had tried to leave and had tried to leave previously, and I successfully prevailed on him to stay. But, this time, it looks as if he is really going to do it.

Bob came to my staff after a long and distinguished career in the Army, serving in many capacities, including in Vietnam and on the Secretary of Defense staff. Bob has many credentials making him unique among military officers. He is a lawyer, an engineer, and an economist. He found an organization the U.S. Army—where he could put all of these qualifications to work. So, when he wanted to establish a second career in public policy, I benefited from a man who could wear many hats. It will probably take three people to replace him.

Bob had the complex portfolios of defense and trade as well as business liaison. The amazing thing is that he is expert in all these areas as well as tenacious and unwilling to let any issue slide. There may be a few people at the Pentagon and at USTR who will cheer his retirement if only because Bob will not be around to bug them. On the other hand, I know firsthand that Bob is universally respected for his knowledge, his integrity, and his professionalism. He has big shoes that will be hard to fill.

Over the years, he has helped me to foster business development in Utah, to prepare for the landmark debates we have had on trade, and to protect our great Hill Air Force Base and other military facilities from ill-advised and politically motivated cuts and closures. I will always be grateful for his yeoman effort on these projects. Utah is better off today for his dedication to these areas.

Bob has also turned into a real Utahn during the years he has worked for me. Traveling to our State often during the year, he fell in love with
Utah and the possibilities that abound there. At the end of the month, Bob will go from being my employee to being my constituent.

I wish him well as he is taking on the new challenge of retirement, one for which in my policy and senior staff positions, but in the support roles as well. Donna has been such a staff, and I will miss her.

I want to thank her for her many contributions to my office, congratulate her on a well-deserved retirement, and wish her all the best as she moves on to the next chapter in her life.

I want her to know how much I appreciate her and her colleague Joyce and how much I love and appreciate Bob Lock with these people have proven that government workers work above and beyond, that they really make a difference in all of our lives, and that they are part of the reason why many in this country have a quality of life they would not otherwise have.

I am so grateful to these three people and for the service they have given to our country, to the Senate, to my constituents. It has been such a privilege to work with them, I say "we" in this day. They never worked for me. They worked for all of us. They worked with me. I don't think I would be nearly as effective had it not been for the work that these three wonderful people have done. I pay personal tribute to them.

VICTIMS OF GUN VIOLENCE

Mr. AKAKA. Mr. President, it has been more than a year since the Columbine tragedy, but still this Republican Congress refuses to act on sensible gun legislation.

Since Columbine, thousands of Americans have been killed by gunfire. Until Congress restore the Senate will read the names of some of those who have lost their lives to gun violence in the past year, and we will continue to do so every day that the Senate is in session.

In the name of those who died, we will continue this fight. Following are the names of some of the people who were killed by gunfire one year ago today.

December 7, 1999: Jose Corral, 72, Miami-Dade County, FL; John F. Muir, 68, Philadelphia, PA; Kowandius Hammett, 22, Miami-Dade County, FL; J ohn Jeter, 24, Philadelphia, PA; Andre Derrell Jones, 23, Baltimore, MD; Tommy Martin, 38, Oakland, CA; Casey B. Morgan, 42, Seattle, WA; Karen H. Morgan, 43, Seattle, WA; Thomas B. Morgan, 45, Seattle, WA; Adon L. Shelby, 32, Chicago, IL; Ememich Tahn, 22, Washington, DC; Heli Minh Trihn, 22, New Orleans, LA; and Unidentified Male, 33, Nashville, TN.

We cannot sit back and allow such senseless gun violence to continue. The deaths of these people are a reminder to all of us that we need to enact sensible gun legislation now.

THE RECORD ON EXECUTIONS

Mr. FEINGOLD. Mr. President, I rise with regret to mark another milestone in the history of our system of justice. This morning's papers report that yesterday the state of Texas carried out its 39th execution, the most of any state since 1862, when the military hanged 39 Native Americans in one day in Minnesota. This evening, Texas is scheduled to surpass that record with its 40th execution. This is a regrettable record.

This year, as of yesterday, states in America have executed 82 people. We have reached a sad state of affairs when this Country executed nearly 100 people each year. In 1999, only China and the Congo executed more people a year than did the United States.

And we have reached an inequitable state of affairs when nearly half of the executions this year—39 out of the 82 to date—were carried out in just one state. The state with the next most executions this year, Oklahoma, has had 11 executions. Southern states have carried out nearly 9 out of 10 executions that have taken place this year.

Across the street, the building that holds the Supreme Court of the United States has emblazoned across its pediment the words "Equal Justice Under Law." In a Nation that prides itself in that equal justice, how can we abide a system where nearly half of the executions are carried out in just one state? Finally, I rise to mark another milestone. On Tuesday of next week, the Federal Government is scheduled to re-enter the grim business of execution. For nearly 40 years, no one has been executed in the name of the people of the United States. That is set to change next Tuesday.

The Office of the demonstrated evidence of regional and racial disparity in the application of this most final punishment, I call on the President to stay that execution. I call on the President to impose a moratorium on Federal executions and establish a blue ribbon commission to examine the fairness of the system of capital punishment in America.

In September, the Department of Justice released a report on the federal death penalty system. That report found that whether the federal system sends people to death row appears to be related to the federal district in which they are prosecuted or the color of their skin.

After the Justice Department released the report, White House spokesmen Jake Siewert confirmed the President's view that "these numbers are troubling" and that more information must be gathered to determine "more about how the system works and what's behind those numbers," including "why minorities in some geographic districts are disproportionately represented."

We do not yet know why our federal system produces racially and geographically lopsided results. We need a systematic review.

Many are joining in asking the President for a moratorium on executions. Their ranks include, among so many others, Lloyd Cutler, the esteemed former adviser to Presidents Carter and Clinton; Julian Bond, Chairman of the NAACP; and the Reverend Joseph Lowery, chair of the Black Leadership Forum and President emeritus of the Southern Christian Leadership Conference.

Yes, justice demands that crimes be punished. But if we demand justice, we must administer justice fairly.

Before we reach the milestone of re-instituting Federal executions, let us pause to evaluate the fairness of our Nation's machinery of death.

Mr. President, let this be a milestone that we choose not to reach, next week. God willing, let this be a milestone that we choose not to reach, if ever, for some time to come.

ADDITIONAL STATEMENTS

AMBASSADOR DAVID HERMELIN

Mr. BIDEN. Mr. President, I rise today to pay tribute to David B. Hermelin, former U.S. Ambassador to Norway, who passed away on November 22.
After a distinguished business and philanthropic career in his native Michigan, Mr. Hermelin was nominated as envoy to Norway by President Clinton in 1997 and confirmed by the Senate that same year.

Members of this Chamber know that, as might be expected with any large group, over the years the performance of our ambassadors, both career diplomats and political appointees, have varied widely. By any standard, David Hermelin’s tenure was spectacularly successful.

In the short space of two years, Ambassador Hermelin managed a remarkable feat: strengthening the already close ties between our ally Norway and the United States. His diplomatic and personal charm led to unprecedented reciprocal visits within three weeks of each other last year—the Norwegian Prime Minister’s to Washington, and President Clinton’s to Oslo. The first ever visit of an incumbent President to Norway, in this case in pursuit of a Middle Eastern peace settlement.

But Ambassador Hermelin’s accomplishments were not limited to such high-profile events. Through behind-the-scenes daily efforts, he was directly instrumental in the success of Lockheed Martin’s bid, as part of a consortium, to sell the Norwegian Navy five new frigates equipped with the Aegis missile system, a sale worth more than one billion dollars.

Ambassador Hermelin was recognized for his many contributions by being awarded the Royal Norwegian Order of Merit, the highest honor the country bestows upon non-Norwegians.

Even after Ambassador Hermelin was diagnosed with a terminal illness, he vigorously played a major role to help others through an international initiative to alleviate the conflict in civil war, as in Sierra Leone.

On his visit to Oslo in November 1999, President Clinton, in speaking of Ambassador Hermelin, reflected on this kind of behavior: ``I don’t know anyone who has such a remarkable combination of energy and commitment to the common good.’’

After diagnosis of his terminal illness, he and a group of friends donated ten million dollars to establish a brain tumor center at Henry Ford Hospital in Michigan.

Ambassador Hermelin felt deeply connected to Israel and to Jewish causes, raising millions of dollars for local and overseas needs.

After the Ambassador’s death, the U.S. State Department’s Norway desk officer offered this heartfelt testimony: “David Hermelin was the kind of man who made a friend out of everybody he met, and those who worked with him at the embassy regarded him with an affection that is unmatched by the feelings I’ve seen for any other ambassador at any time to any country.”

Amedel is survived by his wife, five children, and eight grandchildren. He will be sorely missed by all who knew him, particularly by his colleagues in the U.S. Government.

Mr. TOTTICELLI. Mr. President, I rise today to recognize Dr. Dwight Crist Northington on the occasion of his 9th Pastoral Anniversary at Calvary Baptist Church in Red Bank, New Jersey. Dr. Northington is an extremely gifted individual, and it is an honor to recognize this special moment in his life.

Dr. Northington has served the citizens of New Jersey since 1986, when he was named Pastor of First Baptist Church of South Orange. Since that time, he has also served as president of Westside Ministerial Alliance and currently serves as the Moderator of the Seacoast Missionary Baptist Association. While having done a great deal for the community of Red Bank, Dr. Northington has also served as an instructor at Brookdale Community College and as a member of the Borough of Red Bank Board of Education.

The needs of our Nation can only be met through the industrious efforts of each individual. The work of Dr. Northington and others like him is vital to the continued prosperity of our communities and meeting the needs of people who live within them.

The citizens of Red Bank are fortunate to have a talented and dedicated individual such as Dr. Northington in their community.

Mr. MOYNIHAN. Mr. President, in late October, as many Senators will recall, Vincent Canby was a vividly witty and sophisticated taste illuminated film and theater reviews in the New York Times for more than 35 years” died at age 76. Thinking of an appropriate manner in which the Senate might express its respect for his most honored memory, there came to mind an observation he made in a review of a film based on E.M. Foster’s novel “Howard’s End.”

It’s time for legislation decreeing that no one be allowed to make a screen adaptation of any quality whatsoever if Ismail Merchant, James Ivory and Ruth Prawer Jhabvala are available, and if they elect to do the job. Trespassers should be prosecuted, possibly confined, sentenced to watch “Adam Bede” on “Masterpiece Theatre” for five to seven years.

The legislative drafting service had no difficulty producing legislative language. I had in mind a joint resolution, which is, of course, a statute.

In view of our oath “to uphold and defend the Constitution of the United States,” I felt in need of a legal opinion as to whether there might be constitutional impediments to such a measure. I think for example of the “non-quo” clause of the fourth amendment recently much discussed in learned papers associated with the University of Chicago School of Law. And so I set out to obtain advisory opinions. Alas, I had remained too long. November 7 had passed. The Presidential election was in dispute. All of the constitutional lawyers in Washington had decamped for Florida.

And now, in the closing hours of the 106th Congress, they are still there. This leaves me with no choice but to withhold the measure for now. Happily I am informed that next April we will witness the premier of The Wandering Company’s adaptation of Henry James’ “The Golden Bowl.” What a splendid way to begin the new millennium. (For those that the year 2000 and our trio are naught if not scrupulous to as details.) Surely a Senator in the 107th Congress will wish to pursue this matter. The glory of three continents is yet to be proclaimed in law.

The regret the inconvenience this may cause viewers of “Adam Bede” and I surely would not wish to denigrate “Masterpiece Theatre,” but Vincent Canby was a just and moderate man. And, as is proclaimed on the wall above him in his most honored memory, there came to mind an observation he made in a review of a film based on E.M. Foster’s novel “Howard’s End.”
IN RECOGNITION OF DR. CHARLES G. ADAMS, HEASTER WHEELER AND WENDY WAGENHEIM
• Mr. LEVIN. Mr. President, I rise today to pay tribute to three outstanding people from my home state of Michigan. On December 10, 2000, Dr. Charles G. Adams, Heaster Wheeler and Wendy Wagenheim were being recognized for their outstanding leadership in this year’s “All Kids First” campaign initiative.

Dr. Charles G. Adams has served as Pastor of Hartford Memorial Baptist Church in Detroit, Michigan since 1969, and is one of Detroit’s pre-eminent religious and civil rights leaders. Because of his eloquence and command of the issues, he is highly sought after as a speaker on issues of faith and social justice. He served as Co-Chair of the All Kids First initiative, participating in televised debates and helped to lead the effort among his colleagues in the religious community and the community at large. Finally, I would like to add a heartfelt “Happy Birthday” to Dr. Adams, who will be celebrating his 64th birthday on December 13, 2000.

Heaster Wheeler is the Executive Director of the Detroit Branch NAACP, the largest NAACP chapter in the United States. Wendy Wagenheim serves as Legislative Director for the American Civil Liberties Union of Michigan. Their combined experience in government, community service and public relations was invaluable in the All Kids First campaign. Together, Mr. Wheeler and Ms. Wagenheim participated in more than 45 debates about Proposal 1 throughout the state of Michigan. Their efforts were instrumental in defeating the proposal and in ensuring that all of Michigan’s public schools will have adequate resources to educate our children.

Mr. President, I hope my colleagues will join me in congratulating Dr. Adams, Heaster Wheeler and Wendy Wagenheim as they are honored by the All Kids First initiative, and in encouraging them to keep fighting on behalf of Michigan’s children and to improve Michigan’s public schools.

MESSAGES FROM THE HOUSE
At 3:55 p.m., a message from the House of Representatives, delivered by one of its clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 127, joint resolution making further continuing appropriations for the fiscal year 2001, and for other purposes.

Enrolled Bill Signed
At 4:39 p.m., a message from the House of Representatives, delivered by one of its clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 127, joint resolution making further continuing appropriations for the fiscal year 2001, and for other purposes.

The enrolled resolution was signed subsequently by the President pro tempore (Mr. THURMOND).

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-11757. A communication from the Office of the Assistant Secretary, Civil Works, Department of the Army, transmitting, pursuant to law, a report of a rule entitled “Revisions to the California State Implementation Plan, Ventura County Air Pollution Control District” (FRL #6908-1) received on December 5, 2000, to the Committee on Environment and Public Works.

EC-11758. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Proposals to the California State Agency Implementation Plan, Ventura County Air Pollution Control District” (FRL #6908-1) received on December 5, 2000, to the Committee on Environment and Public Works.

EC-11759. A communication from the Deputy Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Revisions to the California State Implementation Plan, Ventura County Air Pollution Control District” (FRL #6908-1) received on December 5, 2000, to the Committee on Environment and Public Works.

EC-11760. A communication from the Deputy Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approval and Promotion of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Ohio” (FRL #6904-71) received on December 5, 2000, to the Committee on Environment and Public Works.

EC-11761. A communication from the Secretary of the Department of Agriculture, transmitting, pursuant to law, the report of the rule entitled “National Forest System Land and Resource Management Planning” (RIN0596-A230) received on November 9, 2000, to the Committee on Agriculture, Nutrition, and Forestry.

EC-11762. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the corrected report (reference to ec11596) of the rule entitled “Non-citizen Eligibility and Certification Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act (PW ORA) of 1996” (RIN0594-A140) received on November 27, 2000, to the Committee on Agriculture, Nutrition, and Forestry.

EC-11763. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Fludioxazin; Extension of Tolerance for Emergency Exemptions” (RFL #6756-6) received on December 5, 2000, to the Committee on Agriculture, Nutrition, and Forestry.

EC-11764. A communication from the Deputy Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Avermectin; Extension of Tolerance for Emergency Exemptions” (RFL #6754-5) received on December 5, 2000, to the Committee on Agriculture, Nutrition, and Forestry.

EC-11765. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled “Rules and Regulations under the Textile Fiber Products Identification Act, Rules and Regulations under the Wool Products Labeling Act” (RIN3084-0101, 3084-0300) received on November 29, 2000, to the Committee on Commerce, Science, and Transportation.

EC-11766. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Closure of the Commercial Fishery for Gulf Gear for Mackinaw Group of Florida West Coast Subzone” received on December 5, 2000, to the Committee on Commerce, Science, and Transportation.

EC-11767. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Adjustments from the U.S. Canada Border to the Oregon-California Border” received on December 5, 2000, to the Committee on Commerce, Science, and Transportation.

EC-11768. A communication from the Acting Assistant Secretary, Pension and Welfare Benefits Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled “Avermectin; Extension of Tolerance for Emergency Exemptions” (RIN0596-A230) received on November 27, 2000, to the Committee on Health, Education, Labor, and Pensions.

EC-11769. A communication from the Acting Assistant Secretary, Pension and Welfare Benefits Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled “Employee Retirement Income Security Act of 1974; Rules and Regulations for Administration and Enforcement; Claims Procedure” (RIN1210-AA61) received on November 27, 2000, to the Committee on Health, Education, Labor, and Pensions.

EC-11770. A communication from the Director of the Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled “Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits” received on November 27, 2000, to the Committee on Health, Education, Labor, and Pensions.

EC-11771. A communication from the Acting Assistant General Counsel for Regulation, Department of Veterans Affairs, Rehabilitation Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled “Special Demonstration Programs (34 CFR Part 373) received on December 5, 2000, to the Committee on Health, Education, Labor, and Pensions.

EC-11772. A communication from the Acting Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “Listing of Color Additives Exempt From Certification; Luminescence Zinc Sulfide; Correction” (Docket #83-6762) received on December 5, 2000, to the Committee on Health, Education, Labor, and Pensions.
EC-11774. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, pursuant to law, the report of a rule entitled “Indirect Food Additives: Paper and Paperboard Component” (Docket No. 99F-1719) received on December 5, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC-11775. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report entitled “Secondary Direct Food Additives Permitted in Food for Human Consumption” (Docket No. 00F-1332) received on December 5, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC-11776. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “Irradiation in the Production, Processing, and Handling of Food” (Docket No. 99F-1912) received on December 5, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC-11777. A communication from the Secretary of Education, transmitting, pursuant to law, a report relative to the national advisory committee on student financial aid and integrity for fiscal year 2000; to the Committee on Health, Education, Labor, and Pensions.

EC-11778. A communication from the Secretary of Education, transmitting, pursuant to the Inspector General Act, the semiannual report for the period April 1, 2000 through September 30, 2000; to the Committee on Governmental Affairs.

EC-11779. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the text of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC-11780. A communication from the Assistant Secretary (Legal Affairs), Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Visas: Immigrant Religious Workers” (RIN 1510-AA57 and 1105-AA31) received on December 7, 2000; to the Committee on Foreign Relations.

EC-11781. A communication from the Deputy General Counsel, Office of Size Standards, Small Business Administration, transmitting, pursuant to law, the report of a rule entitled “Small Business Size Standards; Health Care” (RIN 3045-AE06) received on December 5, 2000; to the Committee on Small Business.

EC-11782. A communication from the Deputy General Counsel, Office of Small Business Investment Companies, Small Business Administration, transmitting, pursuant to law, the report of a rule entitled “Small Business Investment Companies; Cost of Money Under the Small Business Investment Act of 1958, as amended” (RIN 3100-AC01) received on December 5, 2000; to the Committee on Small Business.

EC-11783. A communication from the Chairman, Centennial of Flight Commission, in concurrence with the National Aeronautics Space Administration Administrator, transmitting, pursuant to law, the annual report for the 2000 fiscal year; to the Committee on Governmental Affairs.

EC-11784. A communication from the President of the United States, transmitting, pursuant to law, a report relative to the alternative plan for federal employee locality-based comparability payments; to the Committee on Governmental Affairs.

EC-11785. A communication from the Chairman and the General Counsel of the National Labor Relations Board, transmitting, pursuant to the Inspector General Act, the semiannual report for the period April 1, 2000 through September 30, 2000; to the Committee on Governmental Affairs.

EC-11786. A communication from the Chair of the Railroad Retirement Board, transmitting, pursuant to the Inspector General Act, the semiannual report for the period April 1, 2000 through September 30, 2000; to the Committee on Governmental Affairs.

EC-11787. A communication from the Corporation for National Service, transmitting, pursuant to the Inspector General Act, the semiannual report for the period April 1, 2000 through September 30, 2000 as well as a report on final action; to the Committee on Governmental Affairs.

EC-11788. A communication from the Administrator, General Services Administration, transmitting, pursuant to the Inspector General Act, the semiannual report for the period April 1, 2000 through September 30, 2000; to the Committee on Governmental Affairs.

EC-11789. A communication from the Secretary of the Interior, transmitting, pursuant to the Inspector General Act, the semiannual report for the period April 1, 2000 through September 30, 2000; to the Committee on Governmental Affairs.

EC-11790. A communication from the Chairman of the National Science Board, transmitting, pursuant to the Inspector General Act, the semiannual report for the period April 1, 2000 through September 30, 2000; to the Committee on Governmental Affairs.

EC-11791. A communication from the Director of the Peace Corps, transmitting, pursuant to the Inspector General Act, the semiannual report for the period April 1, 2000 through September 30, 2000; to the Committee on Governmental Affairs.

EC-11792. A communication from the Acting Secretary of Veterans Affairs, transmitting, pursuant to the Inspector General Act, the semiannual report for the period April 1, 2000 through September 30, 2000; to the Committee on Governmental Affairs.

EC-11793. A communication from the Director of the Workforce Compensation and Performance Service, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled “Pay Under the General Schedule: Locality-Based Comparability Payments” (RIN 2006-AJ07) received on December 5, 2000; to the Committee on Government Affairs.

EC-11794. A communication from the Attorney-Advisor Federal Register Certifying Officer, Financial Management Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Federal Claims Collection Standards” (RIN 15150-AA57 and 1105-AA31) received on November 9, 2000; to the Committee on Finance.

NOMINATION DISCHARGED

Pursuant to a unanimous consent agreement of December 7, 2000, the Committee on Foreign Relations was discharged of the following nomination:

Mr. DOMENICI (for himself and Mr. LUGAR):

S. Res. 385. A resolution congratulating the Reverend Clay Evans of Chicago, Illinois, on the occasion of his retirement; considered and agreed to.

S. Res. 386. A resolution expressing the sense of the Senate regarding National Pearl Harbor Remembrance Day; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

Mr. DOMENICI (for himself and Mr. LUGAR):

S. 3275. A bill to authorize the Secretary of Energy to guarantee loans to facilitate nuclear nonproliferation programs and activities of the Government of the Russian Federation, and for other purposes; to the Committee on Foreign Relations.

FISSILE MATERIAL LOAN GUARANTEE ACT

Mr. DOMENICI. Mr. President, I rise to introduce the Fissile Material Loan Guarantee Act. This Act is intended to increase the arsenal of programs that reduce proliferation threats from the Russian nuclear weapons complex.

This Act presents an unusual option, which I’ve been discussing with the leadership of some of the world’s largest private banks and lending institutions and with senior officials of the Russian Federation’s Ministry for Atomic Energy. I am also aware that discussions between Western lending institutions and the Russian Federation are progressing well and that discussions with the International Atomic Energy Authority or IAEA have helped to clarify their responsibilities.

This Act would enable the imposition of international protective safeguards on new, large stocks of Russian weapons-grade materials in a way that enables the Russian Federation to gain near-term financial resources from the same materials. The Act requires that these resources be used in support of non-proliferation or energy programs within Russia. It also requires that the materials used to collateralize these loans must remain under international IAEA safeguards for eternity.

This Act does not replace programs that currently are in place to ensure that weapons-grade materials can...
never be used in weapons in the future. The Highly Enriched Uranium or HEU Agreement is moving toward elimination of 500 tons of Russian weapons-grade uranium. The Plutonium Disposition Agreement is similarly working on elimination of 34 tons of Russian weapons-grade plutonium.

The HEU agreement removes material usable in 20,000 nuclear weapons, while the plutonium disposition agreement similarly removes material for more than 4,000 nuclear weapons. Both of these agreements enable the transition of Russian materials into commercial reactor fuel, which, after use in a reactor, destroys its “weapons-grade” attributes. There should be no question that both these agreements remain of vital importance to both nations.

But estimates are that the Russian Federation has vast stocks of weapons-grade materials in addition to the amounts they’ve already declared as surplus to their weapons needs in these early steps. If we do not provide additional incentives to Russia to encourage transition of more of these materials into configurations where it is not available for diversion or re-use in weapons, we’ve made another significant step toward global stability.

By introducing this Act now, Mr. President, I’m hoping that this concept will be carefully reviewed by all interested parties—by the new Administration, by lending institutions, and by the Russian Federation. My hope is that in the next Congress, these incentives can come together to enable this new approach to still further reduce the proliferation threats from surplus weapons materials in the Russian nuclear weapons complex.

ADDITIONAL COSPONSORS

S. 375

At the request of Mr. Jeffords, the name of the Senator from Washington (Ms. Murray) was added as a cosponsor of S. 3175, a bill to amend the Consolidated Farm and Rural Development Act to authorize the National Rural Development Partnership, and for other purposes.

S. 3250

At the request of Mr. Brownback, the name of the Senator from Indiana (Mr. Bayh) was added as a cosponsor of S. 3250, a bill to provide for a United States response in the event of a unilateral declaration of a Palestinian state.

S. CON. RES. 87

At the request of Mr. Smith of New Hampshire, the name of the Senator from Indiana (Mr. Lugar) was added as a cosponsor of S. Con. Res. 87, a concurrent resolution commending the Holy See for making significant contributions to international peace and human rights, and objecting to efforts to establish the Holy See from the United Nations by removing the Holy See’s Permanent Observer status in the United Nations, and for other purposes.

SENATE RESOLUTION 385—CONGRATULATING THE REVEREND CLAY EVANS OF CHICAGO, IL, ON THE OCCASION OF HIS RETIREMENT

Mr. Durbin (for himself and Mr. Fitzgerald) submitted the following resolution; which was considered and agreed to:

S. RES. 395

Whereas Reverend Clay Evans was ordained as a Baptist minister 50 years ago, in 1950, and founded and served as the Pastor of the Fellowship Missionary Baptist Church in Chicago, Illinois, for 49 years;

Whereas Reverend Evans has been happily married to Lutha Mae Hollinshed Evans for over 50 years, and with her is the proud parent of five children;

Whereas Reverend Evans has been responsible for helping launch the ministerial careers of 93 individuals, including 6 female ministers;

Whereas Reverend Evans received Honorary Doctorate of Divinity Degrees from Arkansas Baptist College and Brewer Theological Clinic and School of Religion;

Whereas Reverend Evans has been an active participant in the Civil Rights Movement since 1955;

Whereas Reverend Evans is the founding National Board Chairman of Operation P.U.S.H. and currently serves as its Chairman Emeritus;

Whereas Reverend Evans is Founding President of the Broadcast Ministers Alliance of Chicago, Founding President of the African American Religious Connection, Trustee Board Chairman of Chicago Baptist Institute, and Board member of the National Baptist Convention, U.S.A., Inc.;

Whereas Reverend Evans is a featured soloist on numerous albums of the 250 Voice Choir of Fellowship Missionary Baptist Church and 1996 Stellar Award winner of the #6 Gospel Album “I’ve Got a Testimony”;

Whereas Reverend Evans authored a 1992 autobiographical book, “From Plough Handle to Pulpit,” which sold thousands of copies and was reprinted in 1997; Now, therefore, be it

Resolved, That the Senate—

(A) pays tribute to the citizens of the United States who died in the attack on Pearl Harbor, Hawaii, on December 7, 1941, and to the members of the Pearl Harbor Survivors Association; and

(B) urges the President to take more active steps—

(1) to inform the American public of the existence of National Pearl Harbor Remembrance Day; and

(2) to ensure that the flag of the United States is flown at half-staff in accordance with section 129 of title 36, United States Code.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. Murkowski. Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, December 12, 2000, at 3:00 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, D.C.

The title of this hearing is “Natural Gas Markets: One Year After the National Petroleum Council’s Gas Report.”

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, 364 Dirksen Senate Office Building, Washington, D.C. 20510-6150.
Resolved, That the bill from the Senate (S. 1604) entitled “An Act to direct the Secret of the Interior to conduct a study on the reclamation and reuse of water and wastewater in the State of Hawaii”, do pass with the following amendments:

[Amendments described]

TITLE I—HAWAII WATER RESOURCES

SEC. 101. SHORT TITLE.

This title may be cited as the “Hawaii Water Resources Act of 2000”.

SEC. 102. DEFINITIONS.

In this title:

(1) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(2) STATE.—The term “State” means the State of Hawaii.

SEC. 103. HAWAII WATER RESOURCES STUDY.

(a) IN GENERAL.—The Secretary, acting through the Commissioner of Reclamation and in accordance with the provisions of this title and existing legislative authorities as may be pertinent to the provisions of this title, including:—

the Act of August 23, 1954 (68 Stat. 773, chapter 338), authorizing the Secretary to investigate the use of irrigation and reclamation projects and to provide natural resources for the State of Hawaii, and Molokai in the State of Hawaii; section 31 of the Hawaii Omnibus Act (43 U.S.C. 422i) authorizing the Secretary to conduct the relevant portion of the study and preparation of the reports authorized by this title if the use of such authorities is found by the Secretary to be appropriate and cost-effective;

(b) ASSISTANCE FOR DROUGHT-RELATED PLANNING IN RECLAMATION STATES.—Such Act is further amended by adding at the end of title I the following:

“SEC. 105. ASSISTANCE FOR DROUGHT-RELATED PLANNING IN RECLAMATION STATES.

“(a) IN GENERAL.—The Secretary may provide financial assistance in the form of cooperative agreements in States that are eligible to receive financial assistance to promote the development of drought contingency plans under title II.

(b) REPORT.—Not later than one year after the date of enactment of this Act and not later than one year after the date of enactment of the Reclamation Wastewater and Groundwater Study and Facilities Act of 1991 (43 U.S.C. 390h), the Secretary shall submit to the Congress a report on the advisability of providing financial assistance under this section to the development of drought contingency plans in all entities that are eligible to receive assistance under title II.”

TITLE II—DROUGHT RELIEF

SEC. 201. DROUGHT RELIEF.

HAWAII WATER RESOURCES ACT OF 2000

Mr. HAGEL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on the bill (H. R. 439). The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the House of Representatives (H. R. 439) entitled “An Act to amend the National Forest and Public Lands of Nevada Enhancement Act of 1988 to adjust the boundary of the Toiyabe National Forest, Nevada”, do pass with the following amendments:

[Amendments described]
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Project, and such added costs shall be reimbursed in accordance with reclamation law and policy.
(b) EFFECTIVE DATE.—The credit under subsection (a) shall take effect upon the date on which—
(1) the City and the Secretary have agreed that the operation of the facilities referred to in subsection (a) has been completed in accordance with the terms and conditions of the letter of agreement referred to in subsection (a); and
(2) the Secretary has issued determination that such facilities are fully operative as intended.

TITLE IV—CLEAR CREEK DISTRIBUTION SYSTEM CONVEYANCE

SEC. 401. SHORT TITLE.
This title may be cited as the “Clear Creek Distribution System Conveyance Act”.

SEC. 402. DEFINITIONS.
For purposes of this title:
(1) SECRETARY.—The term “Secretary” means the Secretary of the Interior.
(2) DISTRICT.—The term “District” means the Clear Creek Community Services District, a California community services district located in Shasta County, California.
(3) AGREEMENT.—The term “Agreement” means Agreement No. 8-07-20-L697, entitled “Agreement Between the United States and the Clear Creek Community Services District to Transfer Title to the Clear Creek Distribution System to the Clear Creek Community Services District”.
(4) DISTRIBUTION SYSTEM.—The term “Distribution System” means all the right, title, and interest in and to the Clear Creek distribution system as defined in the Agreement.

SEC. 403. CONVEYANCE OF DISTRIBUTION SYSTEM.
In consideration of the District accepting the obligations of the Federal Government for the Distribution System, the Secretary shall convey the Distribution System to the District pursuant to the terms and conditions set forth in the Agreement.

SEC. 404. RELATIONSHIP TO EXISTING OPERATIONS.
Nothing in this title shall be construed to authorize the District to construct any new facilities or to expand or otherwise change the use or operation of the Distribution System from its authorized purposes based upon historic and current use and operation. Effective upon transfer, if the District proposes to alter the use or operation of the Distribution System, then the District shall comply with all applicable laws and regulations governing such changes at that time.

SEC. 405. RELATIONSHIP TO CERTAIN CONTRACT OBLIGATIONS.
Conveyance of the Distribution System under this title—
(1) shall not affect any of the provisions of the District’s existing water service contract with the United States (contract number 14-06-200-489-1K3), as it may be amended or supplemented;
(2) shall not deprive the District of any existing contractual or statutory entitlement to subsequent Basin renewals of such contract or to renewal by entering into a long-term water service contract.

SEC. 406. LIABILITY.
Effective on the date of conveyance of the Distribution System under this title, the United States shall not be liable under any law for damages of any kind arising out of any act, omission, or occurrence based on its prior ownership or operation of the conveyed property.

TITLE V—SUGAR PINE DAM AND RESERVOIR CONVEYANCE

SEC. 501. SHORT TITLE.
This title may be cited as the “Sugar Pine Dam and Reservoir Conveyance Act”.

SEC. 502. DEFINITIONS.
In this title:
(1) BUREAU.—The term “Bureau” means the Bureau of Reclamation.
(2) DISTRICT.—The term “District” means the Foresthill Public Utility District, a political subdivision of the State of California.
(3) PROJECT.—The term “Project” means the improvements (and associated interests) authorized in the Foresthill Dividend Subunit of the Auburn-Folsom South Unit, Central Valley Project, consisting of—
(A) Sugar Pine Dam;
(B) the right to impound waters behind the dam;
(C) the associated conveyance system, holding reservoir, and treatment plant;
(D) water rights;
(E) rights of the Bureau described in the agreement of June 11, 1985, with the Supervisor of Tahoe National Forest, California; and
(F) other associated interests owned and held by the United States and authorized as part of the Auburn-Folsom South Unit under Public Law 89-161 (79 Stat. 615).
(4) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

SEC. 503. CONVEYANCE OF THE PROJECT.
(a) IN GENERAL.—As soon as practicable after date of the enactment of this Act and in accordance with all applicable law, the Secretary shall convey all right, title, and interest in and to the Project to the District.
(b) SALE PRICE.—Except as provided in subsection (c), on payment by the District to the Secretary of $2,772,221—
(1) the Secretary shall be relieved of all payment obligations relating to the Project; and
(2) all debt under the Water Services Contract shall be extinguished.
(c) MITIGATION AND RESTORATION PAYMENTS.—The District shall continue to be obligated to make payments under section 3407(c) of the Central Valley Project Improvement Act (106 Stat. 4726) through 2029.

SEC. 504. RELATIONSHIP TO EXISTING OPERATIONS.
(a) IN GENERAL.—Nothing in this title significantly expands or otherwise affects the use or operation of the Project from its current use and operation.
(b) RIGHT TO OCCUPY AND FLOOD.—On the date of the conveyance under section 503, the Chief of the Forest Service shall grant the District the right to occupy and flood portions of land in Tahoe National Forest, subject to the terms and conditions of the agreement between the District and the Supervisor of the Tahoe National Forest.
(c) CHANGES IN USE OR OPERATION.—If the District changes the use or operation of the Project, the District shall comply with all applicable laws (including regulations) governing the change at all times.

SEC. 505. FUTURE BENEFITS.
On payment of the amount under section 503(b)—
(1) the Project shall no longer be a Federal reclamation project or a unit of the Central Valley Project; and
(2) the District shall not be entitled to receive any further reclamation benefits.

SEC. 506. LIABILITY.
Except as otherwise provided by law, effective on the date of conveyance under section 503, the United States shall not be liable for damages of any kind arising out of any act, omission, or occurrence based on its prior ownership or operation of the Project.

SEC. 507. COSTS.
To the extent that costs associated with the Project are reimbursable costs of the Central Valley Project, the Secretary is directed to exclude all costs in excess of the amount of costs paid by the District from the pooled reimbursable costs of the Central Valley Project until such time as the Project has been operationally integrated into the water supply connection, or natural area, for which those costs apply. Such excess costs may not be included in the pooled reimbursable costs of the Central Valley Project in the future unless a court of competent jurisdiction determines that such a determination is not a prerequisite to the inclusion of such costs pursuant to Public Law 89-161.

TITLE VI—COLUSA BASIN WATERSHED INTEGRATED RESOURCES MANAGEMENT

SEC. 601. SHORT TITLE.
This title may be cited as the “Colusa Basin Watershed Integrated Resources Management Act”.

SEC. 602. AUTHORIZATION OF ASSISTANCE.
The Secretary of the Interior (in this title referred to as the “Secretary”), acting within existing budgetary authority, may provide financial assistance to the Colusa Basin Drainage District, California, for the purposes referred to as the “District”, for use by the District or by local agencies acting pursuant to section 413 of the State of California statute known as the Colusa Basin Drainage Improvement Act (1987, ch. 1399) as in effect on the date of the enactment of this Act (this title referred to as the “State statute”), for planning, design, environmental compliance, and construction required in carrying out eligible projects in the Colusa Basin Watershed to—
(1) reduce the risk of damage to urban and agricultural areas from flooding or the discharge of drainage water or tailwater;
(2) assist in groundwater recharge efforts to alleviate overdraft and land subsidence; and
(3) construct, restore, or preserve wetland and riparian habitat; and
(4) capture, as an incidental purpose of any of the purposes referred to in paragraph (1), surplus or stormwater for conjunctive use, and increased water supplies.

SEC. 603. PROJECT SELECTION.
(a) ELIGIBLE PROJECTS.—A project shall be an eligible project for purposes of section 602 only if—
(1) consistent with the plan for flood protection and integrated resources management described in the document entitled “Draft Programmatic Environmental Impact Statement/Environmental Impact Report and Draft Program Financing Plan, Integrated Resources Management Program for flood control in the Colusa Basin”, dated May 2000; and
(2) carried out in accordance with that document and all environmental documentation requirements that apply to the project under the laws of the United States and the State of California.
(b) COMPATIBILITY REQUIREMENT.—The Secretary shall ensure that projects for which assistance is provided under this title are not inconsistent with watershed protection and environmental restoration efforts being carried out by Federal agencies or organizations pay—
(1) 25 percent of the costs associated with construction of any project funded with assistance provided under this title; and
(2) 100 percent of any operation, maintenance, and replacement and rehabilitation costs with respect to such a project and
(3) 35 percent of the costs associated with planning, design, and environmental compliance activities.

SEC. 604. COST SHARING.
(a) NON-FEDERAL SHARE.—The Secretary shall require that the District and cooperating non-Federal agencies or organizations pay—
(1) 25 percent of the costs associated with construction of any project funded with assistance provided under this title; and
(2) 100 percent of any operation, maintenance, and replacement and rehabilitation costs with respect to such a project and
(3) 35 percent of the costs associated with planning, design, and environmental compliance activities.

SEC. 605. LAND ACQUISITION.
Funds appropriated pursuant to this title may be made available to fund 65 percent of
(A) All right, title, and interest of the United States in and to the lands comprising Section 23, Township 11 South, Range 24 West, G&SRBM, Lots 1-4, NE ½, NW ½, excluding lands located within the 60-foot border strip, in Yuma County, Arizona.

(B) All right, title, and interest of the United States in and to the lands comprising Section 24, Township 11 South, Range 24 West, G&SRBM, East 300 feet of Lot 1, excluding lands located within the 60-foot border strip, in Yuma County, Arizona.

(C) All right, title, and interest of the United States in and to the lands comprising Section 24, Township 11 South, Range 24 West, G&SRBM, East 300 feet of the Southeast Quarter of Section 15, Yuma County, Arizona.

SEC. 605. COSTS NONREIMBURSABLE.

Any costs incurred for planning, design, and compliance activities costs under section 604(b).

SEC. 606. AGREEMENTS.

Funds appropriated pursuant to this title may be made available to the District or a local agency only if the District or local agency, as applicable, has entered into a binding agreement with the Secretary:

(1) under which the District or the local agency is required to pay the non-Federal share of the costs of construction required by section 604(a); and

(2) complying with the funding of planning, design, and compliance activities costs under section 604(b).

SEC. 607. REIMBURSEMENT.

For project work (including work associated with studies, planning, design, and construction) carried out by the District or by a local agency acting pursuant to the State statute in section 602 before the date amounts are provided for the project under this title, the Secretary shall, subject to amounts being made available in advance in appropriations Acts, reimburse the District or local agency, without interest, an amount equal to the estimated Federal share of the cost of such work under section 604.

SEC. 608. COOPERATIVE AGREEMENTS.

(a) In General.—The Secretary may enter into cooperative agreements and contracts with the District to assist the Secretary in carrying out the purposes of this title.

(b) Subcontracting.—Under such cooperative agreements and contracts, the Secretary may authorize the District to manage and let contracts and receive reimbursements, subject to amounts being made available in advance in-appropriations Acts, for work carried out under such contracts or subcontract.

SEC. 609. RELATION TO RECLAMATION REFORM ACT OF 1992.

Activities carried out, and financial assistance provided, under this title shall not be considered a supplement or offset benefit for purposes of the Reclamation Reform Act of 1992 (96 Stat. 1263; 43 U.S.C. 390a et seq.).

SEC. 610. APPROPRIATIONS AUTHORIZED.

Within existing budgetary authority and subject to the availability of appropriations, the Secretary is authorized to expend up to $25,000,000, plus such additional amount, if any, as may be required by reason of changes in costs of services rendered, prices involved in the District’s projects as shown by engineering and other relevant indexes to carry out this title. Appropriations authorized under this section shall remain available until expended.

TITLE VII—CONVEYANCE TO YUMA PORT AUTHORITY

SEC. 701. CONVEYANCE OF LANDS TO THE GREATER YUMA PORT AUTHORITY.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Secretary of the Interior, acting through the Bureau of Reclamation, may, in the 5-year period beginning on the date of the enactment of this Act and in accordance with the conditions specified in subsection (b) convey to the Greater Yuma Port Authority the interests described in paragraph (2).

(2) INTERESTS DESCRIBED.—The interests referred to in paragraph (1) are the following:

(TITLE VIII—DICKINSON DAM BASCULE GATES SETTLEMENT

SEC. 801. SHORT TITLE.

This title may be cited as the ‘‘Dickinson Dam Bascule Gates Settlement Act of 2000.’’

SEC. 802. FINDINGS.

The Congress finds that—

(1) in 1980 and 1981, the Bureau of Reclamation constructed the bascule gates on top of the Dickinson Dam on the Heart River, North Dakota, to provide additional water supply in the reservoir known as Patterson Lake for the City of Dickinson, North Dakota, and for additional flood control and other benefits.

(2) the gates had to be significantly modified in 1982 because of damage resulting from a large ice block causing excessive pressure on the hydraulic system, causing damage to the gates.

(3) since 1991, the City has received its water supply from the Southwest Water Authority, and no longer uses the bascule gates.

The Congress finds that—

(1) in 1980 and 1981, the Bureau of Reclamation constructed the bascule gates on top of the Dickinson Dam on the Heart River, North Dakota, to provide additional water supply in the reservoir known as Patterson Lake for the City of Dickinson, North Dakota, and for additional flood control and other benefits.

(2) the gates had to be significantly modified in 1982 because of damage resulting from a large ice block causing excessive pressure on the hydraulic system, causing damage to the gates.

(3) since 1991, the City has received its water supply from the Southwest Water Authority,
which provides much higher quality water from the bascule gates because the City does not provide for the storage of water provided by the bascule gates for its municipal water supply.

(5) the City has repaid more than $1,200,000 to the United States to resolve a repayment obligation which has caused the City to be in default of a loan contract. The repayment obligation was the result of the City's failure to comply with the terms of a loan contract by the United States to construct a dam to provide additional water storage capacity in the Lake, and with the United States Environmental Protection Agency, the North Dakota Department of Game and Fish, and the North Dakota Department of Health to improve water quality; and

(7) it is in the public interest to resolve this issue by providing for a single payment to the United States in lieu of the scheduled annual payments and for the termination of any further repayment obligation.

SEC. 903. DEFINITIONS

In this title:

(1) BASCULE GATES.—The term "bascule gates" means the structure constructed on the Dam to provide additional water storage capacity in the Lake.

(2) CITY.—The term "City" means the city of Dickinson, North Dakota.

(3) DAM.—The term "Dam" means Dickson Dam on the Heart River, North Dakota.

(4) LAKE.—The term "Lake" means the reservoir known as "Patterson Lake" in the State of North Dakota.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation.

SEC. 804. FORGIVENESS OF DEBT

(a) In general.—The Secretary shall accept a 1-time payment of $300,000 in lieu of the existing repayment obligations of the City under the Bureau of Reclamation Contract No. 9-07-60W0384, dated December 19, 1988, toward which amount any payments made by the City to the Secretary on or after June 2, 1998, shall be credited.

(b) Ownership.—Title to the Dam and bascule gates shall remain with the United States.

(c) Costs.—(1) The Secretary shall enter into an agreement with the City to allocate responsibilities for operation and maintenance costs of the bascule gates as provided in this subsection.

(2) The City shall be responsible for operation and maintenance costs of the bascule gates, up to a maximum annual cost of $15,000. The Secretary shall be responsible for all other costs.

(d) WATER SERVICE CONTRACTS.—The Secretary may enter into appropriate water service contracts with the City or any other person or entity seeks to use water from the Lake for municipal or industrial purposes.

Amend the title so as to read "An Act to direct the Secretary of the Interior to conduct a survey on the reclamation and reuse of water and wastewater in the State of Hawaii, and for other purposes."

Mr. HAGEL. Mr. President, I ask unanimous consent that the Senate agree to amendments of the House with respect to each of these measures. The OFFICE OF THE CLERK. Without objection, it is so ordered.

AMENDMENT TO THE MAGNUSON-STEVENS FISHERIES CONSERVA TION AND MANAGEMENT ACT

Mr. HAGEL. Mr. President, I ask unanimous consent that the Senate agree to amendments of the House that are considered by the OFFICE OF THE CLERK. The clerk will report the bill by title.

The assistant legislative clerk read the following:

A bill (H.R. 5461) to amend the Magnuson-Stevens Fisheries Conservation and Management Act to eliminate the wasteful and un-sportsmanlike practice of shark finning.

There being no objection, the Senate proceeded to a consideration of the measure.

Mr. HOLLINGS. Mr. President, I rise to make a few remarks on H.R. 5461, the Shark Finning Prohibition Act, legislation to begin, and I stress the word begin, to ensure the conservation of sharks, including addressing the causes and consequences of shark finning.

First, I want to recognize Ms. Snow, our chairwoman on the Oceans and Fisheries Subcommittee on the Commerce Committee, and Mr. Kerry, ranking member of the subcommittee, for putting shark conservation legislation on the committee agenda this Congress. My colleagues recognized the substantial danger international fleets pose to sharks around the world, either as a result of direct harvest, high by catch, or practices such as shark finning. As with so many of our highly migratory and protected species, we cannot hope to address these threats solely through domestic action.

We are here today because of the growing threats to shark populations, which are particularly vulnerable to harvest and bycatch mortality. Most attention has been focused specifically on the practice of shark finning, which has increased dramatically over the past decade, driven by rising demand for fins in the world market. However, there are other threats to shark conservation, including directed shark fisheries and the use of non-selective fishing gear, that must be given further attention, both here and abroad.

In addition, the amount of finning done by U.S. fishermen pale by comparison to the amount of finning done by foreign fleets outside of U.S. waters. The global shark fin trade involves at least 30 countries and for billions of dollars, shark fins and other shark products have driven dramatic increases in shark fishing and shark mortality around the world. In 1998, the National Marine Fisheries Service estimated that 120 metric tons of shark fins were landed in Hawaii that had been caught by foreign vessels, with a value between $2,376,000 and $2,640,000. That is roughly four times the amount landed by U.S. vessels in the same year. These figures ignore other information that indicates foreign fleets happen to go through U.S. ports in the Pacific; the total amount of finning by foreign fishermen is undoubtedly much higher.

Although I support the legislation before us today, I am disappointed that we were not able to convince House Members and others that passage of S. 2831, the Shark Conservation Act of 2000, introduced by Senator Kerry, and supported by our subcommittee members, was the best course of action to take this year. S. 2831 attempted to address threats to shark conservation in a holistic manner. It looked beyond domestic fishing, and provided the administration with tools to address finning by foreign nations as well. As a result, the current bill does not contain the strong international enforcement measures of the Shark Conservation Act. Dr. Andrew Rosenberg of the National Marine Fisheries Service, in October 1999 testimony before the House warned of the consequences of failing to impose international measures against shark finning: . . . even with implementation of new U.S. management measures to prohibit shark finning, in all likelihood, foreign-flagged vessels will continue shark finning in international waters. In the absence of strict international measures to prohibit shark finning, the anticipated result of new U.S. prohibitions would be that foreign vessels will develop new shipment routes for shark fins through ports outside Hawaii.

The administration’s warning should be taken seriously. When all the press releases and headlines have faded from memory, there is no doubt that foreign fleets will silently, and happily, continue finning even in U.S. waters, with no adverse repercussions to speak of. We sincerely hope that H.R. 5461 will not merely shift shark-finning and the resulting profits over to foreign nations and international corporations, thus not benefitting our shark conservation. The only way to prevent this is by applying these rules to everyone. Simply enacting H.R. 5461 without addressing shark conservation internationally is short-sighted and will not solve the problem. In the next Congress, I intend to continue working with my colleagues in the Senate, House, and the new administration, whichever administration that may turn out to be, to craft a solution that will lead to the eventual cessation of finning internationally.

Although I do believe that the current bill is not as strong as it should be, I am glad to report it contains a number of provisions from the Senate bill that we will lay that will lay the foundation for addressing the international fishing practices that threaten shark conservation efforts, including the practice of finning. H.R. 5461 begins the critical process of collecting the information, including data on the international shark fin trade, that is so lacking at the present time by: (1) directing the administration to initiate or continue discussions with other countries to ban shark finning; (2) requiring the collection of information on shark finning, in all likelihood, foreign-flagged vessels that happen to go through U.S. ports in the Pacific; (3) establishing a research program to help improve shark stock assessments, reducing incidental catch, and better utilize sharks captured legally. Let me conclude by stating that I rise in support of this legislation and urge its adoption, but I cannot help but think of what we may have been able to accomplish with passage of Mr. Kerry’s bill, S. 2831. H.R. 5461 does take an important first step to end the practice of finning, but it is only the first step—the real work is yet to come.
Mr. KERRY. Mr. President, I rise to make a few remarks in support of H.R. 5461, the Shark Finning Prohibition Act, which will the Senate has passed today and which will be forwarded to President Clinton for his signature.

H.R. 5461 is identical to a provision I authored, along with Senator SNOWE, in Senate Amendment 4320. That provision was then introduced in the House by Representative CUNNINGHAM as a stand alone bill and passed the House on October 30, 2000. I want to thank Senators HOLLINGS and SNOWE, who helped move this legislation through the Commerce Committee and the Senate. And, I thank Representative CUNNINGHAM for his work.

Shark finning is the practice of catching a shark, removing its fins and returning the remainder of the shark to the sea. It is highly wasteful practice since only a very small portion of the shark is consumed and the rest is dumped back into the sea. The National Marine Fisheries Service already prohibits shark finning in the Atlantic and Gulf of Mexico. This legislation would expand that ban into the Pacific and create a consistent national policy by amending the Magnuson-Stevens Fishery Conservation and Management Act.

Sharks are among the most biologically vulnerable species in the ocean. Their slow growth, late maturity and small number of offspring make them exceptionally vulnerable to over fishing and slow to recover from depletion. At the same time, sharks, as top predators, are essential to maintaining the balance of life in the sea. While many of our other highly migratory species such as tunas and swordfish are subject to rigorous management regimes, sharks have largely been overlooked until recently. By ending the wasteful practice of finning, we will, I hope, protect shark populations. However, it is important to note that the passage of this legislation is only the beginning of national efforts to protect sharks and their marine ecosystems. There are other threats to sharks in addition to finning in domestic waters. These include directed fisheries, by-catch and the use of non-selective gear. And, importantly, we must recognize that shark finning takes place in foreign and international waters, not just the United States waters. The global shark fin trade involves at least 125 countries, and the demand for shark fins and other shark products has driven dramatic increases in shark fishing and shark mortality around the world. We must tackle these issues, as well.

I want to note that in the Commerce Committee we tried to address the issue of international shark finning more aggressively and, I believe, more appropriately. Senator HOLLINGS and I introduced S. 2831, the Shark Conservation Act. Unfortunately, this comprehensive proposal was rejected by the House. We therefore sought the middle ground of the proposal in H.R. 5461. The legislation calls on the Administration to initiate or continue discussions with other countries to ban shark finning; (2) requires the collection of information on trade in shark fins and directing the Secretary of Commerce to report the findings to Congress; and (3) establishes a research program to help improve shark stock assessments, reduce incidental catch, and better utilize shark captured legally. This is a start, but only a start.

I hope that my colleagues and the advocacy groups that advocated for this proposal will continue to work for additional international conservation measures.

Finally, my bill would authorize a Western Pacific longline fisheries cooperative research program to provide information for shark stock assessments, identify fishing gear and practices that prevent or minimize incidental catch of sharks and ensure maximum survival of released sharks, and provide data on the international shark fin trade.

Mr. President, the United States is a global leader in fisheries conservation and management. I believe this legislation provides us the opportunity to further this role, and take the first step in addressing an international fisheries management issue. In addition, I believe the U.S. should continue to lead efforts at the United Nations and international conventions to achieve coordinated international management of sharks, including an international ban on sharkfinning. I look forward to working with Committee members on this important legislation.

Mr. HAGEL. Mr. President, I ask unanimous consent that 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 resolution (S. Res. 385) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 385

Whereas the Reverend Clay Evans was ordained as a Baptist minister 50 years ago, in 1950, and founded and served as the Pastor of the Fellowship Missionary Baptist Church in Chicago, Illinois, for 49 years; Whereas Reverend Evans has been happily married to Lutha Mae Hollinsford Evans for over 50 years, and with her is the proud parent of five children; Whereas Reverend Evans has been responsible for helping launch the ministerial careers of 93 individuals, including 6 female ministers; Whereas Reverend Evans received Honorary Doctorate of Divinity Degrees from Arkansas Baptist College and Brewster Theological Clinic and School of Religion; Whereas Reverend Evans has been an active participant in the Civil Rights Movement since 1963; Whereas Reverend Evans is the founding National Board Chairman of Operation P.U.S.H. and currently serves as its Chairman Emeritus; Whereas Reverend Evans is Founding President of the Broadcast Ministers Alliance of Chicago, Founding President of the African American Religious Connection, Trustee Board Chairman of Chicago Baptist Institute, and Board member of the National Baptist Convention, U.S.A., Inc.; Whereas Reverend Evans is a featured soloist on numerous albums of the 250 Voice Choir of Fellowship Missionary Baptist Church and 1996 Stellar Award winner of the #1 Gospel Album ‘I’ve Got A Testimony’; Whereas Reverend Evans authored a 1992 autobiographical book, “From Plough Handle to Pulpit,” which sold thousands of copies and was rewritten in 1997; Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the Reverend Clay Evans on his retirement as Pastor of the Fellowship Missionary Baptist Church; (2) acknowledges the affection that Reverend Evans’ congregation shares for him; and (3) extends its best wishes to Reverend Evans and his family on the occasion of his retirement.

The legislative clerk read as follows:

A resolution (S. Res. 386) congratulating the Reverend Clay Evans of Chicago, Illinois, on the occasion of his retirement.

There being no objection, the Senate proceeded to consider the resolution.

Mr. HAGEL. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements related to the bill be printed in the Record.

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

The resolution (S. Res. 386) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 386

Whereas the Reverend Clay Evans was introduced earlier today by Senators DURBIN and FITZGERALD.

The PRESIDING OFFICER. The clerk will report the resolution by title.

CONGRATULATING REVEREND CLAY EVANS

Mr. HAGEL. Mr. President, I ask unanimous consent that 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 bill (H.R. 5461) was read the third time and passed.

CONGRATULATING REVEREND CLAY EVANS

Mr. President. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 386 introduced earlier today by Senators DURBIN and FITZGERALD.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 386) congratulating the Reverend Clay Evans of Chicago, Illinois, on the occasion of his retirement.

There being no objection, the Senate proceeded to consider the resolution.

Mr. HAGEL. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements related to the bill be printed in the Record.

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

The resolution (S. Res. 386) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 386

Whereas the Reverend Clay Evans was ordained as a Baptist minister 50 years ago, in 1950, and founded and served as the Pastor of the Fellowship Missionary Baptist Church in Chicago, Illinois, for 49 years; Whereas Reverend Evans has been happily married to Lutha Mae Hollinsford Evans for over 50 years, and with her is the proud parent of five children; Whereas Reverend Evans has been responsible for helping launch the ministerial careers of 93 individuals, including 6 female ministers; Whereas Reverend Evans received Honorary Doctorate of Divinity Degrees from Arkansas Baptist College and Brewster Theological Clinic and School of Religion; Whereas Reverend Evans has been an active participant in the Civil Rights Movement since 1963; Whereas Reverend Evans is the founding National Board Chairman of Operation P.U.S.H. and currently serves as its Chairman Emeritus; Whereas Reverend Evans is Founding President of the Broadcast Ministers Alliance of Chicago, Founding President of the African American Religious Connection, Trustee Board Chairman of Chicago Baptist Institute, and Board member of the National Baptist Convention, U.S.A., Inc.; Whereas Reverend Evans is a featured soloist on numerous albums of the 250 Voice Choir of Fellowship Missionary Baptist Church and 1996 Stellar Award winner of the #1 Gospel Album ‘I’ve Got A Testimony’; Whereas Reverend Evans authored a 1992 autobiographical book, ‘From Plough Handle to Pulpit,’ which sold thousands of copies and was rewritten in 1997; Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the Reverend Clay Evans on his retirement as Pastor of the Fellowship Missionary Baptist Church; (2) acknowledges the affection that Reverend Evans’ congregation shares for him; and (3) extends its best wishes to Reverend Evans and his family on the occasion of his retirement.
The legislative clerk read as follows:

A resolution (S. Res. 386) expressing the sense of the Senate regarding National Pearl Harbor Remembrance Day.

There being no objection, the Senate proceeded to consider the resolution.

Mr. HAGEL. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements related to the resolution be printed in the RECORD.

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

The resolution (S. Res. 386) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 386

WHEREAS on December 7, 1941, the Imperial Japanese Navy and Air Force attacked units of the Armed Forces of the United States stationed at Pearl Harbor, Hawaii;

WHEREAS 2,403 members of the Armed Forces of the United States were killed in the attack on Pearl Harbor;

WHEREAS there are presently more than 12,000 members of the Pearl Harbor Survivors Association;

WHEREAS the 60th anniversary of the attack on Pearl Harbor will be on December 7, 2001;

WHEREAS on August 23, 1994, Public Law 103-308 was enacted, designating December 7 of each year as National Pearl Harbor Remembrance Day;

WHEREAS Public Law 103-308, reenacted as section 129 of title 36, United States Code, requests the President to issue a proclamation each year calling on the people of the United States to observe National Pearl Harbor Remembrance Day with appropriate ceremonies and activities, and for all departments, agencies, and instrumentalities of the Federal Government, and interested organizations, groups, and individuals, to fly the flag of the United States at half-staff each December 7 in honor of the individuals who died as a result of their service at Pearl Harbor;

WHEREAS many citizens remain unaware of National Pearl Harbor Remembrance Day;

WHEREAS many Federal offices do not lower their flags to half-staff each December 7; and

Resolved, That the Senate—

(1) pays tribute to the citizens of the United States who died in the attack on Pearl Harbor, Hawaii, on December 7, 1941, and to the members of the Pearl Harbor Survivors Association; and

(2) urges the President to take more active steps—

(A) to inform the American public of the existence of National Pearl Harbor Remembrance Day; and

(B) to ensure that the flag of the United States is flown at half-staff in accordance with section 129 of title 36, United States Code.

ORDERS FOR FRIDAY, DECEMBER 8, 2000

Mr. HAGEL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it recess until the hour of 10 a.m. on Friday, December 8. I further ask consent that on Friday, immediately following the prayer, the journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business until 10:30 a.m., with Senators permitted to speak for up to 10 minutes each with the time equally divided in the usual form.

Mr. REID. Mr. President, reserving the right to object, I say to my friend from Nebraska, the acting leader, it is my understanding we are going to try to extend the CR until Monday. I hope in the spirit that was felt around here today, that we were going to try to complete this session's work sometime next week, we can continue that.

I do say, just as a warning to everyone, we have been to this point on a number of occasions before with this session of Congress. It seems we can never quite get over the goal line.

I hope all Members, Democrats and Republicans, will do their utmost to try to work this out. We have four appropriations bills that are badly needed. In my opinion—and I think everyone in the minority agrees—it would be a shame if we were unable to complete those bills and have to go forward with a continuing resolution, in effect dumping all that in the lap of the new President and new Congress.

Of course, I am not going to object to my friend's unanimous consent request, but I do say we should really try to put our shoulders to the wheel and push this session over the goal line.

Mr. HAGEL. I thank the Senator. I know that is the intent of the leadership.

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

CONFIRMATION

Executive nomination confirmed by the Senate December 7, 2000:

RICHARD N. GARDNER, OF NEW YORK, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FIFTY-FIFTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.
CONGRESSIONAL RECORD — Extensions of Remarks

EXTENSIONS OF REMARKS

IN RECOGNITION OF JAY B. BLOOM, EXECUTIVE DIRECTOR OF BRAND NEW DAY

HON. ROBERT MENENDEZ OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 7, 2000

Mr. MENENDEZ. Mr. Speaker, today I honor Jay B. Bloom, Executive Director of Brand New Day, Inc., for his outstanding contributions to community development and low-income housing. In appreciation of his service to the community, Brand New Day is honoring Mr. Bloom at its 15th Anniversary Celebration, entitled “Renewal of Our Commitment to Elizabethport.”

A graduate of Columbia Law School, Jay B. Bloom has lived in and around New Jersey all his life. After law school, Mr. Bloom established a law practice specializing in real estate and municipal law. Four successful decades later, he retired.

With the knowledge and experience he gained through the years, and with the desire to help those in need, Mr. Bloom joined Brand New Day (BND), a charitable non-profit community development organization that provides affordable housing for community members in the Elizabethport area. BND acquires and rehabilitates existing structures and purchases land for the construction of new affordable housing developments. BND also sponsors and coordinates community outreach programs.

As the Executive Director of BND, Mr. Bloom developed and implemented a comprehensive neighborhood revitalization program. Under his leadership, BND has revitalized and constructed numerous rental units and homes for low-income community members.

Today, I ask that my colleagues join me in recognizing Jay B. Bloom and Brand New Day for their unparalleled contributions to community development and for their generous and compassionate service to the residents of Elizabethport, New Jersey. As a community leader, Mr. Bloom is an inspiration to all of us.

INTRODUCTION OF THE NURSING FACILITY STAFFING IMPROVEMENT ACT OF 2000

HON. FORNEY PETE STARK OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 7, 2000

Mr. STARK. Mr. Speaker, I am pleased today to introduce legislation with Representative Henry Waxman that focuses clear attention on the critical role that staffing plays in delivering quality care to the 1.6 million people—our parents, grandparents, siblings and spouses—who fragile health requires them to live in nursing homes.

Policy makers and the public have heard stories for years about the high cost of poor care. And most of us intuitively know that under-staffing is a causal or contributing factor in the hundreds of sad tales of neglect and abuse that are identified and publicized each year.

The impetus for this legislation is both a recent HHS report on nursing facility staffing ratios and a staffing study conducted in my district that highlights the correlation between quality of care and staffing levels. The “Nursing Facility Staffing Improvement Act of 2000” proposed a remedy for chronic understaffing in nursing homes: It directs state surveyors to conduct special staffing assessments in instances where they identify quality of care deficiencies that either cause actual harm, or that pose a risk of immediate jeopardy to resident health or safety.

If there is a finding that inadequate staffing has contributed to an actual harm or immediate jeopardy deficiency, the bill requires those facilities to submit corrective action plans within 30 days stipulating the number and type of additional nursing staff necessary to assure resident well-being. Facilities would then face tough state inspectors who would check and enforce continued compliance during two interim staffing-only surveys that would occur before the next routine annual inspection. In the event that a facility was again found to have inadequate staffing during an interim survey, an additional two years of interim staffing surveys from that date forward would be triggered.

As a separate disclosure requirement, the HHS Secretary would make facility-specific staffing data available on the “Nursing Home Compare” website. The data, which would include total hours of care provided per shift by both licensed and unlicensed nursing staff could be reviewed by family members before placing their loved ones in a facility and aid them in making informed choices.

The legislation does not propose any new fines or penalties for inadequate staffing. Rather, it holds nursing homes responsible for providing consistently adequate levels of nurse staffing, which all experts tell us is the foundation of good medical and supportive care for medically complex, fragile people. It accomplishes this through a system of stepped-up scrutiny and public accountability.

The remedy we are proposing today will improve enforcement of those staffing standards that currently apply, as well as standards that are developed in the future.

This legislation will strengthen our federal oversight system. Under current law, many inspectors find it relatively difficult to document and defend appeals of citations of facility understaffing. This bill would change that by directing surveyors to analyze the role that staffing plays whenever there are serious quality deficiencies. And it will serve as a wake-up call for those facilities they try to control expenses by cutting back on the number and wages of nursing staff.

Last July, phase one of an important HHS staffing study, titled “Appropriateness of Minimum Nurse Staffing Ratios in Nursing Homes” was released. It is an important analysis for many reasons, and the first federal study of its kind. Its central findings is that most facilities are failing to staff at levels that guarantee good care.

In brief, HHS identified two levels of staffing—a “preferred minimum” staffing level of 3.45 hours of nursing care for each resident each day, with 2 hours of this care provided by nursing assistants, 1 hour by a registered or licensed nurse, and 0.45 hours only by registered nurses. Quality of care in facilities that staffed above this level, the study concluded, was “improved across the board.”

HHS also identified a “minimum” level of 2.95 hours of nursing care per resident day, with 2 hours of care provided by nursing assistants, 0.75 by registered or licensed nurses, and 0.20 hours only by registered nurses. Regrettably, more than 90% of facilities in the U.S. fall short of this standard today.

The agency’s phase one study also shows that many states are acutely aware of staffing shortages in nursing facilities. Many have already moved to impose more stringent staffing requirements under their licensure authority, and some are taking up State legislation to set quantitative minimum staffing standards. California, for example, has a new law requiring all nursing facilities to provide at least 3.2 hours of resident care per day.

At the federal level, we are about a year away from having national recommendations on a minimum ratio requirements from phase two of HHS staffing analysis, which will help to show future discussions and debate about how to go about establishing federal staffing standards.

The staffing shortages documented in HHS’ national study are also reflected in my district. At my request, the Democratic staff of the House Government Reform Committee prepared an analysis of staffing levels in homes in my district. Titled “Nursing Home Staffing Levels in the 13th Congressional District,” the report shows that 86%, or 25 facilities, did not meet HHS’ preferred minimum staffing level of 3.45 hours of nursing care per resident day, while 55% did not meet the lower minimum level of 2.95 hours of nursing care.

Equally important, this congressional study looks at the annual surveys of these homes during their most recent annual inspections. Among those facilities that did not staff at preferred minimum levels, 68% were cited for a violation causing actual harm to residents. In contract, homes that did not staff at preferred minimum levels had no violations causing actual harm. Clearly, staffing levels matter.

The findings of this congressional study and others like it, plus the implied cost of bringing nearly 16,480 nursing facilities throughout the country up to appropriate levels, are already the subject of considerable debate and discussion. In the next Congress, policymakers and stakeholders will begin to seriously grapple with the mechanics of translating HHS’ future staffing recommendations into quantitative federal standards.

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

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.
In the interim, it is simply wrong to stand by and allow the current national epidemic of inadequate staffing to continue without intervention. The status quo means that nursing home residents will keep suffering adverse consequences in the form of poor care, or—in the most severe cases—neglect so profound that untold numbers die as a result.

For all of the reasons, I urge my colleagues to join me in support of the “Nursing Facility Staffing Improvement Act.” It is a bill that I hope will find its way into next year’s discussions on nursing home quality and accountability, and I invite any and all interested parties to comment.

HONORING CORPORAL MASON O. YARBROUGH

HON. JO ANN EMERSON
OF MISSOURI
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 7, 2000

Mrs. EMERSON. Mr. Speaker, it is with great honor and humility that I submit this tribute into the CONGRESSIONAL RECORD about a true patriot and hero—Corporal Mason O. Yarbrough, United States Marine Corps, of Sikeston, Missouri, who was part of an elite unit, the 2nd Marine Raider Battalion. This unit, under the command of Lieutenant Colonel Evans. F. Carlson during World War II was known as “Carlson’s Raiders.” As part of the baby boom generation, I owe a great deal of debt and gratitude to this brave warrior because it was his service and sacrifice that allowed all of us to grow up in a free society.

The year 1942 found our nation in grave danger, threatened by both Germany and Japan. Colonel Carlson and his Raiders undertook the second offensive operation of the war against Japan in August of 1942. After extensive training in weapons, hand-to-hand combat and the use of rubber boats, C and D companies of the Marine Raiders were sent to Midway Island. At Midway, they helped the Navy turn back a massive Japanese attack from June 3 through 6, 1942 in what would become the turning point of the Pacific War.

A and B companies of Carlson’s Raiders, including Yarbrough of B company were earmarked by Adm. Chester Nimitz for an attack August 17, 1942 on Makin in the Gilbert Islands about 1,000 miles northeast of Guadalcanal. Their mission was to destroy the island’s small Japanese seaplane base and its garrison, gain intelligence on the area and perhaps more importantly divert Japanese attention and troops from Guadalcanal and Tulagi in the Solomon Islands. There, U.S. troops had landed 10 days earlier to begin the major offensive of the Pacific War. The Japanese were pouring reinforcements into Guadalcanal and Nimitz was looking to a diversionary hill-and-road raid on Makin to ease the pressure.

The force of 220 Raiders arrived off Makin in the predawn hours of August 17. They had been ferried from Pearl Harbor aboard the submarines Nautilus and Argonaut, which had stripped and reconfigured their torpedo compartments to make room for the marines. Unlike other units, this group did not have the luxury of naval gunfire support of Naval and Army Air Corps cover.

On August 17, 1942 (August 16 local time) fierce fighting ensued and Corporal Yarbrough on his twenty-first birthday was fatally struck down by enemy fire. On August 18, as survivors of “Carlson’s Raiders” withdrew from the island to rendezvous with the waiting submarines, arrangements were made with a local village chief to bury the bodies of the fallen men.

Now, fifty-eight years later at Corporal Yarbrough’s heroic action, his remains have been recovered. The Yarbrough family, together with the citizens of Sikeston, Missouri will join me in support of the “Nursing Facility Staffing Improvement Act.” It is a bill that I hope will find its way into next year’s discussions on nursing home quality and accountability, and I invite any and all interested parties to comment.

HONORING RICHARD C. JOLLEY

HON. SCOTT McINNIS
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 7, 2000

Mr. McINNIS. Mr. Speaker, it is with great sadness that I wish to take this moment to recognize the remarkable life and significant achievements of a life-long New Castle resident and sheep rancher, Richard C. Jolley.

Sadly, Dick lost his battle with cancer on November 19, 2000. While his family, friends and community remember the truly exceptional life of Dick, I, too, would like to pay tribute to this remarkable man and close personal friend.

Dick was born the native of New Castle, where his contributions to the community were many. A dedicated leader of his community, he was elected as a Garfield County Commissioner in 1976, serving during the oil shale boom in Western Colorado. His pragmatism assisted him in finding tough but fair solutions during negotiations with the oil companies, all the while working to see local interests were protected. He also tackled problems in the district attorney’s office and worked through a proposal to build a local ski area. His term in elected office was marked by his honest, trustworthy nature and his ability to boil things down to the bottom line.

His life was one of distinction both professionally and in the realm of public service. After serving as a county commissioner, Dick was a leading force in founding the Regional Bank of Rifle, which was recently acquired by Wells Fargo. Dick had a keen business sense that was on full display during his time at the Regional Bank of Rifle.

Known for his sharp wit, a hallmark of Dick’s personality was his ability to transfix an audience with his stories. Sporting a grin from ear to ear, he narrated knee-slapping tales that are nothing short of legendary.

Although his professional accomplishments will long be remembered and admired, most who knew him well will remember Dick Jolley, above all else, as a loving husband for 48 years, a devoted father of five sons, and a proud grandfather of four grandchildren. At the end of his life, his grandchildren brought him endless joy.

In recognition of his hard work, dedication, and leadership, Mr. Sanchez has received many awards, including the U.S. Air Force Meritorious Civilian Medal and the Army Civilian Award for Humanitarian Service.

Mr. Sanchez has also selflessly given his time to many other important causes and organizations. He has served as member, chair (1989), and Grand Marshal (2000) of the Bayonne Memorial Day Committee; Chair of the F.A. Mackenzie Post #165 of the American Legion blood bank; Post Commander of the Disabled American Veterans; member of Catholic War Veterans #1612; member of the board of directors of the United Way of Hudson County; Red Cross volunteer; local baseball and softball umpire; and recently, Commissioner of the Bayonne local Redevelopment Authority, which is responsible for redevelopment of the Military Ocean Terminal. He is also a parishioner of Our Lady of Mt. Carmel Church.

Mr. Sanchez has four children, ten grandchildren, and seven great-grandchildren.

Today, I ask my colleagues to join me in recognizing Henry Sanchez for his years of exceptional service to country and community.
TRIBUTE TO CHARLES REID ROSS

HON. BOB ETHERIDGE
OF NORTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 7, 2000

Mr. ETHERIDGE. Mr. Speaker, one of the Titans of North Carolina's public education system, Charles Reid Ross, a pipe-smoking gentle man who left an indelible impression on the communities and state he served, died November 12, 2000, on his birthday. He was 93.

If anyone deserves to be characterized as a Renaissance man, Reid Ross earned that title. He was a teacher, school superintendent, civil rights hero, political leader, builder of schools and colleges, champion of putting art and music in schools, husband, father, friend to thousands. All were roles Reid Ross played to the hilt.

"He was very ready," his daughter, Sue Fields Ross, said of her father's death. "He wanted to have a big celebration. He felt very much that he was running the race."

"He loved a good funeral," Margaret Ross, a niece, said of her uncle. "He probably went to more funerals than anybody in North Carolina. He did it out of honor."

Arthur Ross III, a great-nephew who helped preach at the funeral, said that if his uncle could have attended the funeral, he would probably have done "a little politicking on the lawn," all on behalf of the Democratic party, and would have loved the music provided by a string quartet from the school named in his honor.

Ross began his teaching career on Hatteras Island when the only way of communicating with the island was by the mail boat. He went from there to spend 40 years in the schools of Lenoir County, Harnett County, and Fayetteville. He was superintendent of schools in Harnett County for 10 years before becoming superintendent in Fayetteville in 1951, a post he would hold until his retirement in 1971.

The times and man coincided when the civil rights revolution hit North Carolina. As The Fayetteville Observer said in an editorial at Ross' death, Ross "was an educational visionary. He instinctively knew when the public education system needed to go to be viable in the future. More important, he knew how to get it there, and had the personality to do it. That gift became crucial during the years of school integration. While many school systems in the South fumbled and stagnated, schools in Fayetteville kept moving forward. He inspired who, long after he retired, continued to make lasting contributions to the betterment of public education."

Ross was responsible for building 12 schools during his years in Fayetteville. One high school named in his honor and exists today as Reid Ross Classical School.

During the period involved, Ross was also a power behind the scenes in the North Carolina Education Association, at that time the organization most influential with white educators in the state. Ross' gentle advice and courage was deeply involved in the merger of NCEA and the North Carolina Teachers Association in 1970 into the present North Carolina Association of Educators. Quietly, firmly, without fanfare, he insisted that his colleagues do the right thing.

Ross' other contributions are numerous. He established sheltered workshops for the handicapped. He insisted that art and music had a place in the public school curriculum and eventually won that battle. He helped found the Fayetteville Industrial Education Center that became Fayetteville Technical College.

He started the first girls' basketball at Fayetteville High School. He served two terms as president of the High School Athletics Association, helping to put in place many of the policies that still prevail for high school sports.

Ross was a deacon and elder in Lillington Presbyterian Church. He was a charter member of the Lillington Rotary Club. And until his death, he was active in the Democratic Party and cared deeply about how the University of North Carolina at Chapel Hill was doing.

Our state has lost one of its great educational leaders. A man in the same mold as the late Terry Sanford. A man who did his duty as he saw it for the good of the fellow men and women he loved.

As Ross' funeral, the Call to Worship was as he directed:

"The strife is over, the battle done. The victory of life is won. The song of triumph has begun. Alleluia."

HONORING MURRAY LENDER ON HIS 70TH BIRTHDAY

HON. ROSA L. DELAURU
OF CONNECTICUT
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 7, 2000

Ms. DELAURU. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to a community leader, a philanthropist, a humanist, and a great friend, Murray Lender, on the occasion of his 70th birthday.

Murray's father, Harry Lender, introduced Murray's efforts in New Haven have truly been exceptional. He and his family have given generously of their time and resources to Quinnipiac University. Murray was given the Distinguished Alumnus Award in 1991. His family's efforts have provided students with a top-notch business program that allows students to benefit from the practical knowledge, business acumen, and impressive record of success that Murray and his family have achieved. In 1997, Murray was awarded an honorary Doctorate of Human Letters from his alma mater, Quinnipiac College. He currently serves on the Board of Trustees of Quinnipiac, where his contributions to that institution continue. In addition, he serves as co-chair of the Yale University School of Medicine Cardiovascular Research Fund.

Murray has also had a tremendous impact on our community through his work with a variety of service organizations including the New Haven Jewish Community Center, the American Heart Association, the Leukemia Society of America and the Juvenile Diabetes Foundation. While he built an incredibly successful business, Murray contributed not just money but, more notably, his time, to these worthy efforts.

Murray has also been an active member of our nation's Jewish community, participating in numerous events, contributing time and financial resources, and forwarding the cause of peace in the Middle East. The Anti-Defamation League has bestowed upon him his highest honor, the Torch of Liberty Award, in recognition of a profound record of public service.

In every way, Murray has been an outstanding citizen and community member. He serves as a role model to us all. He has had a profound effect on our community and our nation. I am honored to stand today and join his brother, Marvin; his children, Harris, Carl and Jay; along with other family members and friends; in wishing him many more years of health and happiness. HAPPY BIRTHDAY MURRAY!

TRIBUTE IN MEMORY OF FORMER CONGRESSMAN HENRY B. GONZALEZ

SPEECH OF

HON. MARCY KAPTUR
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, December 5, 2000

Ms. KAPTUR. Mr. Speaker, it is with great sadness that I rise to pay tribute to the remarkable life and career of our trusted former colleague the Honorable Henry Gonzalez of Texas. Dogged, brilliant, committed, indefatigable, a champion for the destitute—such was our Chairman of the Banking Committee. During my early years in the Congress, as a member of that committee, I had the great pleasure of serving with this gentleman. He served in the tradition of Franklin Roosevelt, a man who believed in opportunity for all Americans and dedicated his life to that cause.
On the Banking Committee, his work in improving housing for people from all walks of life and incomes is legendary. In him ticked a strong democratic heart. Every corner of America is better because of his service. He stood up for human rights here at home and abroad, no matter what the cost. He was unflinching in his cause just.

Recently, as we broke ground for the dedication of the new World War II Memorial in our Nation's capital, I especially named Henry Gonzalez as a key figure in congressional efforts to pass legislation to bring that element to full fruition. As a son of the Nation's history, he was a gentleman with many facets, and many concerns. He was a son of the World War II generation that preserved liberty for modern times, and his selfless dedication grew from that experience and his own humble beginnings.

I include here those remarks for the RECORD.

In extending deepest sympathy to his family, including his son CHARLES who has succeeded him in this Congress, I am mindful that those of us who have been influenced by his great qualities must have been lifted to service above self. May he rest in peace and the good works that he fashioned inspire others for generations to come. Truly he was a man both ahead of his time, and a pioneer to the future.

REMARKS BY THE HONORABLE MARCY KAPTUR AT THE WORLD WAR II MEMORIAL GROUND BREAKING CEREMONY, NOVEMBER 11, 2000

Reverend Clergy, Mr. President, Honored Guests All, We, the children of freedom, on this first Veterans' Day of the new century, gather to offer highest tribute, long overdue, and our everlasting respect, gratitude, and love to Americans of the 20th century whose valor and sacrifice yielded the modern triumph of liberty over tyranny. This is a memorial not to a man but to a time and a people.

This is a long-anticipated day. It was 1987 when this Memorial was first conceived. As many have said, it has taken longer to build the Memorial than to fight the war. Today, with the support of Americans from all walks of life, our veterans service organizations and overwhelming, bipartisan support in Congress, this Memorial materialized. I do not have the time to mention all the Members of Congress who deserve thanks for their contributions to this cause, but certain Members in particular must be recognized. Rep. Sonny Montgomery, now retired, a true champion of veterans in the House, and Senator Strom Thurmond, our unflagging advocate in the Senate, as well as Rep. Bill Clay of Missouri and two retired Members, Rep. Henry Gonzalez and Senator John Glenn. At the end of World War I, the French poet Guillaume Apollinaire declaring himself as "against forgetting" wrote of his fallen comrades: "You asked neither for glory nor for tears.

Five years ago, at the close of the 50th anniversary ceremonies for World War II, Americans consemated this ground with soil from the resting places around the world of those who served and died on all fronts. We, too, declared ourselves against forgetting. We pledged then that America would honor and remember their selfless devotion on this Memorial that commemorates democracy's march.

Apollinaire's words resonated again as E.B. Sledge reflected on the moment the Second World War ended. "As I sat in a stunned silence, we remembered our dead ... so many dead. Except for a few widely scattered shouts of joy, the survivors of the abyss sat hollow-eyed, trying to comprehend a world without war."

Yes, individual acts by ordinary men and women in an age like the one we now live in—braving or haunted by skirmish, one determined attack, one valiant act of heroism, one digger determined to give your all, one hero act in the World War II generation—by the millions—bound our country together as it has not been since, bound the living to the dead in common purpose and in service to freedom, and to life.

As a Marine wrote about his company, "I cannot say too much for the men. I have been a spirit of brotherhood. That goes with one foot forward. I mean we see the other foot there amid the friends we see no longer, and one foot is as steady as the other."

Today we break ground. It is only fitting that the event that reshaped the modern world in the 20th century and marked our nation's emergence from isolationism to the leader of the free world be commemorated on this site.

Our work will not be complete until the light from the central sculpture of the Memorial intersects the shadow cast by the Washington Monument across the Lincoln Memorial Reflecting Pool and the struggles for freedom of the 18th, 19th, and 20th centuries converge here.

Here freedom will shine. She will shine. This Memorial honors those still living who served aboard and on the home front and those lost—the nearly 300,000 Americans who died in combat, and those millions who survived the war but who have since passed away. Among that number I count my in-law's names: Victor Preiss of New York, who fought bravely with the Army's 101st Airborne Division in the Battle of the Bulge and who, because he could not forget, asked me in 1987 why there was no memorial in our nation's Capitol to which he could bring his grandchildren. Roger is with us spiritually today. To help us remember him and his contribution to America, we have with us a delegation from his American Legion Post, the Joseph Diehn Post in Sylvania, Ohio, and his beloved family, his widow Marian his granddaughter, Melissa, an art historian and member of the World War II Memorial Advisory Board.

This is a memorial to heroic sacrifice. It is also a memorial for the living—positioned between the Washington Monument and Lincoln Memorial—to remember how freedom in the 20th century was preserved for ensuing generations.

Poet Keith Douglas died in foreign combat in 1944 at age 24. In predicting his own end, he wrote about what he called time's wrong way telescope, and how he thought it might simplify him as people looked back at him over the distance of years. "That through this lens, he demanded, 'see if I seem substance or shadow, nought to disturb or mention, or charitable oblivion ...' " And then he ended with the request, 'Remember me when I am dead, simplify me when I'm dead.' What a strange and striking charge that is!

And yet here today we pledge that as the World War II Memorial is built, through the simplifying elements of stone, water, and light, there will be no charitable oblivion, no simplifying elements of stone, water, and light. There will be no charitable oblivion. America will not forget. The world will not forget.

When we as a people can no longer remember the complicated individuals who walked in freedom's shoes, a sister, a friend, a brother, and uncle, a father—when those individuals become simplified in histories and in family stories, still when future generations journey to this holy place, America will not forget. Freedom's children will not forget.
Army Corps and NJIT, and finally solve this difficult problem for the people of New Jersey. I hope my colleagues will support my efforts in this regard.

HONORING THE SAINT ANDREW’S SOCIETY ON THEIR 100TH ANNIVERSARY

HON. ROSA L. DeLAURO
OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES
Thursday, December 7, 2000

Ms. DeLAURO. Mr. Speaker, it is an honor for me to rise today to pay tribute to the Saint Andrew’s Society, an extraordinary institution in my hometown of New Haven, Connecticut as they celebrate their 100th Anniversary.

Founded in November of 1900, the Saint Andrew’s Society quickly became an essential part of our community. In the century since, the group has grown dramatically while retaining its character as an active local force and preserver of tradition. In fact, earlier this year, as a tribute to their invaluable presence in the New Haven community, I was pleased to designate St. Andrew’s Society as one of our Local Legacies for the Library of Congress’ Bi-centennial Project.

The members of the St. Andrew society have assumed a critical responsibility—maintaining the Italian heritage that thousands of Greater New Haven residents share. Members meet each month in an effort to lead the historic Wooster Square neighborhood that is the focus for Italian-Americans in New Haven. For as long as I can remember, St. Andrew’s has played such an important role in forging the bonds of our community. Some of my fondest memories are of the times that I have spent with the people of St. Andrew’s. Each year, St. Andrew’s keeps our community spirit alive by organizing an annual feast where we celebrate our traditions, history and culture, bringing memories of “the old days” back for all of us. It is through efforts such as these that we renew our history and help pass it along.

The generosity of the St. Andrew’s Society members extends far beyond our tight-knit community. Over the last century, members have raised millions of dollars to preserve some of our most treasured monuments—St. Michael’s Church, New Haven’s oldest Italian Church and the ninth-century Amalfi Cathedral in Italy. It is through such efforts that we remember our history, celebrate our friendships, and continue to strengthen the bonds of our community.

Forged through the bonds of family, St. Andrew’s Society now includes fifth and sixth generation members and while none of the founding members are with us today, their descendents continue to be active in the society. The invaluable contributions of the Saint Andrew’s Society are still apparent today as we gather to celebrate their centennial anniversary. It is with great pride that I stand today to extend my deepest thanks and warmest congratulations to the members of the Saint Andrew Society on their 100th Anniversary.

DEATH OF MRS. FLOSSIE PARKER BARBER

HON. BOB ETHERIDGE
OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES
Thursday, December 7, 2000

Mr. ETHERIDGE. Mr. Speaker, Mrs. Flossie Parker Barber died November 15, 2000, after a life that spanned 91 years. She was my fifth grade teacher. She was also the major influence that took a poor farm boy from Johnston County, described to him the wonderful world he would be entering, and then motivated him to set goals that were beyond his wildest dreams.

She did not know the meaning of the word, “can’t,” and she instilled that philosophy in her students.

Every individual should have the opportunity to sit before a teacher of the dedication Mrs. Barber displayed. In her 34 years of teaching at the old Cleveland Union School, she was fair and honest with all her students. But she would accept from each nothing less than all the excellence each was capable of providing.

She was never too busy to help a student; she loved us openly and with devotion; and she is, to me, the epitome of what constitutes a good teacher. She described to her students the better world she wanted, and ever since those days in the fifth grade, we have been attempting to build that world for her. Mrs. Barber gave truth to the old adage that a good teacher’s influence never stops, that teachers affect eternity by the influence they have on their students.

I was lucky to have Mrs. Barber for a teacher. I was luckier still that she became my friend and advisor when I became an adult.

Mrs. Barber was a graduate of East Carolina Teachers College, now East Carolina University and was always a strong supporter of the school.

Mrs. Barber was the widow of Percy D. Barber. She is survived by one son, Robert W. Barber and his wife, Elizabeth T. Barber of their two grandchildren and three great-grandchildren.

A funeral service for Mrs. Barber was held at her church, Oakland Presbyterian, on November 17. Mrs. Barber had requested the following, “A Teacher’s Prayer,” be part of her funeral ceremony. The prayer is by James J. Metcalf and is presented here:

“I wanted to teach my students how,
“To live this life on earth;
“To face its struggles and its strike,
“And improve their worth.

“Not just the lesson in the book,
“How do the rivers flow;
“But how to choose the proper path,
“Wherever they may go.

“To understand eternal truth,
“And know the right from wrong;
“And gather all the beauty of,
“A flower and a song.

“For if I helped the world to grow,
“In wisdom and in grace;
“Then I shall feel that I have won,
“And I have filled my place.

“And so ask your guidance, God,
“That I have done my part;
“For character and confidence,
“And happiness and heart.”

We shall miss this remarkable woman, who even now is undoubtedly organizing and teaching all the young angels.

HON. ROB R. WHITE
OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES
Thursday, December 7, 2000

Mrs. EMERSON. Mr. Speaker, I rise today to offer my congratulations to Second Lieutenant Kevin R. White on the occasion of his graduation from Officers Training School. This is a considerable achievement, which I am proud to command to the attention of Congress.

Second Lieutenant White is no stranger to hard work and high achievements. Before graduating from Officers Training School, as an enlisted man he worked toward no less than four different degrees. First he attended and graduated from Georgia Military College in 1989. He then went on to attend the Community College of the Air Force, where he received a degree in Metals Technology in 1991. After that he continued his education by graduating in 1996 from Wayland Baptist University with a B.S. in Occupations Education and graduating from La Verne University in 1999 with a Masters degree in Organizational Management.

Throughout his career in the military and in academia, Second Lieutenant White received a number of awards and honors. He was awarded two Air Force Commendation Medals and one Air Force Achievement Medal. Lieutenant White was named the Third Equipment Maintenance Squadron, Noncommissioned Officer of the Year in 1997 and the Third Equipment Maintenance Squadron Noncommissioned Officer of the 4th quarter in 1997. While fulfilling his military duties, Second Lieutenant White also excelled in his studies, making the President’s List at Wayland Baptist University in 1996.

In addition to excelling in the Air Force and working toward a top notch education, Second Lieutenant White was busy fulfilling many military assignments overseas, such as completing a remote tour of Keflavik, Iceland from 1991 to 1992. Additionally, he spent over 9 years overseas in different countries, including Thailand, Iceland, Singapore, Japan, Norway, and Saudi Arabia. Second Lieutenant White also found time amidst his many responsibilities to volunteer to be a Big Brother while in Alaska. In fact, he received the Big Brother, Big Sister of the Year Award in 1997.

Currently, Second Lieutenant White takes time out of his busy schedule to coach bowling for participants in the Special Olympics.

Second Lieutenant White has served his community and his country with great distinction. I am honored to pay tribute to his hard work and achievements and to recognize his efforts to build a better, stronger America.

HONORING THE LIBERTY SCIENCE CENTER

HON. ROBERT MENENDEZ
OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES
Thursday, December 7, 2000

Mr. MENENDEZ. Mr. Speaker, today I bring to your attention one of the premier science museums in the nation, the Liberty Science Center (LSC) in Jersey City, New Jersey.

The LSC has a unique mission to serve as an innovative, “hands-on” learning resource...
for the lifelong exploration of nature, humanity and technology. Its mission is to promote informed stewardship and lifelong interactive learning of the world for all ages. The staff members have extensive backgrounds in science and technology education. They work closely with regional school districts and educators in order to fulfill their goal of broadening the enjoyment of scientific discovery to children.

The LSC has recently initiated a unique, visionary “Partnership Program” with 28 at-risk school districts in New Jersey. This program provides students with a challenging inquiry-based learning experience aligned with New Jersey State Core Curriculum Standards, as well as teacher training and opportunities that encourage the whole family to get involved in the education process. Since the Partnership’s inception during the 1998–1999 school year, student participation has increased from 45,000 to 160,000. The New Jersey State Legislature has already appropriated $6 million to support expansion of the Partnership Program making the Science Center and the State of New Jersey a model for other partnerships between public school systems and private institutions everywhere in the United States.

The LSC aims to complete a major infrastructure expansion project by the year 2005, so that even more at-risk students and families can reap the benefits of hands-on scientific learning. The museum seeks to emerge as a landmark destination in the region offering experiences that significantly advance the reach and impact of a complete science education both onsite, offline and online. With this proposed expansion, LSC intends to provide an indispensable public service and remain broadly involved in the growth of Jersey City’s diverse urban neighborhood as it begins a renaissance.

I would like to call upon my distinguished colleagues to join with me in the next session of Congress to make the expansion of the LSC a priority on our legislative agendas.

Our most precious resource is our children. Providing them with exciting educational opportunities to expand their horizons should always be a top priority of our nation’s leaders, and I hope to continue this important work with my colleagues in the 107th Congress.

HONORING TOM CAMERLO

HON. SCOTT McINNIS
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 7, 2000

Mr. McINNIS. Mr. Speaker, I would like to take this moment to recognize an outstanding citizen, Tom Camerlo of Florence, CO. Tom has recently been named an inductee into the Colorado Agricultural Hall of Fame. It has been an honor to work closely with his devoted leadership to the dairy farming community that has helped him to earn this distinguished honor. At this time I would like to pay tribute to Tom for his many personal accomplishments and numerous contributions to his community and profession.

Tom attended Florence High School before enrolling at Colorado State University where he began a course of study that would prepare him for what has become a truly impressive career. He received his Bachelor of Science degree in General Agriculture and has used this knowledge to help benefit dairy farmers all over the country. Along with his education at Colorado State University, Tom also used his leadership as a Captain in the U.S. Army to benefit his community and State. Tom has used his natural ability to lead along with his commitment to help further such organizations as the Mountain Empire Dairymen’s Association, the United Dairy Industry Association, and the Dairy Promotion Federation Association, all in which he served in the capacity of president. Tom is also a current board and executive committee member of the National Milk Producers Federation and serves as president of the National Milk Producer’s Federation, a position he has held for over a decade.

Tom’s remarkable dedication to the farming industry has also earned him a number of different awards. The awards include Livestock Leader’s Award from Colorado State University, the National Cooperative Statesmanship Award from the American Institute of Cooperatives and he has been named Colorado Livestock Producer of the Year. Among his greatest accomplishments have been being appointed to the Colorado Agricultural Development Committee and the Presidential Advisory Committee on Trade Policy and Negotiations.

Tom, for the past six years, has been an active member of the Board of Directors for First National Bank of Florence, serving as chairman for four years. He has also been an active member of School Board RE-2J for almost a decade and has served as president for four years. In addition to these impressive roles in his community he is also part of the Florence Elementary School Board. His greatest accomplishments have been serving as a selected steward and lifelong interactive Catholic Church.

Tom has worked very hard to help the farming community and his many accomplishments are widely admired in the dairy farming industry. He has earned the respect of this body and on behalf of the State of Colorado and the U.S. Congress I would like to congratulate Tom on this distinguished honor. I wish him the very best in his future endeavors.

SANTA CLARA COUNTY MAKES HISTORY BY PROVIDING HEALTH COVERAGE FOR ALL CHILDREN

HON. FORTNEY PETE STARK
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 7, 2000

Mr. STARK. Mr. Speaker, Santa Clara County in California has just made history by approving a plan to provide health coverage for all of the estimated 70,000 uninsured children in the county. Unwilling to wait for national and state officials to respond to the problem, the county has obtained funding from the Federal government to pay for a program that children receive the health care coverage they need, starting January 2, 2001.

The county will streamline application forms, aggressively conduct outreach, and enroll the approximately 50,000 children who qualify for state and federalally funded programs. For the other 20,000 children who are currently eligible for existing government assistance, the county will pay the majority of their health insurance premiums.

Not only will Santa Clara County’s children be guaranteed health coverage, but also they will be guaranteed comprehensive coverage. Currently, children can obtain access to health care through Medicaid, State Children’s Health Insurance Program (SCHIP), and the private sector. Often, the health coverage varies widely between different counties. As a result, though, all children up to the age 19 will be guaranteed comprehensive coverage of a range of services, including vision, dental, and medical care.

I want to commend Santa Clara County for being the first in the nation to set its sights on covering all children with health insurance. The county has proactively found a solution to our nation’s pressing problem of the uninsured and has built partnerships with diverse groups to achieve coverage for all children.

I hope that other counties, states, and the federal government will follow Santa Clara County’s lead. With over 10 million uninsured children in this country, the problem faced by Santa Clara County is one that is faced by numerous counties across America. This year, I introduced H.R. 4390, the MediKids Health Insurance Act to provide health coverage for every child in the country. It would provide a health care safety net for uninsured children by guaranteeing access to comprehensive medical care.

MediKids, which builds on our successful experience with Medicare, is one approach to ensuring coverage for all children in the nation. There are alternative approaches that build on other existing programs, similar to the new effort being undertaken by Santa Clara County. I hope everyone in Congress can join in continuing our efforts to ensure that our nation’s uninsured children. Passage of the SCHIP program in 1997 has certainly moved us forward, but much more needs to be done.

All of our nation’s children deserve a healthy start in life. For the children living in Santa Clara County, they should now get precisely that.

RECOGNIZING THE EFFORTS OF THE GOLD STAR WIVES CHAP-TER OF COLUMBUS, GA

HON. MAC COLLINS
OF GEORGIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 7, 2000

Mr. COLLINS. Mr. Speaker, our nation is blessed by many veterans organizations including the Veterans of Foreign War and the American Legion. These organizations honor the living veterans and the deceased for their service to our country. But I would like, at this point, to remind the House of another veterans group which keeps alive the memory of veterans. The Gold Star Wives of America is a national organization composed of the spouses of men either killed in action, or who died as a result of an injury or disease incurred while on duty.

The Chattahoochee Chapter of the Gold Star Wives of America has been particularly active. Thirty years ago, they began setting out flags on Columbus Victory Drive on holidays honoring our veterans. This is one of the city’s finest sights, with the star spangled banner waving on both sides of the avenue.
Mrs. Wanda Funderburk, the Chattahoochee Gold Star Wives Club's president, says the other veterans groups help them place 120 flags along this road. They do this twice a year, and sometimes more often.

The Chattahoochee Gold Star Wives became one of the first organizations in the community to place a monument in a veterans cemetery when it erected a monument on the Fort Mitchell, Alabama veterans cemetery's Walk of Honor.

Mr. Funderburk has been with the Gold Star Wives since 1985, when her husband, a Korean War veteran died. She is one of 80 fine women who are keeping the spirit of patriotism and the memory of our veterans' sacrifices alive in Columbus, Georgia.

Mr. Speaker, Mrs. Funderburk describes her chapter as: "We have a really nice bunch of ladies and we still believe in honoring what our husbands did, and not only our husbands, but all veterans, regardless of race, creed or color, or religion. We think there is no better way to honor our men than to raise the flag."

"This year I drive down Victory Drive and see those flags, I still get tears in my eyes," she said the other day.

That is not being a child, that is being a patriot.

TRIBUTE TO BANGOR DAILY NEWS COLUMNIST JOHN DAY

HON. JOHN ELIAS BALDACCI
OF MAINE

IN THE HOUSE OF REPRESENTATIVES
Thursday, December 7, 2000

Mr. BALDACCI. Mr. Speaker, earlier this month, the long-time Washington correspondent for the Bangor Daily News retired. John Day worked for my hometown newspaper for nearly 40 years. During a distinguished career in which he filed more than 15,000 news stories, he covered municipal government in Bangor and state government in Maine's capital city of Augusta. Since 1978, John has reported on Federal issues from Washington. In that same year, he was chosen Maine Journalist of the Year by the Maine Press Association—the first time a reporter had been selected.

In addition to reporting on some of the most important national issues of the past two decades—including early, insightful stories about the Iran-Contra matter—John Day has delivered more than 1,700 opinion columns which have provided a unique perspective on the American political scene.

Knowledgeable and aggressive, John Day shared a wealth of information with generations of Bangor Daily News readers. Whether they agreed with his viewpoint or not, they always knew where he stood. Never shy about saying what was on his mind, John inevitably gave readers something to consider.

As a Member of Congress, I have become better acquainted with John and have enjoyed the experience. John covered my father as a City Councilor in Bangor during the early part of his newspaper career in the 1960's, and concluded it covering myself and the other Members of Maine's congressional delegation at the start of a new century.

As John starts a new chapter in his life, I wish him the very best. My hometown newspaper will certainly be less colorful and it will never be the same.

IN RECOGNITION OF DR. CARMELA ASCOLESE KARNOUTSOS

HON. ROBERT MENENDEZ
OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES
Thursday, December 7, 2000

Mr. MENENDEZ. Mr. Speaker, I rise today to recognize Dr. Carmela Ascolese Karnoutsos for her dedicated service to the community of Bayonne, NJ, and for her exceptional contributions to the field of women's history. Today, Dr. Karnoutsos will be presented with the Volunteer of the Year Award at the Bayonne Historical Society's annual Holiday Dinner Dance.

Dr. Karnoutsos graduated Magna Cum Laude from Jersey City University and received her Master's Degree and Ph.D. at New York University. She is currently Professor of History at New Jersey City University (NJCU), specializing in women's history and new Jersey history. She is the author of New Jersey Women: A History of their Status, Roles and Images (1997), and recently became a member of the Bayonne's Historical Preservation Commission, which was formed in 1999.

As an important authority on the history of New Jersey, Dr. Karnoutsos presented the keynote address at the 125th anniversary of Bayonne in 1994; served as the moderator of the city's mayoral debate in 1998; and appeared in the video "What is a Freeholder? An evaluation of the Role of County Government."

Because of her dedication to the history of New Jersey women, Dr. Karnoutsos has made significant contributions to the Women's Project of New Jersey, Inc., as associate editor of its publication Past and Promise: Lives of New Jersey Women (1990), and as a member of its editorial board.

I ask my colleagues to join me in recognizing Dr. Carmela Ascolese Karnoutsos for her exceptional contributions to the her community and country.

IN COMMEMORATION OF JEROME M. MILLER

HON. PETER DEUTSCH
OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES
Thursday, December 7, 2000

Mr. DEUTSCH. Mr. Speaker, I rise today to commemorate a dear friend and a loyal and devoted member of the Lauderdale, Florida community, Mr. Jerome "Jerry" Miller.

Sadly, Jerry Miller passed away on November 1, 2000 and his guiding presence in the Inverrary community will be greatly missed.

After moving to South Florida in 1974, Jerry Miller took an active role in ensuring that the City of Lauderdale, and in particular the Inverrary community, remained a beautiful and harmonious residential area where residents could enjoy their picturesque surroundings. Jerry worked hard to ensure that as South Florida grew, Lauderdale would remain a pleasant and desirable place for people to live. Jerry served on several city boards where he consistently advocated for positive and aesthetically pleasing development. Similarly, as the President of the Inverrary Association, Jerry accepted nothing less than top rate planning which would enhance and improve the beauty and spirit of his community.

In one of his last great projects, Jerry took the lead in the conceptual and physical development of the Inverrary Meditation Park. These serene gardens filled with exotic fauna, chirping birds, and tropical fish ponds have become a centerpiece of the community. Here residents come to reflect on their thoughts, talk with their neighbors and enjoy the tranquility of their tropical surroundings. In this peaceful park, as in the hearts of those who knew him, the spirit of Jerry Miller's care and commitment to his community will forever be remembered.

TRIBUTE TO BETTY ANN DITTEMORE

HON. SCOTT MCINNIS
OF COLORADO

IN THE HOUSE OF REPRESENTATIVES
Thursday, December 7, 2000

Mr. McINNIS. Mr. Speaker, it is with great sadness that I take this moment to recognize the accomplished life and admirable career of Betty Ann Dittemore. Betty, a former Colorado State representative, recently passed on at age 81. While her friends and family mourn her passing, I would like to take this opportunity to honor a truly amazing lawmaker—a woman who encompassed profound strength in all realms of life.

After campaigning using her initials (B.A.D.) as a slogan, Betty was elected to the Colorado House of Representatives in 1968, becoming the first woman from Arapahoe County to be elected to the state legislature. While serving in office from 1968 to 1978, Betty engaged in one of Colorado's fiercest battles: passing Colorado's first comprehensive planning law, a feat that would not have been possible without her wit and tenacity. Throughout her time in office, she successfully climbed in leadership positions serving as minority whip and later as majority leader.

She was instrumental in creating the Colorado Housing and Finance Authority, an authority that has become eminently successful in assisting the state's poor and elderly in finding reasonably priced homes. In 1980, she became an Arapahoe County Commissioner, where she was able to bring the same expertise and experience to the Board of County Commissioners that she brought to the legislature.

Mr. Speaker, there are few people in Colorado's proud history who have shown themselves as zealously and wholeheartedly as Betty. Her career was a model that every official in elected office, including myself, should seek to emulate. I know I speak for the state of Colorado when...
I say she will be greatly missed. However, the mark that she left will not be soon forgotten.

GEN. JUSKOWIAK’S REMARKS
BEAR REPEATING

HON. MAC COLLINS
OF GEORGIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 7, 2000

Mr. COLLINS. Mr. Speaker, I was privileged recently to hear Major General Terry Juszkowiak speak about the role of the soldier in the United States. I was impressed by what he had to say, and would like to submit his remarks in the CONGRESSIONAL RECORD:

It is truly an honor for me to be here today and to participate in this luncheon honoring Veterans—past and present.

Do we have any J eff Foxworthy fans here? Let me do a take-off on J eff and say. . .

You might be a veteran if . . . Your spouse responds to “hooah!” and understands what it means regardless of the context you present it in.

You might be a veteran if . . . when you go camping, you ridicule other campers for setting up the tent down wind and down slope of the latrine.

You might be a veteran if . . . you still have an urge to line up your shoes under your bed.

Or . . . your two-year old calls everyone in BDUs “daddy.” You might be a veteran if . . . when your kids are too noisy, you announce “at ease.”

You might be a veteran if . . . you’ve seen the movie “Patton” enough times to memorize his speech.

Or . . . cable news is your favorite program. The History channel is your next favorite.

You might be a veteran if . . . you ruin movies for everyone around you by pointing out the unrealistic military scenes.

And the biggest indicator you might be a veteran is: . . . if you understood and related to this list!!!

In a little over a week, our nation will observe a day that has special meaning to me—a day that we honor our freedom. It will be viewed simply as a day off from work; a day to kick back and relax. On behalf of a very grateful nation, I thank all veterans and their families for their sacrifices.

A veteran is the three anonymous heroes in The Tomb of the Unknowns, whose presence at the Arlington National Cemetery must forever preserve the memory of all the anonymous heroes whose valor dies unrecognized with them on the battlefield, or the ocean’s sunless depths.

Or close to home, a vet is a 22-year-old sailor named Cherone Gunn, who left his aunt and uncle’s house (Mr. and Mrs. Taylor) in Rex, GA to join the Navy, serve his country and get some experience. But instead, while serving aboard the U.S.S. Cole, was killed in the prime of his life by a senseless terrorist act.

A veteran is a soldier, sailor, airman or marine. A citizen—a “regular guy or gal” who answered our country’s call to service.

A veteran is an American citizen who also embodies the words of Oliver Wendell Holmes: “What lies behind us and what lies before us are tiny matters compared to what lies within us.”

Because a veteran sees service to our country as an act of the heart.

I’d like to share with you for a minute a short poem whose authorship is unknown. It is entitled “It’s the Soldier!” But it speaks to all service members . . . to all service members of our magnificently free country:

It’s the Soldier!
When the country has been in need, it has Always Been The Soldier!
It’s the soldier, not the newspaper which has given us the freedom of the press—
It’s the soldier not the poet, who has given us the freedom of speech—
It’s the soldier, the campus organizer, who has given us the freedom to demonstrate—

Ms. Towns.

I have lived times others would say were best. I have seen the face of terror, felt the stinging cold of fear, and enjoyed the sweet taste of a moment’s love. I have cried, pained and hoped . . . but most of all, I have lived times others would say were best forgotten.

At least someday I will be able to say that I was proud of what I was . . . A Soldier.

On behalf of a very grateful nation, I thank all veterans and their families for their sacrifice and their service. Americans can sleep safely at night. And Americans owe you an eternal debt of gratitude.

THE IMMIGRANT’S JOURNAL
HON. EDOLPHUS TOWNS
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 7, 2000

Mr. TOWNS. Mr. Speaker, I rise today to pay tribute to the publication that has been making a significant contribution to the immigrant community in Brooklyn—The Immigrant’s Journal.

The Immigrant’s Journal is a widely read and widely distributed newspaper in New York City, dealing with immigration and related issues facing the 2 million immigrants living in New York City. In the pages of the Immigrant’s Journal, one will find articles on immigration, family matters, real estate, the criminal justice system and the political system. With the vast array of immigration related legislative proposals before Congress, and the multiple problems facing immigrants in the processing of their visas, it is indisputable that the Journal represents an idea whose time has come. Apart from its purely informational mission, the Journal seeks to correct and change the misleading stereotypes which some native-

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World Flight 2000 meets with as many schoolchildren as possible to talk about their dream, their trip, and the exotic places they have seen. Students were encouraged to e-mail the pilots with questions throughout the trip, which they answered en route.

Dreamcatcher and her crew took off from Rochester, New York on September 12 and stopped in Maine, Canada, before striking out across the Atlantic Ocean. Since then, stops have included Spain, Greece, Egypt, Oman, Thailand, Australia, Vanuatu, and American Samoa. For each place Dreamcatcher visits, the World Flight 2000 website lists a host of information ranging from customs to environment to government recipes.

The trip has been filled with challenges. Beyond the expected issues of weather and maintenance, the crew has had to deal with troublesome control towers, flight plan glitches, and illness. Yet they have come through all of these problems with, as they say, flying colors.

I am proud to claim virtually the entire World Flight 2000 team as my constituents. Pilot Dan Domenez is a senior at the University of Rochester, where he studies economics. Pilot Chris Wall is a 21-year-old junior at Rice University, majoring in electrical engineering. Flight photographer Jesse Weisz graduated from the University of Rochester with an Honors Major in Film International Director/Curator Jeff Nenns is a 21-year-old recent graduate of the University of Rochester, where she obtained her International Relations degree. Local publicist John Galbraith has donated hundreds of hours to coordinate press, marketing, and corporate sponsorship. Dozens of local volunteers have been involved, helping with everything from public relations to rehabilitation of the aircraft.

Mr. Speaker, these young people are out there achieving something that most adults would never undertake simply because the prospect is so daunting. Yet they have managed to conquer not only the practical, financial, logistical, and other hurdles, but the entire globe as well.

I invite my colleagues to join me in saluting World Flight 2000 for proving to all that, “Anything is possible if you just dream!” Welcome home, Dreamcatcher!

TRIBUTE TO MRS. LENA ROBERTA MURRELL WHITE

HON. ROBERT E. ANDREWS
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 7, 2000

Mr. ANDREWS. Mr. Speaker, I rise to salute Mrs. Roberta Murrell White for her extraordinary efforts in helping improve the lives of children and young people. Mrs. White has been a dedicated volunteer for over twenty years, and her contributions have been invaluable.

Born in North Carolina, Mrs. White grew up in a family that valued education and hard work. She was a scholar in every sense of the word, and her dedication to her children and her community was an inspiration to all who knew her.

In 1979, Mrs. White returned home to become a practicing attorney in Lakeland, Florida. She was elected to the Florida House of Representatives in 1982 and served for over twenty years, becoming the first woman to serve as Speaker of the House. In 1990, she was elected to the United States House of Representatives, where she served for four consecutive terms. Mrs. White retired from Congress in 2003 and continues to be an active member of the community.

Over her career, Mrs. White has worked tirelessly on behalf of children and families, advocating for policies that would improve their lives. She was a staunch supporter of education reform, and her efforts helped to establish the Florida Education Fund, which works to ensure that all children have access to quality education.

Mrs. White is a true American hero, whose legacy will live on in the countless lives she touched. She is a role model for all of us, and her dedication to public service is an inspiration to us all. We are honored to salute Mrs. Roberta Murrell White for her extraordinary contributions to our community and to our nation.
TRIBUTE TO LATE JAMES DAKEN

HON. MARCY KAPTUR
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 7, 2000

Ms. KAPTUR. Mr. Speaker, with great respect, gratitude, but sadness, I enter into the CONGRESSIONAL RECORD the life story of Mr. James Daken, one of the most accomplished city managers in our nation, who died earlier this year in Peoria, Illinois.

For those of us who knew Jim as City Manager for the City of Toledo, there is no question his professionalism and leadership remain with us even until today. He served our community honorably, beginning in 1967, and then moved to Peoria in 1979 to continue his work building America's midwestern heritage. For certain, it was Toledo's loss and Peoria's gain.

I can remember Jim as the type of manager that would compliment other city employees, even beginning staffers in low level positions.

He was a team builder and lifted public administration to a higher level in our community, for which we remain grateful always.

To his wife, children, and family, may I officially extend deepest sympathy coupled with true admiration for a superb public servant who moved America forward in the 20th century.

James B. Daken of Peoria, Ill., a former Toledo city manager who was America's youngest mayor of a major city when he took the job at age 29, died of lung cancer Monday in his home. He was 58.

In 1971, the International City Management Association elected Mr. Daken one of its 10 outstanding young men.

Mr. Daken, who was born, raised, and educated in Cincinnati, came to Toledo in July 1967, when he took the job of assistant city manager.

He was promoted to city manager in March, 1971, and held the post until October, 1978, when he moved to Hartford, Conn., to become its city manager.

Former Mayor Harry Kessler credited Mr. Daken with being "largely responsible for the success I had as mayor. He and [the late] Mayor Frank Pizza did a great job" and were "seriously about hiring a 29-year-old as city manager, but Jim was a 29-year-old going on 59 years old or 49."

Under the city charter at the time, city council selected the city manager from candidates recommended by the mayor.

Mr. Kessler said after he became mayor, he organized a citizens committee to study municipal government to help city officials identify problems and possible fixes.

"More than 100 recommendations of the committee's recommendations were adopted," Mr. Kessler said. "Jim Daken was responsible for organizing the recommendations of the committee so that they could be made into ordinances that would pass council's scrutiny."

Ohio Supreme Court Justice Andy Douglas said he was a member of the Toledo council committee that selected Mr. Daken for the city manager's job.

"His major contribution was bringing stillness to troubled waters," Justice Douglas said. "He inherited a large administrative burden of cumbersome, difficult, and complicated matters, and he provided solutions generally acceptable to all."

Expansion of Toledo's water and sewer services to outside communities in Lucas and Wood counties was a priority with Justice Douglas as a councilman, and he credited Mr. Daken with helping the city to achieve these goals.

"The only thing the city makes money on is the sale of water," Justice Douglas said. "I think the city's water-umping capacity was increased from about 140 to 160 million gallons a day, and there are plans to raise that to more than 200 million gallons. He was directly involved in bringing that about."

Former Toledo Councilwoman Carol Pietrykowski said she was chairwoman of the council committee that hired Mr. Daken. She noted that "Jim came in and made a presentation, very professionally, and I was impressed with it. Whatever Jim did, he did well."

Later, Mr. Daken as city manager impressed Mrs. Pietrykowski again with his ability to explain complicated legislation that was coming before council.

"He was the most communicative and the easiest city manager to work with while I was on council," Mrs. Pietrykowski said.

"When there was an issue, he would come to every councilman. He would answer every question we had. And he was very fair with the city council's office staff."

Mrs. Pietrykowski added that Mr. Daken "knew who he worked for. It was city council in those days."

J. Michael Porter, a former city manager, said that when he was Toledo's director of natural gas, Mr. Porter added that Mr. Daken was a "professional's professional. He believed in the city-manager system and did everything he could to enhance the profession."

Mr. Daken was city manager in Peoria from 1987 to 1996 and president of the Foster and Gallagher, Inc., mail order and telemarketing firm in Peoria from 1997 to 1999, when he took his most recent job as Peoria County administrator.

His daughter, Amy, described him as a "very intelligent and just person who 'had a lot of integrity. I think he just really tried the hardest to do what he truly believed was right. He had a very strong sense of social justice and civil rights: He always stood for people who were oppressed and always thought about them.'"

She added that she recently told her a story about his trip to Peoria just before he became city manager there.

"The first thing he said was, 'Show me the slums, because that's what the state of the city is,'" she said.

He also recently refused to get a higher pay increase than the people working for the county under him, she said.

Raised in Cincinnati where he finished high school, Mr. Daken held a bachelor's in political science and a master's in public administration from the University of Cincinnati. In 1964, he began his career as a student intern for the city of Cincinnati. He later worked as a budget analyst for the city of Cincinnati until the city of Toledo hired him as its assistant manager.

Mr. Daken was a member of Toledo's Downtown Kiwanis, Old Newsboys Good-fellow Association, American Society for Public Administration; Children's International Summer Villages Association and YMCA, Peoria Rotary Club, where he was president in 1997, and the Peoria Symphony, for which he was a longtime member of the board.

Surviving are his wife, Peggy; daughters, Amy and Sarah, and sons, Russ and Kevin.

Memorial services will be at 10 a.m. today in Wright and Salmon Mortuary, Peoria.

The family request tributes to a charity of the donor's choice.

TRIBUTE TO SILVIA RILEY

HON. WILLIAM F. GOODLING
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 7, 2000

Mr. GOODLING. Mr. Speaker, I rise today to pay tribute to a longtime staff member of the Committee on Education, Children, Youth and the Workforce, Silvia Riley, who came to the House of Representatives 35 years ago to work in a Member's personal office, Clement Zablocky. In January 1970, she joined what was then
the Education and Labor Committee as a secretary. In 1977, her title changed to staff assistant, and the following year she was promoted to Minority Clerk. Three years ago, Silvia’s title changed again, and she became the Financial Administrator.

No matter what her title has been, Silvia’s role has remained constant. She is one of the pillars of the committee, ensuring that administrative functions run smoothly. Silvia Riley is the person who orientates new staff members, and she is the last person departing staff members see, to turn in their keys.

Silvia has always handled all aspects of her work in an exemplary fashion. The committee has passed its annual reconciliation by the General Accounting Office with flying colors for as long as Silvia has been the Financial Administrator.

Silvia has served under six Republican Ranking Members and one Republican Chairman. Throughout her tenure, she has exhibited an extraordinary personal commitment to the committee. One of her most memorable challenges was when Republicans became the Majority after the 1994 elections. Silvia was at work on New Year’s Day, preparing space and materials for the Republican Majority staff.

Silvia has always been there for the Members and staff, whatever it’s problems with supplies or guidance on where to turn for special requests. Whenever a major project needs additional volunteers, Silvia is always the first to sign up.

Mr. Speaker, as you know, I, too, will be retiring at the end of this Congress. I am fortunate to have had my 26 years here coincide with Silvia Riley’s. Members and staff join me in wishing her all the best as she leaves to have her on board for 31 years.

IN RECOGNITION OF JACOB HEILVEIL, TONY VOLTENDEST AND JENNIFER BUTCHER, U.S. PARALYMPIC TEAM ATHLETES

CONGRESSIONAL RECORD — Extensions of Remarks

HON. JAY INSLEE
OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 2000

Mr. INSLEE. Mr. Speaker, it is with great admiration that I recognize these members of the U.S. Paralympic team. These extraordinary athletes have overcome great barriers to achieve athletic feats among their peers. These athletes have recently competed at the Paralympic Games in Sydney, Australia, and will compete in the Paralympic Games in Atlanta, Georgia.

Mr. Speaker, I commend these athletes for their determination, hard work and incredible success. I ask my colleagues to join me in saluting their fine example of sportsmanship and success on the international stage.

AMERICAN HOMEOWNERSHIP AND ECONOMIC OPPORTUNITY ACT OF 2000

SPEECH OF

HON. KEN BENTSEN
OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 2000

Mr. BENTSEN. Mr. Speaker, I rise in strong support of H.R. 5640, important legislation that removes barriers to housing affordability and encourages homeownership for low and moderate-income Americans.

H.R. 5640 incorporates much of H.R. 1776, a comprehensive housing bill that I cosponsored and which House passed overwhelmingly in April 2000 with my support. The most far-reaching provisions of this bill would extend down payment assistance to low and moderate-income families, under the Section 8 Program. Specifically, H.R. 5640 would vest local housing authorities with the power to provide a single grant for down payment assistance in the purchase of a home, moving families who receive Section 8 housing rental assistance into the realm of “homeowners”.

I support H.R. 5640 because it not only broadens the availability of affordable housing choice for many deserving American families, it also removes the disincentive to the production and availability of affordable housing programs.

H.R. 5640 provides for the establishment of a FHA down-payment formula by which lenders and borrowers calculate the amount of down-payment required for an FHA loan, dramatically improving the operation of the Federal Housing Administration’s single-family program. This technical correction improves FHA administrative efficiency and provides the home buying industry and their customers a readily comprehensible tool for calculating the down payment for an FHA loan.

As a member of the House Banking Committee, I strongly support provisions in H.R. 5640 that will make technical corrections and clarifications to the Homeowners Protection Act. This law ensures that homeowners have the right to cancel their Private Mortgage Insurance (PMI) on their home mortgages once the homeowner attains a certain level of equity in the home (usually 22%, but in some cases 20%). This measure clarifies that PMI cancellation rights for adjustable rate mortgages (ARMs) are based on the amortization schedule that is currently in effect. This provision ensures that consumers get full benefit of any adjustments that have been made based upon interest rate calculations. Moreover, under this provision, consumers with a “good payment history” will be given the explicit right to cancel their PMI, removing any existing ambiguity about this term. I strongly believe that these corrective provisions improve consumer protections and substantially improve the Homeowners Protection Act.

With respect to consumer protections, H.R. 5640 would provide elderly homeowners with additional measures to refinance their reverse mortgages while establishing protections to shield them from fraud and abuse. I am pleased that senior citizens in Texas’ 25th District, who have only recently been given the “green light” from HUD to take out reverse mortgages, would be allowed to refinance these federally-insured home equity conversion mortgages under the provisions of H.R. 5640. This provision would enable seniors to obtain loans up to the higher FHA loan limits, enacted in 1998. I am also pleased that this measure orders HUD to prohibit broker fees, limit origination fees for refinanced reverse mortgages and, in cases where loan proceeds are used for the cost of health or medical care insurance, instructs HUD to waive the upfront mortgage insurance premium.

As the Ranking Democrat on the House Budget Committee’s Housing and Infrastructure Task Force, I am especially pleased to support this legislation because it includes a section dealing with prevention of fraud in the Department of Housing and Urban Development’s (HUD) 203(k) home acquisition and rehabilitation program. I have been working on this specific issue for several years, and with the assistance of my colleague RICK LAZIO, the U.S. General Accounting Office (GAO) agreed to review and investigate HUD’s Title I program in 1998. The Title I program, the oldest government housing program, provides low-income homeowners with government backed loans of up to $25,000 to finance personal home repairs, with the money distributed directly to the contractor. I know of too many cases where unscrupulous contractors have targeted low-income homeowners, convinced them to take out large home repair loans, and then failed to perform the work.

As a Congressman from the Houston area, this issue has particular resonance. In recent years, several investigative news reports in Houston have uncovered cases where unscrupulous contractors used this government’s guaranteed FHA loan program to defraud homeowners in and around my district. Many of these homeowners are elderly and live on fixed incomes and had been the victim of shady contractors who provided shoddy or incomplete work. Many of these elderly homeowners were forced into default, and the tax assessor-collector left holding the bag. I am pleased that this legislation includes important provisions to strengthen the anti-fraud provision in the guaranteed FHA program.
Finally, with all that is good in H.R. 5640, I am, however, disappointed that it abandons a key provision of H.R. 1776 which would make available a 1% down FHA mortgage loan for qualified teachers, police, fire fighters and municipal employers when purchasing a home in the community they serve. Congressional Budget Office shows that over a five-year period, this provision would provide 125,000 new loans, helping rebuild and strengthen neighborhoods.

I urge my colleagues to open and expand the opportunity of homeownership by supporting this important bi-partisan legislation.

TRIBUTE TO LARS-ERIK NELSON

HON. PETER T. KING
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 7, 2000

Mr. KING. Mr. Speaker, together with so many Americans—particularly New Yorkers—I was deeply saddened by the tragic and untimely passing of Lars-Erik Nelson. Lars was a uniquely gifted journalist of unsurpassed integrity and courage.

I will be eternally grateful that I was able to call Lars my friend—for he was a friend in every sense of the word. Whether it was discussing the issues of the day, demonstrating concern for someone else’s health problems or giving an encouraging word, Lars was always there.

Although he had every right to do so, Lars never took himself seriously. Very simply, it was always a delight to be in his company. When my wife Rosemary was in Washington, she and I would enjoy getting together with Lars and his wife Mary for dinner. Lars was raconteur, gourmet and wine connoisseur. What better way could there be to spend an evening? Just several days before he died, Lars and I were trying to schedule dinner in the upcoming week. It was not meant to be.

I will cherish personal memories of Lars. Sitting with him at my first Gridiron Dinner. Meeting with him and Gerry Adams in Washington during a key moment in the Irish Peace Process. Having lunch with him in the House Dining Room and listening to his calm reflections during the impeachment debate. His writing an overly complimentary blurb for a novel I wrote.

But mostly I will remember a man who was a true giant as a journalist and a friend—a man of innate decency. A man who will be sorely missed by any who had the opportunity to know him.

May he rest in peace.

TRIBUTE TO BOB MURPHY

HON. JOHN A. BOEHNER
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 7, 2000

Mr. BOEHNER. Mr. Speaker, today I rise to recognize Mr. Bob Murphy, publisher of the Hamilton Journal-News, of Hamilton, Ohio, the largest newspaper in my District.

For more than four decades, Bob has been in the business of keeping citizens informed about what’s happening in their community, country, and the world around them. He has been in the newspaper business for more than 42 years and has been publisher of the Journal-News since January 1, 1994. Before that, he was publisher of the Middletown Journal, another newspaper in the 8th District, from October 1981 through December 1993, when he was appointed to his current post.

Before coming to Middletown in 1981, Bob had been publisher of the Times-West Virginian in Fairmont, West Virginia, for three years. Before that, he had been general manager of the Dominion-Post in Morgantown, West Virginia, for six years.

Bob started his newspaper business in the late 1950s in his hometown, Bayonne, New Jersey, with the Bayonne Times. He worked there for 13 years, seven of them as vice president and general manager.

Educated in local schools in Bayonne, Bob went on to Cornell University on a Teagle Scholarship. He graduated with a degree in economics and later received an MBA in personnel administration from New York University.

He served in the Army for two years, most of that time in Munich, Germany, with the Counter Intelligence Corps. Bob and his wife, Mary Jane, have six children.

I have known Bob Murphy for a long time. You always know where you stand with him—a trait that has won my respect and that of countless others during his long career. Bob’s commitment to bringing the news accurately, fairly, and comprehensively is reflected in the legacy of success he leaves behind. I am honored to stand before the House today to pay tribute to Bob Murphy as our community says thanks and bids good luck to a dedicated public servant.

COMMEMORATING THE FAMINE OF 1932-33

HON. BOB SCHAFFER
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 7, 2000

Mr. SCHAFER. Mr. Speaker, on November 18, 2000, more than 1,500 participants gathered in St. Patrick’s Cathedral in New York City to commemorate the 67th Anniversary of the 1932–1933 Ukrainian Famine.

Unlike other famines, this was not caused by a lack of food. Instead, Joseph Stalin created the famine by confiscating all of Ukraine’s crops and withholding it from the people. The Kremlin intended to destroy the spirit of the Ukrainian peasants by starving them to death. Moscow perceived Ukraine’s cultural renaissance as a threat to a Russo-Centric Soviet rule and therefore enacted the famine to crush their nationalism in a most brutal manner.

Peasants in Ukraine could not escape these horrible conditions. An internal passport system prevented them from crossing the border into Russia or the Belarusian republic, where there was no famine. In Ukrainian regions such as Poltava and Kharkiv, people died in their homes or collapsed on the street. Animals were consumed, even the bark disappeared from the trees.

The death toll from the 1932–1933 famine is estimated between seven and ten million victims. No real record exists. However, studies show that the height of the famine, Ukrainian villagers were dying at the rate of 25,000 per day, 1,000 per hour, and 17 per minute. At the same time, the Soviet regime was unloading 1.7 million tons of grain on Western markets. Ukraine has paid a high price for its independence and freedom and this famine symbolizes one of the horrors of the old Soviet system.

IN SUPPORT OF S. 1972 AND S. 2594

HON. DIANA DeGETTE
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 7, 2000

Ms. DeGETTE. Mr. Speaker, I rise in support of S. 1972, legislation to convey to the town of Dolores, Colorado the site of Joe Rowell Park, and S. 2594, legislation to authorize the Bureau of Reclamation to contract with the Mancos, Colorado water conservancy district to use its water facilities.

Mr. Speaker, Joe Rowell Park in Dolores, Colorado is a focal point of the community. This 24-acre park provides the Town of Dolores with a place for baseball and soccer games, a playground and a restful, beautiful spot for recreation. The property is currently owned by the United States Forest Service and leased to the Town of Dolores, which has invested over $400,000 in improvements to Joe Rowell Park. This investment created the only light baseball and softball fields in the Forest Service’s inventory. However, the leasing arrangement has caused management difficulties for both parties involved. As a result, the Forest Service determined that Joe Rowell Park is suitable for conveyance into non-federal ownership by the Town of Dolores. I commend my colleague, Senator WAYNE ALLARD for offering this legislation to streamline the management of this important park in Dolores, Colorado and support the passage of this bill.

I also rise in strong support of S. 2594, legislation that would authorize the Bureau of Reclamation to contract with the Mancos, Colorado water conservancy district to use the Mancos project facilities to store and wheel non-project water for irrigation and domestic, municipal and industrial uses.

This legislation would allow the Mancos, Colorado water conservancy district to continue to contract to carry non-project water, which has become a normal operational procedure at the facility. Using Mancos excess capacity encourages more efficient water management on project lands and more flexible use of the project’s facilities.

I am pleased to support this legislation.

TRIBUTE TO GALE VAN HOY

HON. NICK LAMPSON
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 7, 2000

Mr. LAMPSON. Mr. Speaker, today I rise to honor Mr. Gale Van Hoy, the current executive secretary of the Texas State Building and Construction Trades Council. Mr. Van Hoy will retire on December 31, 2000, and I thought it fitting to enter into the CONGRESSIONAL RECORD a mention of his contributions to Texas. He has served the working men and women of Texas well, and I thank him for that.
Mr. Van Hoy has represented the interests of 50,000 skilled construction workers from across the state of Texas before labor, political and business leaders on a local, state and national level. He has worked to secure jobs, equal opportunity, fair wages and benefits, and on-the-job safety and health protection for members. Gale has been active in the labor movement throughout his entire adult life, serving as a member of the AFL-CIO, on the Oversight Committee of the Capitol Preservation Project, and serving on the National Advisory Committee that had oversight on the conduct of an SHAKA funded study of contract workers’ safety in the U.S. petrochemical industry.

The former mayor of Houston, Kathryn Whitmire, even declared October 22, 1983 as Gale E. Van Hoy Day—what an honor!

Today I want to recognize Gale Van Hoy’s great service to the people of Texas, and to this Nation, and to thank him, on behalf of the Ninth Congressional District for his 40 years of dedication.

TRIBUTE TO JOHN T. GARNJOST
HON. CHRISTOPHER SHAYS
OF CONNECTICUT
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 7, 2000

Mr. SHAYS. Mr. Speaker, I rise in recognition of John T. Garnjost who became the 53rd American to receive the Olympic Order from the International Olympic Committee. On September 6, 2000 Mr. Garnjost traveled to Taipei Taiwan where he received the award for his contributions to the development of rowing in Chinese Taipei.

The Olympic Order is “the supreme individual honor accorded” by the IOC. It was created in 1974 and is awarded to anyone who has illustrated the Olympic Ideal through his action, has achieved remarkable merit in the sporting world, or has rendered outstanding services to the Olympic cause, either through his own personal achievement or his contribution to the development of sport.

Mr. Garnjost was introduced to rowing during his high school years at Colorado Springs Country Club where he decided to explore the sport as an official. Mr. Garnjost has been a rowing official in the United States since 1960, and was licensed as an international official in 1970. He officiated at the Summer Olympics in Atlanta in 1996 and has worked at the World Championships. Domestically, he has worked at the Olympic Trials and the U.S. Nationals.

As the president of Bristol Meyers (Taiwan) from 1983 to 1989, he lived in the country and began introducing rowing in Taipei. In 1983 he attended the first rowing demonstration at the annual Dragon Boat Festival in Taiwan. As an advisor to the Chinese Taipei Amateur Rowing Association, Mr. Garnjost served as a delegate to the 1983 International Rowing Federation (FISA) Congress in Duisburg, Germany, where Chinese Taipei’s application for membership was approved.

Real progress was made in 1985 when FISA President Thomi Keller inspected the Tung Shan River as a possible rowing site. Today, there is an internationally proven rowing course, two FISA umpires and rowers throughout the country.

Since the early days of rowing in Taipei, Mr. Garnjost has worked the Asian Rowing Championships course, two FISA umpires and rowers throughout the country. He has been referred to as the “Father of Rowing” in Taiwan. His recent award and dedication to the sport and the people of Taiwan is a true testament to this title.

HONORING DOROTHY LIND
HON. MIKE THOMPSON
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 7, 2000

Mr. THOMPSON of California. Mr. Speaker, today I honor Ms. Dorothy Lind for her 12 years of dedicated service to the people of Napa County, California and the surrounding region. Ms. Lind retired on November 24, 2000 from an exceptional career as Chief Executive Officer of the Napa Valley Exposition.

Dorothy Lind was raised in Seattle, Washington and moved to California in the early 1970’s. She began her professional career conducting early intervention for severely disabled infants. In the late 70’s she was selected to direct health education programs for the Bay Area March of Dimes, overseeing medical and research groups. In 1983 Ms. Lind made another career change by accepting a position as Manager of the Tulare County Fair. Her success in this position was remarkable; she doubled the Fair’s budget in just four years and was selected as Tulare County’s “Woman of the Year” in 1988.

Her achievements in Tulare gave Ms. Lind the opportunity to lead the Napa Valley Exposition. As CEO her duties involved not only organizing events for a major public facility but also building links with government, community, and business groups. One highlight of her exceptional leadership was the creation of the “Bingo Emporium”, a partnership that raises over $1 million annually for many Napa County non-profit organizations and school programs.

While the Expo is best to several major public events throughout the year, the highlight of the Expo’s calendar is the five-day Napa Town and Country Fair in August. A defining characteristic of her stewardship of this event was a commitment to reflect the changing face of the Oxbow Neighborhood, recognizing that fairs (in her words) “can become a major positive force in their neighborhood for good things or become the blight that causes the neighborhood to decline.” During her tenure the Expo was named as the pilot fair for the California Fair System’s Re-Invention Program which was designed to re-focus community connections and entrepreneurial business interactions for fairgrounds statewide.

Dorothy Lind’s contributions to the city of Napa are equally impressive. She has served as President of the Napa Rotary Club (the first woman to fill that position) and is a member of the Napa River Valley Merchants Association, the Napa County Land Trust, and the Napa Valley Leadership Council. Through these organizations she has facilitated partnerships that have been invaluable in fostering commercial prosperity in the City of Napa.

In addition to her considerable public successes, Ms. Lind is also a proud mother of two sons: Rob, a promising local wine maker and Scott, a rising Bay-area dot.com star. Ms. Lind will also soon be a grandmother.

Mr. Speaker, it has been my great honor to represent Ms. Dorothy Lind first as her State Senator and now as her Congressman. Clearly, her life has been one of great public service, dedication and commitment. For these reasons, it is necessary that we honor this woman for her distinguished service to the people of Napa County, California.

COMMENDING THE 60TH ANNIVERSARY OF THE NATIONAL COMMITTEE FOR THE FURTHERANCE OF JEWISH EDUCATION
HON. JERROLD NADLER
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 7, 2000

Mr. NADLER. Mr. Speaker, today I pay tribute to the National Committee for the Furtherance of Jewish Education, which will be celebrating its 60th Anniversary on Sunday, December 10, 2000, at an affair in Manhattan, New York.

The National Committee for the Furtherance of Jewish Education was founded in 1940 by the late Lubavicher Rebbe Joseph I. Schneerson. It was continued under Rebbe Menachem Mendel Schneerson. Both Grand Rebbes lived through pogroms, two world wars, the rise of communism, the holocaust and tremendous personal challenges. But their idealism, learning, and faith shone through it all and inspired millions.

The Rebbe fled war-torn Poland to establish the Lubavitcher movement in the United States. Not only were they the spiritual leaders of the Lubavitcher Chasidim, but they were also revered and respected as great scholars and teachers by Jews and non-Jews around the world. Indeed, their work still lights the learning and daily mitzvos of Jews everywhere. Through the many manifestations of their energy and vision, and most of their profound commitment to the importance of Jewish thought, belief and ethics, the Rebbe made an incalculable contribution to the spiritual lives of all people.

In 1940, during the darkest days for Jews, Rebbe Joseph Schneerson dedicated himself to revitalizing Judaism, and in particular to inspiring American Jewry, by nurturing the Jewish soul and fostering “Yiddishkeit”. The Rebbe reasoned that only through learning and education would Jewish faith and Jewish life flourish. The Rebbe’s idealism, learning, and his faith shone through it all and he inspired millions to love their Jewish culture, history and traditions.

The Committee for the Furtherance of Jewish Education (NCFJE), is today the strongest in its history. Under the administrative leadership of Rabbi Jacob J. Hecht, the NCFJE is known as the “organization with a heart”, with dedicated people willing to work tirelessly to help kids regardless of their affiliation, with much needed education and social programs to help in both their spiritual and physical needs.
Mr. Speaker, I ask my colleagues to join me in congratulating NCFJE on the occasion of its 60th Anniversary, and wish it continued success and many great mitzvah's in the future.

HONORING LOS ALAMOS NATIONAL BANK

HON. TOM UDALL
OF NEW MEXICO
IN THE HOUSE OF REPRESENTATIVES

Thursday, December 7, 2000

Mr. UDALL of New Mexico. Mr. Speaker, last month Los Alamos National Bank presented the prominent Baldrige Award. This superior bank deserves congressional recognition as well.

I share an extreme sense of pride in knowing that one of New Mexico's own, and a business in my Third Congressional District, has received this highly coveted and prestigious recognition. What makes this award so special is that it represents excellence in every aspect. Quality improvement is an evolutionary process, and those businesses and organizations that commit themselves to this endeavor are indeed setting an example of themselves, but in those they serve. Los Alamos National Bank by virtue of your involvement in quality New Mexico, deserve to be applauded for seeking out the knowledge and training to raise the bar for your customers, your clients, my constituents and our community.

Mr. Speaker, I would like to submit for the RECORD this article for the New Mexican recognizing the Los Alamos National Bank. I would also urge all my colleagues to congratulate the fine employees of this establishment.

LOS ALAMOS BANK WINS PRESTIGIOUS NATIONAL AWARD

(By Bob Quick)

A very unbanklike cheer resounded in Los Alamos National Bank this week when employees learned the bank was one of four winners nationwide of the prestigious 2000 Malcolm Baldrige National Quality Award.

The bank, which has 167 employees and assets of $660 million, won in the small-business category. LANB has offices in Los Alamos, White Rock and Santa Fe.

It was the first time a bank has won the award, according to standards set by the U.S. Commerce Department. The award is given to businesses that have shown achievements and improvements in the areas of leadership, strategic planning, customer and market focus, information and analysis, human resource management, and business results. The Commerce Department statement said:

"We would have felt great if we had lost the Baldrige award," Wells said. "It's like making it to the Super Bowl in our opinion."

The bank won the award for a number of quality and business-performance achievements, according to the statement from the White House.

One of them was domination of its market area. The bank since 1996 filed 80 percent of the mortgage loans in Los Alamos County and 9 percent of such loans in Santa Fe County. The bank opened its Santa Fe branch in mid-1999 and already has $115 million in assets, Wells said.

And in a survey, 80 percent of the bank's customers said they were "very satisfied" with the service they received, the statement said.

During the Cerro Grande fire that ravaged Los Alamos earlier this year, destroying hundreds of homes, the bank moved its entire operation overnight to its Santa Fe branch.

As a result, services were not interrupted. Following the fire, the bank offered zero percent interest to anyone in the community affected by the fire.

It also eliminated overdraft charges and late fees, the statement said.

Wells said the bank was particularly proud of its efficiency ratio, which is a proportion the bank uses to measure employee productivity.

A lower number is better. LANB's efficiency ratio is 49 percent, while the best of its competitors have ratios above 60 percent, the statement said.

"One of the ways we will survive as an independent community bank is our ability to compete with the superrregional and supernational banks," Wells said. "We've got to be able to compete with the Wal-Marts of the world."

The bank's efficiency ratio, he continued, "is a tremendous accomplishment by our people, our systems and our technology. There's no productivity without hard work."

Other achievements of the bank included high employee satisfaction and low employee turnover, thanks in part to a stock-owner-ship plan and an employee profit-sharing plan.

LANB in 1999 received Quality New Mexico's highest award, the Zia Award. In 1997 and 1998, the bank received the organization's Roadrunner Award.

Quality New Mexico "is the one that encouraged us to stretch ourselves to see how we would come out against the best in the country," Wells said.

The three other Baldrige Award winners were Dana Corp.-Spicer Driveshaft Division in Toledo, Ohio (manufacturing); Karlee Co. of Plano, Texas (manufacturing); and Operations Management International Greenwood Village, Colo. (services).

HONORING ROBERT W. GROSS

HON. ZOE LOFGREN
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Thursday, December 7, 2000

Ms. LOFGREN. Mr. Speaker, today I offer my sincere congratulations to Robert W. Gross, Ph.D., E.W.E., on his retirement from the Board of Directors of the Santa Clara Valley Water District. For sixteen years, Bob Gross has provided distinguished service to the Santa Clara Valley Water District and the residents of Santa Clara County. His hard work and commitment to the job helped to produce numerous successes for the District and the County. I am pleased to note that he has been able to work with him over the years. He will, indeed, be missed.

Bob began his public service as an advisor to the United States Army Corps of Engineers, Sacramento District. Working in the flood control division for ten years, Bob tackled a myriad of flood control issues that face the Bay-Delta region, garnering a reputation for thoroughness and energetic diligence. In addition to his service in the Corps of Engineers, Bob also served as a community advisor to the U.S. Fish and Wildlife Service, helping to establish the San Francisco Bay National Wildlife Refuge which consists of more than 25,000 acres of protected waters and wildlife habitat.

Bob also served as an advisor to the U.S. Bureau of Reclamation on the important Central Valley Project.

Building on these experiences Bob brought his knowledge and skills to Santa Clara, where he ran for, and won, five elections to the Board of Directors of the Santa Clara Valley Water District. Representing District 3—a district that encompasses one fifth of the entire population of Santa Clara County and Silicon Valley—Bob worked hard to meet the water supply and flood protection needs of the County's 1.7 million residents. As a member of the Board of Directors, Bob was responsible for helping shape the direction that the District has taken with respect to water policy over the past sixteen years. He was directly involved in many notable and important actions and issues, including the following: MTIP recommendations for groundwater recharge, wastewater recycling, and CALFED. Bob served as the District's representative to the South Bay Recycling Project where he worked closely with the City of San Jose and the Bureau of Reclamation, and he also represented the WaterReuse Association of California.

During his tenure, Bob provided valuable service by reviewing and analyzing state water laws and regulations. As a member of the Board of Directors, Bob represented the WaterReuse Association in a number of capacities, including most notably as the State Chairperson for the Potable Water Committee and a member of the Education Subcommittee. As a member of the Potable Water Committee, Bob participated in the preparation of a news media presentation on the safe use of potable water and helped write a public information kit for recycling brochures. As a member of the Education Committee, he also represented the WaterReuse Association at numerous conferences and seminars and served as a co-chair for a technical symposium on planned surface water augmentation using advanced treated recycled water. In 1995, in light of this work and for his outstanding service to the WaterReuse Association, he was awarded a certificate of recognition for personal contributions.
In addition to his work with the WaterReuse Association, Bob was also active with many other associations and organizations, including the following: the Association of California Water Agencies, California Groundwater Association, American Water Works Association, the California Water Education Foundation, the California Flood Control Association, the California Association of Sanitation Agencies, American Desalting Association, Water Environment Federation, California Water Pollution Control Association, and the California WaterReuse Association. Bob's personal contributions to these organizations was also noteworthy. In recognition of his hard work, Bob was nominated in 1996 for the Athalie Richardson Irvine Clark Prize sponsored by the National Water Research Institute. To be nominated by his peers for this award is a true honor to the contributions and dedication of Bob Gross.

Although, Bob achieved significant successes through his work and involvement with the Santa Clara Valley Water District, the WaterReuse Association, the Corps of Engineers, and numerous other organizations, he also compiled an impressive record of personal and academic studies, projects, and papers on water issues. After earning a Bachelor of Science degree from San Jose State University, a Master of Sciences degree in aquaculture from Nova College International Campus, and a Doctor of Philosophy in Environmental and Water Engineering from Nova College Europe, Bob served as an advisor for fifteen years to the Board of Fellows at the University of Santa Clara, and was an adjunct faculty member at Faireslant and Nova College. Bob has conducted studies on the impact of human pollution on water supplies and wildlife habitat, and he issued a summary paper on the ecological engineering multipurpose facility. On water purification issues, Bob wrote summary papers on recycling wastewater for potable use in San Jose, the reorganization of Santa Clara Valley Water District, and finally on a merger of all water producing agencies.

And, in addition to all of his many years of hard work, service and commitment to water issues, Bob has also been honored in other areas as well. Perhaps most notably, Bob was the recipient of the Commendation Ribbon with Pendant from the Secretary of the Army for Meritorious Service in Korea. Bob has also long been a supporter of the Boy Scouts of America, and a Doctor of Philosophy in Environmental and Water Engineering from Nova College Europe, Bob served as an advisor for fifteen years to the Board of Fellows at the University of Santa Clara, and was an adjunct faculty member at Faireslant and Nova College. Bob has conducted studies on the impact of human pollution on water supplies and wildlife habitat, and he issued a summary paper on the ecological engineering multipurpose facility. On water purification issues, Bob wrote summary papers on recycling wastewater for potable use in San Jose, the reorganization of Santa Clara Valley Water District, and finally on a merger of all water producing agencies.

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TRIBUTE TO THE HONORABLE VICENTE CEPEDA BERNARDO, MAYOR OF YONA

HON. ROBERT A. UNDERWOOD
OF GUAM

IN THE HOUSE OF REPRESENTATIVES
Thursday, December 7, 2000

Mr. UNDERWOOD. Mr. Speaker, as elected public officials, we know the hard work and the personal sacrifice that goes into the trust and mandate of our constituencies. In my home island of Guam, there are no elected officials who are closer to their constituencies,
or work harder in their behalf, even after an election, than our village Mayors. Prior to 1990, the title of these public servants was changed from commissioner to mayor, but their role in the villages did not change, and our dependence upon them, especially during typhoons and village-wide activities, did not diminish over the years.

Guam is a small place with a relatively small population, and our people are not far removed from their elected officials—myself included. This intimacy, and the expectation of direct and immediate access, is especially true of our Mayors. They are called upon in a multitude of ways—often to address problems having little or nothing to do with the delivery of community service, but to assist with private, familial matters. Whether it is to accept representative membership on a task force to address an island-wide youth problem, dropping out of school, for example, or helping Mr. and Mrs. Villager talk to their son Johnny into staying in school, village Mayors are expected to attend personally to village matters, large or small. This is the case of the Honorable Vicente Cepeda Bernardo, the Mayor of Yona, my home village.

In a few weeks, Mayor Bernardo will leave office after having served for many years. More than simply being one of my constituents, Mayor Bernardo is a long-time neighbor and friend. I am one of his constituents. Like my fellow villagers, I turn to Mayor Bernardo to address problems in Yona.

It would be too easy to let Mayor Bernardo’s record of accomplishments speak in his behalf. The streets he named in honor of Yona’s fallen military sons and those residents deserving of the recognition are numerous indeed. The capitol improvement projects he pushed for—the street lights, fire hydrants, pump stations and water lines, the police koban, the village gymnasiu, the village library, the paved roads and more—now benefit Yona and the rest of the island. The many, many community activities that he spearheaded earned praise for the whole village. But as extensive as it is, Mayor Bernardo’s list of accomplishments does not convey how well he knew and understood the people of his village. It does not convey his deep and abiding love for his neighbors or how much he had given of himself over the years. I am privileged, as his constituent, neighbor and friend, to commend him for his achievements and to thank him for the many, many hours he has contributed beyond the regular eight-hour, five-day work-week.

As his constituent, my family and I have benefited in countless ways from his devotion to duty and his responsiveness to the needs of the village. I worked with him when I was the President of the Parent Teachers Organization at M.U. Lujan. Lorraine, my wife, worked with him on many community projects and served with him as an appointed member of the Mayor’s Community Council. Our entire family worked with him on other community projects and he performed his duties with diligence and with the attention to the needs of his community exemplified his public service.

I join Mayor Bernardo’s family, relatives, friends and fellow neighbors in acknowledging his service to the community of Yona and to Guam. On behalf of the people of Guam, I proudly congratulate him for successfully taking on one of the most challenging and demanding public offices in Guam. As a fellow public servant, I send my warmest and most grateful si Yu’os ma’ase. Maolek todo i che’cho’-mu, amigo-hu, para i benilisium todo i toatol Guam. Ma sen agredesi i setbisu-mu (thank you very much. The work you have done on behalf of the people of Guam has been outstanding. The people of Guam truly appreciate your services).

HONORING MARILYN CULPEPPER
HON. SONNY CALLAHAN
OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES
Thursday, December 7, 2000

Mr. CALLAHAN, Mr. Speaker, I would like to recognize Marilyn Culpepper for her dedication to the health and well being of Monroe County, Alabama, citizens.

Marilyn Culpepper was appointed to the Monroe County Hospital Board in July 1996 and elected its chairwoman by unanimous vote of the board a few months later. She served as chairwoman from 1997 to 2000. Mrs. Culpepper has since moved to Mobile, and I wish her well as she takes on new challenges.

A native of Grove Hill, Alabama, Mrs. Culpepper is a 1980 graduate of the University of West Alabama (formerly Livingston University) and was the recipient of that school’s Alumni of the Year Award in 1996. Over the years, she has had several successful careers and civic achievements. In 1986, at age 27, she was elected to the Sumter County Board of Education. She was elected a second term in 1988 and served with distinction until moving to Monroe County in 1991.

In Monroe County, Marilyn Culpepper served first as associate editor, then managing editor of the award-winning weekly newspaper, The Monroe Journal. She also distinguished herself through community service in several capacities. To name a few, she was president and/or board member of the Monroeville Area Chamber of Commerce, the Monroe County Public Education Foundation, and the Monroeville Kiwanis Club (where she was the first woman elected as “Kiwanian of the Year”). She also served as a volunteer for the Monroe County Heritage Museums, and for the Alabama Writers Symposium during their inaugural year. In addition, she served in Israel as the representative of the Monroe County Commission and the Monroeville Area Chamber of Commerce during performances of “To Kill a Mockingbird.” Manifesting her talent, Mrs. Culpepper is a two-time recipient of the Alabama Medical Association’s Douglas L. Cannon Recognition for Excellence in Medical Journalism.

As editor of The Monroe Journal and, later, economic developer for Monroe County from 1997–2000 and as chairwoman of the Monroe County Hospital Board, Mrs. Culpepper was an advocate for accessible health care for all citizens regardless of age, social or economic status. She was a driving force behind expansion of hospital services and creation of a rural health clinic in Monroe County.

Under Mrs. Culpepper’s leadership, the hospital in Monroeville embarked on a major expansion and construction project, the creation of a cancer-treatment center and the development of a diabetes support program. She also oversaw the creation of the Monroe Health Foundation and has been a contributor to the foundation.

Today, Mrs. Culpepper serves as executive director of the Historic Mobile Preservation Society. Her commitment to community development—preservation, education, and innovation in enriching the lives of all citizens continues. She is committed to developing a regional network of cultural, civic and humanitarian efforts to benefit all residents of south Alabama and continues to be a friend to Monroe County and Monroe County Hospital in this endeavor.
Senate agreed to the Bankruptcy Reform Act Conference Report.
The House and Senate passed H.J. Res. 127, making further continuing appropriations.

Chamber Action

Routine Proceedings, pages S11663–S11746

Measures Introduced: One bill and two resolutions were introduced, as follows: S. 3275, and S. Res. 385–386.

Measures Passed:

Home Ownership Expansion Act: Senate passed H.R. 5640, to expand home ownership in the United States, clearing the measure for the President.

Continuing Resolution: By 96 yeas to 1 nay (Vote No. 298), Senate passed H.J. Res. 127, making further continuing appropriations for the fiscal year 2001, clearing the measure for the President.

Shark Finning Prohibition Act: Senate passed H.R. 5461, to amend the Magnuson-Stevens Fishery Conservation and Management Act to eliminate the wasteful and unsportsmanlike practice of shark finning, clearing the measure for the President.


National Pearl Harbor Remembrance Day: Senate agreed to S. Res. 386, expressing sense of the Senate regarding National Pearl Harbor Remembrance Day.

Bankruptcy Reform Act Conference Report: By 70 yeas to 28 nays, 1 responding present (Vote No. 297), Senate agreed to the conference report on H.R. 2415, to enhance security of United States missions and personnel overseas, to authorize appropriations for the Department of State for fiscal year 2000. (On October 11, 2000, the H.R. 2415 conference committee struck all of the House bill after the enacting clause and inserted the provisions of S. 3186, the Bankruptcy Reform Act of 2000), clearing the measure for the President.

National Forest Boundary Adjustment: Senate concurred in the amendments of the House to S. 439, to amend the National Forest and Public Lands of Nevada Enhancement Act of 1988 to adjust the boundary of the Toiyabe National Forest, Nevada, and to amend chapter 55 of title 5, United States Code, to authorize equal overtime pay provisions for all Federal employees engaged in wildland fire suppression operations, clearing the measure for the President.

Hawaii Water Resources Reclamation Act: Senate concurred in the amendments of the House to S. 1694, to direct the Secretary of the Interior to conduct a study on the reclamation and reuse of water and wastewater in the State of Hawaii, clearing the measure for the President.

Nominations Confirmed: Senate discharged Committee on Foreign Relations and confirmed the following nomination:

House of Representatives

Chamber Action

Bills Introduced: 3 public bills, H.R. 5644–5646; and 5 resolutions, H.J. Res. 128–131, and H. Con. Res. 445, were introduced.

Reports Filed: Reports were filed today as follows:
- H. Res. 669, providing for consideration of H.J. Res. 128, making further continuing appropriations for the fiscal year 2001 (H. Rept. 106–1025);

Speaker Pro Tempore: Read a letter from the Speaker wherein he designated Representative Thornberry to act as Speaker pro tempore for today.

Making Continuing Appropriations: The House passed H.J. Res. 127, making further continuing appropriations for the fiscal year 2001 by a yea and nay vote of 359 yeas to 11 nays, Roll No. 601. The joint resolution was considered pursuant to the order of the House of Wednesday, Dec. 6, 2000.

Paul Coverdell National Forensic Sciences Improvement Act: The House passed S. 3045, to improve the quality, timeliness, and credibility of forensic science services for criminal justice purposes—clearing the measure for the President.

DNA Analysis Backlog Elimination: The House agreed to the Senate amendment to H.R. 4640, to make grants to States for carrying out DNA analyses for use in the Combined DNA Index System of the Federal Bureau of Investigation, to provide for the collection and analysis of DNA samples from certain violent and sexual offenders for use in such system—clearing the measure for the President.

Jeanna’s Act: The House passed S. 1898, to provide protection against the risks to the public that are inherent in the interstate transportation of violent prisoners—clearing the measure for the President.

Committee Meetings

No committee meetings were held.

OVERSIGHT—HOUSTON NARCOTICS INVESTIGATION

Committee on Government Reform: Concluded oversight hearings entitled “Oversight of the Drug Enforcement Administration: Were Criminal Investigations Swayed by Political Considerations?” Testimony was heard from the following officials of the DEA, Department of Justice: Donnie Marshall, Administrator; Ernest L. Howard, Special Agent in Charge, Houston Field Office; Julio Mercado, Deputy Administrator; R.C. Gamble, Chief Inspector; and Jack Schumacher, Houston Field Office; and the following officials of the Police Department, Houston, Texas: Bill Stephens; Larry Jean Allen; and Ralph G. Chaison.

MAKING FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 2001

Committee on Rules: Granted, by voice vote, a closed rule on H.J. Res. 128, making further continuing appropriations for the fiscal year 2001, providing one hour of debate in the House equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The rule waives all points of order against consideration
of the joint resolution. Finally, the rule provides one motion to recommit.

MAKING FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 2001

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NEW PUBLIC LAWS

(For last listing of Public Laws, see Daily Digest, p. D1186)


COMMITTEE MEETINGS FOR FRIDAY,
DECEMBER 8, 2000

Senate
No meetings/hearings scheduled.

House
No committee meetings are scheduled.
Next Meeting of the SENATE
10 a.m., Friday, December 8

Senate Chamber

Program for Friday: After the transaction of any morning business (not to extend beyond 10:30 a.m.), Senate expects to consider a continuing resolution, and may consider other cleared legislative and executive business.

Next Meeting of the HOUSE OF REPRESENTATIVES
9 a.m., Friday, December 8

House Chamber

Program for Friday: Consideration of H.J. Res. 128, making further continuing appropriations (closed rule, one hour of debate).

Extensions of Remarks, as inserted in this issue

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