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House of Representatives

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

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DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
December 7, 2000.

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

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

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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.

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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.

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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.

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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. 5630. 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 individual to the Women's Progress Commemoration Commission: Ann F. Lewis, of Maryland, vice Joan Doran Hedrick, of Connecticut.

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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.

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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.

Printed on recycled paper.

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''.

The SPEAKER pro tempore. Pursuant to the order of the House of Wednesday, December 6, 2000, the gentleman from Florida (Mr. YOUNG) and the gentleman from Wisconsin (Mr. OBEY) 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 5 legislative days within 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 are awaiting conclusion not because of appropriations issues but 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 controversy.

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 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. OBEY. Mr. Speaker, this is indeed Groundhog Day over and 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 the leadership of 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 not 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. I do not care if we take a look at the Washington Post today or 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 distinguished whip 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 shutting down government 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 to 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 it to 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 that slowly click the clock down to the point where there is no time left to do anything to provide this funding for this year. That is why we are now on the 18th continuing resolution since October 1.

I would ask those who are urging that the education funding be cut back in the bill that we negotiated, I would ask whether they really do believe that we ought to back away from what I regarded 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?

Do 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 either roaming 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 it in the national interest to scale back on from the amounts that were negotiated on 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 could be 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 ironic 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 a bipartisan agreement 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 they would give us more time to resolve differences.

□ 1415

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 a 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 we 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 has 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 this country, and we should 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 by this particular Congress and this particular 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. HASTERT), the Speaker of the House, is still in that position, and just the comforts 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 of Florida. Mr. Speaker, 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 will speak for himself. And as far as 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 tactic 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 responsibility to conclude 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, are the 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 of Florida. Mr. Speaker, the issues are serious, and the issues are dealing with numbers that are very high in one area to some 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.

Those 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 formed, 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. Do 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 FY2001 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 Illinois (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,
Washington, DC, December 6, 2000.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

Hon. RICHARD A. GEPHARDT,
Minority Leader, House of Representatives,
Washington, DC.

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 dialog. As you know, our group of rank-and-file Republicans and Democrats is also dedicated to finding practical, 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 its 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.
MIKE CASTLE.
HAROLD E. FORD, Jr.
RON KIND.
AMO HOUGHTON.
JIM DAVIS.
JAMES C. GREENWOOD.
FRED UPTON.

Mr. OBEY. 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 my colleagues.

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 they were not consulted, or learn that they were not part of a meeting and suggest to Americans, suggest to this Congress that they have no problems with shutting down this government.

Mr. Speaker, 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 person or on 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, not for 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. LOTT is willing to deal. The gentleman from Illinois (Mr. HASTERT) is willing to deal. The gentleman from Texas (Mr. ARMEY) is willing to work to try to find agreement, but if the gentleman from Texas (Mr. DELAY) is going to make all of 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 the 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.

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

Mr. Speaker, to recapitulate, there are a number of appropriation bills which still have not passed, but a number of them primarily because they just got caught up in accidents that started out to happen to somebody else, and we can fix those in about 5 minutes. No problem with those.

There are only two real problems left. One is to find some reasonable language compromise on the immigration question, which the gentleman from Florida (Mr. YOUNG) points out correctly, is not an appropriations issue. The second is to deal with the Labor, Health and Education appropriation conference report.

□ 1430

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 one looks at the history of how 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 put together 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 on an honorable note.

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

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

Mr. Speaker, I, again, agree with what the gentleman from Wisconsin (Mr. OBEY) said about the appropriations items. I want to assure the gentleman from Wisconsin (Mr. OBEY) and all of the Members that, in the final package, the latest package that we have provided to the leadership, education is still a high priority for the dollars that would be appropriated. Medical research through NIH, again, is a very high priority. The dollars are larger than last year and larger than the President's request. But we understand the importance of these, and we want to get these items concluded.

We do not want to continue on a continuing resolution because that does not provide the additional investment that we need in medical research, that we need in education, and that we need in the other people's programs. But we do have to come to an agreement with people who are very far apart as we speak today.

Of all of the many issues that are out there, most of them are related one to another. There are one or two keys. If those two keys can come together, everything else falls into place. So I am optimistic, and I try to be optimistic all the time. I am optimistic today.

The gentleman from Wisconsin (Mr. OBEY), my friend, said that this is like Groundhog Day over again. Most people think that Groundhog Day is that day in February where Punxsutawney Phil comes out of his little cave, and if he sees his shadow, winter is going to last for a certain period of time. If he does not see his shadow, it will last for another period of time.

But what the gentleman from Wisconsin (Mr. OBEY) was referring to when he said this is like Groundhog Day all over again is a movie named ''Groundhog Day.'' It had to do with a weather forecaster from a Pittsburgh, Pennsylvania, television station who was in Punxsutawney to cover the emerging Punxsutawney Phil, the groundhog.

Through some fluke, he got into a situation where he repeated every day. Day after day after day, he repeated the same day. I agree with the gentleman from Wisconsin (Mr. OBEY) that it sort of seems like Groundhog Day here when we are doing continuing resolutions day after day after day.

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 love each other. 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 to 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, ''My experience is, if something cannot go on, it stops.'' 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 agreed upon 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 50/50. 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 outstanding 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 question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 359, nays 11, not voting 62, as follows:

[Roll No. 601]

YEAS—359

Abercrombie
Aderholt
Allen
Andrews
Baca
Bachus
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Borski
Boswell
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cook
Cooksey
Cox
Coyne
Cramer
Crane
Crowley
Cubin
Cummings
Cunningham
Davis (FL)
Davis (VA)
Deal
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Dicks
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fletcher
Foley
Forbes
Ford
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (IN)
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E.B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy
Kildee
Kilpatrick
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
Kuykendall
LaFalce
LaHood
Lampson
Larson
Latham
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matsui
McCarthy (MO)
McCollum
McDermott
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Minge
Mink
Moakley
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pease
Pelosi
Peterson (MN)
Petri
Phelps
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers
Rohrabacher
Rothman
Roukema
Roybal-Allard
Royce
Ryun (KS)
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Strickland
Stump
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thornberry
Thune
Thurman
Tiahrt
Tierney
Toomey
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Vitter
Walden
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wilson
Wolf
Wu
Wynn
Young (FL)

NAYS—11

Baird
Barton
Bonior
Capuano
Dingell
Miller, George
Paul
Stark
Stupak
Visclosky
Woolsey

NOT VOTING—62

Ackerman
Archer
Armey
Barr
Bilbray
Blagojevich
Bono
Boucher
Bryant
Chenoweth-Hage
Clay
Coburn
Costello
Danner
Davis (IL)
DeFazio
Diaz-Balart
Dickey
Dixon
Emerson
Filner
Fossella
Gallegly
Gillmor
Graham
Granger
Green (TX)
Hill (MT)
Hutchinson
Istook
Kasich
Kind (WI)
King (NY)
Kingston
Lantos
Largent
LaTourette
Lipinski
Martinez
McCarthy (NY)
McCrery
Miller (FL)
Miller, Gary
Ney
Packard
Peterson (PA)
Pickett
Price (NC)
Rogan
Ros-Lehtinen
Rush
Ryan (WI)
Sanford
Scarborough
Smith (MI)
Talent
Taylor (NC)
Thompson (MS)
Towns
Wicker
Wise
Young (AK)

□ 1504

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. FILNER. Mr. Speaker, on rollcall No. 601, I was in my Congressional District on official business. Had I been present, I would have voted "yea."

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 Clerk read the title of the Senate bill.

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

PARLIAMENTARY INQUIRY

Mr. SCOTT. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from Virginia will state his parliamentary inquiry.

Mr. SCOTT. Mr. Speaker, was the request just to have the bill considered?

The SPEAKER pro tempore. The gentleman from Florida (Mr. MCCOLLUM) asked unanimous consent to discharge the Committee from further consideration of S. 3045 and to 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 thank the gentleman for yielding.

Mr. Speaker, the bill, S. 3045, is the Paul Coverdell National Forensic Science Improvement Act of 2000. It was introduced by Senator JEFF SESSIONS in the other body as a tribute to the late Senator Paul Coverdell. Senator Coverdell had introduced similar legislation earlier this Congress but did not live to see it acted upon. S. 3045 passed the other body by unanimous consent last Thursday.

S. 3045 is similar to a bill, H.R. 2340, introduced in the House by the gentleman from Georgia (Mr. BISHOP). It addresses the most pressing problems facing law enforcement today, the critical backlog of work in our State crime labs.

The crisis in our forensic labs is acute. According to a report issued in February by the Bureau of Justice Statistics, as of December 1997, 69 percent of State crime labs reported backlogs in the analysis of DNA samples alone. And of course, these backlogs also affect all types of evidence being prepared for trial.

The delays in conducting autopsies and crime scene evidence often delay the trial of a case, which means that victims have to suffer longer waits for justice to be done. And it also means

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 offenders, any delay in conducting this analysis may allow the perpetrator to remain at large and free to commit more crimes.

We need to help our State labs increase their capacity 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 ballistics 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 reserving the right to object, I yield to the distinguished gentleman from Georgia (Mr. BISHOP), who has worked extremely hard on this particular legislation.

Mr. BISHOP. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the Paul Coverdell National Forensic Sciences Improvement Act. This bill covers issues that Senator Coverdell and I feel very, very strongly about. In fact, this bill will address concerns that almost every major law enforcement agency in the United States has a concern with. We hope that, by passage of this, that we will take another step forward in crime control and in our ability to move cases throughout our court system.

Today we are responding to law enforcement and criminal justice professionals from Georgia and throughout much of the country who have called on Congress to help them overcome the alarming shortages in forensic science resource that confront our States and communities.

These shortages in personnel, in modern equipment and lab space, in technology and computerization, in education and training have created what has been accurately described as a ''choke point'' in the country's system of justice.

□ 1515

Due to the lack of adequate resources, nearly 70 percent of the 600 State and community forensic laboratories, medical examiner's offices, and coroner's offices are experiencing major backlogs in their forensic caseloads. In 8 out of every 10 labs, the forensic caseloads are increasing much faster than their budgets.

These conditions have caused major delays, preventing the timely conviction of the guilty and exoneration of the innocent. These delays can be devastating to individuals and families, and dangerous for society at large. There are instances where suspects of violent offenses had to be freed because DNA testing could not get done.

Several years ago, the States' Coalition was formed among State law enforcement agency directors that took the lead in addressing the crisis. The director of the Georgia Bureau of Investigation, Buddy Nix, has been in the forefront of this effort which has the support of the entire criminal justice community. While calling on States to do as much as possible to alleviate the shortages, the coalition has also pointed out that this is a problem of national concern. And it is appropriate for the Federal Government to contribute to the solution.

The result is the National Forensic Sciences Improvement Act which I, a Democrat, and the late Paul Coverdell, a Republican, introduced in our respective Chambers, backed by strong bipartisan cosponsorship. Following the tragic loss of Senator Coverdell, the sponsors dedicated this measure in memory of our esteemed friend and colleague from Georgia.

This proposal simply provides block grants to States. To my knowledge, there is no real opposition to the bill's merits. The only question is whether it will be given the priority treatment many of us believe it deserves. Will a new program such as this be among those that prevail in the competition for limited Federal dollars?

The Senate has answered that question, and today the House gives its answer, which I anticipate will be a resounding ''yes.''

Some people say the need to put more resources into the fight against crime is not as great as it was a few years ago. It is certainly true that FBI surveys show that the overall crime rate has steadily declined as a result of many factors, including a growing economy, tougher sentences, greater public awareness and involvement, and the high professionalism of today's criminal justice professionals. But it 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 House and especially thank the subcommittee chairman, the gentleman from Florida (Mr. MCCOLLUM), and the ranking member, the gentleman from Virginia (Mr. SCOTT), who really deserve the lion's share of the credit. I would also like to thank the staff on both sides of the aisle 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. 3045

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''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

501(b) of 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;

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

(3) by adding at the end the following:

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

(b) STATE APPLICATIONS.—Section 503(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by adding at the end the following:

''(13) If any part of the amount received from a grant under this part is to be used to improve the quality, timeliness, and credibility of forensic science services for criminal justice purposes, a certification that, as of the date of enactment of this paragraph, the State, or unit of local government within the State, has an established—

''(A) forensic science laboratory or forensic science laboratory system, that—

''(i) employs 1 or more full-time scientists—

''(I) whose principal duties are the examination of physical evidence for law enforcement agencies in criminal matters; and

''(II) who provide testimony with respect to such physical evidence to the criminal justice system;

''(ii) employs generally accepted practices and procedures, as established by appropriate accrediting organizations; and

''(iii) is accredited by the Laboratory Accreditation Board of the American Society of Crime Laboratory Directors or the National Association of Medical Examiners, or will use a portion of the grant amount to prepare and apply for such accreditation by not later than 2 years after the date on which a grant is initially awarded under this paragraph; or

''(B) medical examiner's office (as defined by the National Association of Medical Examiners) that—

''(i) employs generally accepted practices and procedures, as established by appropriate accrediting organizations; and

''(ii) is accredited by the Laboratory Accreditation Board of the American Society of Crime Laboratory Directors or the National Association of Medical Examiners, or will use a portion of the grant amount to prepare and apply for such accreditation by not later than 2 years after the date on which a grant is initially awarded under this paragraph.''.

(c) PAUL COVERDELL FORENSIC SCIENCES IMPROVEMENT GRANTS.—

(1) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following:

''PART BB—PAUL COVERDELL FORENSIC SCIENCES IMPROVEMENT GRANTS

''SEC. 2801. GRANT AUTHORIZATION.

''The Attorney General shall award grants to States in accordance with this part.

''SEC. 2802. APPLICATIONS.

''To request a grant under this part, a State shall submit to the Attorney General—

''(1) a certification that the State has developed a consolidated State plan for forensic science laboratories operated by the State or by other units of local government within the State under a program described in section 2804(a), and a specific description of the manner in which the grant will be used to carry out that plan;

''(2) a certification that any forensic science laboratory system, medical examiner's office, or coroner's office in the State, including any laboratory operated by a unit of local government within the State, that will receive any portion of the grant amount uses generally accepted laboratory practices and procedures, established by accrediting organizations; and

''(3) a specific description of any new facility to be constructed as part of the program described in paragraph (1), and the estimated costs of that facility, and a certification that the amount of the grant used for the costs of the facility will not exceed the limitations set forth in section 2804(c).

''SEC. 2803. ALLOCATION.

''(a) IN GENERAL.—

''(1) POPULATION ALLOCATION.—Seventy-five percent of the amount made available to carry out this part in each fiscal year shall be allocated to each State that meets the requirements of section 2802 so that each State shall receive an amount that bears the same ratio to the 75 percent of the total amount made available to carry out this part for that fiscal year as the population of the State bears to the population of all States.

''(2) DISCRETIONARY ALLOCATION.—Twenty-five percent of the amount made available to carry out this part in each fiscal year shall be allocated pursuant to the Attorney General's discretion to States with above average rates of part 1 violent crimes based on the average annual number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for the 3 most recent calendar years for which such data is available.

''(3) MINIMUM REQUIREMENT.—Each State shall receive not less than 0.6 percent of the amount made available to carry out this part in each fiscal year.

''(4) PROPORTIONAL REDUCTION.—If the amounts available to carry out this part in each fiscal year are insufficient to pay in full the total payment that any State is otherwise eligible to receive under paragraph (3), then the Attorney General shall reduce payments under paragraph (1) for such payment period to the extent of such insufficiency. Reductions 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 (1) 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 as 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 all or 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 facilities, personnel, computerization, equipment, supplies, accreditation and certification, education, and training; and

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

''(c) FACILITIES COSTS.—

''(1) STATES RECEIVING MINIMUM GRANT AMOUNT.—With respect to a State that receives a grant under this part in an amount that does not exceed 0.6 percent of the total amount made available to carry out this part for a fiscal year, not more than 80 percent of the total amount of the grant may be used for the costs of any new facility constructed as part of a program described in subsection (a).

''(2) OTHER STATES.—With respect to a State that receives a grant under this part in an amount that exceeds 0.6 percent of the total amount made available to carry out this part for a fiscal year—

''(A) not more than 80 percent of the amount of the grant up to that 0.6 percent may be used for the costs of any new facility constructed as part of a program described in subsection (a); and

''(B) not more than 40 percent of the amount of the grant in excess of that 0.6 percent may be used for the costs of any new facility constructed as part of a program described in subsection (a).

''(d) ADMINISTRATIVE COSTS.—Not more than 10 percent of the total amount of a grant awarded under this part may be used for administrative expenses.

''SEC. 2805. ADMINISTRATIVE PROVISIONS.

''(a) REGULATIONS.—The Attorney General may promulgate such guidelines, regulations, and procedures as may be necessary to carry out this part, including guidelines, regulations, and procedures relating to the submission and review of applications for grants under section 2802.

''(b) EXPENDITURE RECORDS.—

''(1) 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 to facilitate an effective audit relating to the receipt of the grant, or the use of the grant amount.

''(2) ACCESS.—The Attorney General and the Comptroller General of the United States, or a designee thereof, shall have access, for the purpose of audit and examination, to any book, document, or record of a State, or unit of local government within the State, that receives a grant under this part, if, in the determination of the Attorney General, Comptroller General, or designee thereof, the book, document, or record is related to the receipt of the grant, or the use of the grant amount.

''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;

''(2) the average number of days between submission of a sample to a forensic science laboratory or forensic science 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 or 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; and

''(2) a summary of the information provided under subsection (a).''.

(2) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by adding at the end the following:

''(24) There are authorized to be appropriated to carry out part BB, to remain available until expended—

''(A) $35,000,000 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) $56,733,000 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, the Judiciary, and Related Agencies Appropriations Act, 2001.

(3) TABLE OF CONTENTS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking the table of contents.

(4) REPEAL OF 20 PERCENT FLOOR FOR CITA CRIME LAB GRANTS.—Section 102(e)(2) of the Crime Identification 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 CLAIMS.

(a) IN GENERAL.—Section 983(a)(2)(C)(ii) of title 18, United States Code, is amended by striking ''(and provide customary documentary evidence of such interest if available) and state that the claim is not 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 Public Law 106–185.

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 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 tests 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 incompetent 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

(2) Congress should work with the States to improve the quality of legal representation in capital cases through the establishment of standards that will assure 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 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, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment as follows:

Senate amendment:

Page 26, after line 6, insert:

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, deoxyribo-nucleic 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 tests 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 incompetent 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 the 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

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

Mr. McCOLLUM (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

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

There was no objection.

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

Mr. SCOTT. Mr. Speaker, reserving the right to object, I yield to the gentleman from Florida to explain the purpose of his request.

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 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. I've had the pleasure of 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, or CODIS, to assist our Federal, State 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 violent offenders. Since beginning its operation in 1998, the system has worked extremely well in assisting 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 felony 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 because our 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 facing 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 the 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 require 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 violent 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 original request of the gentleman from Florida?

There was no objection.

A motion to reconsider was laid on the table.

□

INTERSTATE TRANSPORTATION OF DANGEROUS CRIMINALS 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. 1898) to provide protection against the risks to the public that are inherent in the interstate transportation of violent prisoners, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. 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 to explain the purpose of his request.

Mr. MCCOLLUM. I thank the gentleman for yielding.

Mr. Speaker, this bill, S. 1898, is the Interstate Transportation of Dangerous Criminals Act of 2000, also known as Jeanna'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 prisoner transportation 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 prisoner transport companies is the lack of approved standards for the private transport of dangerous prisoners. Anyone with a vehicle and a driver's license can engage in this business and

with very little accountability when things go wrong.

S. 1898 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. 1898 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 government for the money expended to apprehend any prisoner who escapes.

Mr. Speaker, it is absolutely essential that we put in place minimum standards for the transport of prisoners by private transport companies. S. 1898 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 that the Subcommittee on Crime of the Committee on the Judiciary produces here on the House floor. It is also the final one that I think I will get to offer as a Member of this body. I want to thank the gentleman from Virginia (Mr. SCOTT) in particular and all the members of the Subcommittee on Crime of the Committee on the Judiciary and our staffs on both sides for their wonderful cooperation over the past 2 years, for that matter over the past 6 years, I have been privileged to be chairman of the Subcommittee on Crime. This is one of a series of many products that we have produced and has been done often, as many of these pieces of legislation have, in very bipartisan, cooperative fashion with the gentleman from Virginia and the other members. I want to thank him for that. It is not a controversial bill as many are not, but it has been a great privilege to serve in this body and a great privilege to have served as chairman of this subcommittee.

Mr. SCOTT. Mr. Speaker, reclaiming my time, I would first point out that as the gentleman from Florida mentioned, this bill addresses important concerns and therefore ought to be passed.

Let me congratulate the gentleman from Florida for his tireless efforts over the past few years as chairman of the Subcommittee on Crime and for his ability to work constructively even with those who disagreed with him on the particular bills, constructively on working towards fashioning legislation that would help the Nation. He has led the effort in addressing the Congress' efforts on the issue of crime. He has done it in a constructive way. We have been able to work together even when we disagreed. For that, 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?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1898

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Interstate Transportation of Dangerous Criminals Act of 2000'' or ''Jeanna's Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Increasingly, States are turning to private prisoner transport companies as an alternative to their own personnel or the United States Marshals Service when transporting violent prisoners.

(2) The transport process can last for days if not weeks, as violent prisoners are dropped off and picked up at a network of hubs across the country.

(3) Escapes by violent prisoners during transport by private prisoner transport companies have occurred.

(4) Oversight by the Attorney General is required to address these problems.

(5) While most governmental entities may prefer to use, and will continue to use, fully trained and sworn law enforcement officers when transporting violent prisoners, fiscal or logistical concerns may make the use of highly specialized private prisoner transport companies an option. Nothing in this Act should be construed to mean that governmental entities should contract with private prisoner transport companies to move violent prisoners; however when a government entity opts to use a private prisoner transport company to move violent prisoners, then the company should be subject to regulation in order to enhance public safety.

SEC. 3. DEFINITIONS.

In this Act:

(1) CRIME OF VIOLENCE.—The term ''crime of violence'' has the same meaning as in section 924(c)(3) of title 18, United States Code.

(2) PRIVATE PRISONER TRANSPORT COMPANY.—The term ''private prisoner transport company'' means any entity, other than the United States, a State, or an inferior political subdivision of a State, which engages in the business of the transporting for compensation, individuals committed to the custody of any State or of an inferior political subdivision of a State, or any attempt thereof.

(3) VIOLENT PRISONER.—The term ''violent prisoner'' means any individual in the custody of a State or an inferior political subdivision of a State who has previously been convicted of or is currently charged with a crime of violence or any similar statute of a State or the inferior political subdivisions of a State, or any attempt thereof.

SEC. 4. FEDERAL REGULATION OF PRISONER TRANSPORT COMPANIES.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Attorney General, in consultation with the American Correctional Association and the private prisoner transport industry, shall promulgate regulations relating to the transportation of violent prisoners in or affecting interstate commerce.

(b) STANDARDS AND REQUIREMENTS.—The regulations shall include the following:

(1) Minimum standards for background checks and preemployment drug testing for potential employees, including requiring criminal background checks, to disqualify persons with a felony conviction or domestic violence conviction as defined by section 921 of title 18, United States Code, for eligibility for employment. Preemployment drug testing will be in accordance with applicable State laws.

(2) Minimum standards for the length and type of training that employees must undergo before they can transport prisoners not to exceed 100 hours of preservice training focusing on the transportation of prisoners. Training shall be in the areas of use of restraints, searches, use of force, including use of appropriate weapons and firearms, CPR, map reading, and defensive driving.

(3) Restrictions on the number of hours that employees can be on duty during a given time period. Such restriction shall not be more stringent than current applicable rules and regulations concerning hours of service promulgated under the Federal Motor Vehicle Safety Act.

(4) Minimum standards for the number of personnel that must supervise violent prisoners. Such standards shall provide the transport entity with appropriate discretion, and, absent more restrictive requirements contracted for by the procuring government entity, shall not exceed a requirement of 1 agent for every 6 violent prisoners.

(5) Minimum standards for employee uniforms and identification that require wearing of a uniform with a badge or insignia identifying the employee as a transportation officer.

(6) Standards establishing categories of violent prisoners required to wear brightly colored clothing clearly identifying them as prisoners, when appropriate.

(7) Minimum requirements for the restraints that must be used when transporting violent prisoners, to include leg shackles and double-locked handcuffs, when appropriate.

(8) A requirement that when transporting violent prisoners, private prisoner transport companies notify local law enforcement officials 24 hours in advance of any scheduled stops in their jurisdiction.

(9) A requirement that in the event of an escape by a violent prisoner, private prisoner transport company officials shall immediately notify appropriate law enforcement officials in the jurisdiction where the escape occurs, and the governmental entity that contracted with the private prisoner transport company for the transport of the escaped violent prisoner.

(10) Minimum standards for the safety of violent prisoners in accordance with applicable Federal and State law.

(c) FEDERAL STANDARDS.—Except for the requirements of subsection (b)(6), the regulations promulgated under this Act shall not provide stricter standards with respect to private prisoner transport companies than are applicable, without exception, to the United States Marshals Service, Federal Bureau of Prisons, and the Immigration and Naturalization Service when transporting violent prisoners under comparable circumstances.

SEC. 5. ENFORCEMENT.

(a) PENALTY.—Any person who is found in violation of the regulations established by this Act shall—

(1) be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each violation and, in addition, to the United States for the costs of prosecution; and

(2) make restitution to any entity of the United States, of a State, or of an inferior political subdivision of a State, which expends funds for the purpose of apprehending any violent prisoner who escapes from a prisoner transport company as the result, in whole or in part, of a violation of regulations promulgated pursuant to section 4(a).

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.

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.

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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,'' found 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 advance 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 needless 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. 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 mess in Florida 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 in the country with the additional two electoral votes of each State awarded to the winner of the popular vote in each State.

□ 1530

This plan is already in place in Maine and Nebraska, and several State legislatures are going to be considering adopting it. It just does not seem right, as we have the current situation in Florida, where all the electoral votes of that State hinge on a few hundred votes either way.

So I offer these two proposals as a way to begin the discussion and further this debate. There is a place for tradition in our country and a place for reform, and I think these proposals offer an equitable balance between the two.

□

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. THORNBERRY). 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 addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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COMMENDING SOUTH DAKOTA'S WILL MERCHEN 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 the body 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

football. 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 considered himself lucky to play 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 himself again.

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, Heupel, or ''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. He has 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.

Today, he and 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 awaiting the announcement of the next Heisman Trophy winner. He is the only South Dakotan ever to be considered and nominated for such a prestigious award.

His coach, Bob Stoops, calls him ''the factor'' for Oklahoma's number one ranking, and ''the heart of the team.'' Others say he is the biggest reason that the Sooners are going to the Orange Bowl for a shot at the national championship against Florida State.

But I want you to listen, Mr. Speaker, to what his mom, Cindy, says. ''These individual awards are very prestigious, but if you know Josh, they're not what matters. The opportunity to play for the national title is what really matters. You've got to know Josh. He is for real. The team goals are what he wants.'' She goes on to say that Josh will pass the credit for his awards to his coaches and teammates, that the awards are team awards.

But there is more to Josh Heupel than just football. Josh is a good student at the University of Oklahoma. He attends Bible study twice a week with his sister, Andrea, a freshman at the university. Josh has dedicated himself to civic duty. He makes visits to sick children. And just last year, Josh came up with an idea to help area families in Norman, Oklahoma, with a food drive. In the second year, they received more than 1,500 pounds of food and more than $5,000, all spearheaded by Josh Heupel.

A representative from the University of Oklahoma told my office that one of the things that most impressed him about Josh was that on Media Day, Josh Heupel stayed until every child and fan who wanted one got his autograph.

I think that his talent and skill on the football field cannot overshadow this young man's character. Josh Heupel is an outstanding young man who is humble and deeply committed to his faith.

Of course, Mr. Speaker, everyone from South Dakota, and I believe from Oklahoma as well, will be rooting for Josh Heupel on Saturday as the last votes for the Heisman Trophy are counted. But in my book, the score is already final. Josh Heupel has won our hearts and our hopes. He does not need a Heisman Trophy to prove it. Josh Heupel's mom was right, Josh really is the real thing. And for that, I wish him, his family and his team the very best.

Mr. Speaker, I would also like to commend this afternoon another inspiring South Dakotan. I would like to recognize a 20-year-old man by the name of Will Merchen of Rapid City, South Dakota.

Will graduated from Rapid City Central High School in 1999, married his high school sweetheart, Bethany, and started a family. But Will was always stirred by a sense of adventure. He earned the highest position of Eagle Scout, and it was not a surprise to his parents when he thought about joining the United States Navy. In January 1999, Will raised his right hand and made a decision that would change his life dramatically.

You see, Mr. Speaker, 20-year-old Will Merchen was assigned as a damage controlman third class aboard the U.S.S. *Cole*. We have all seen the pictures of the 40-by-40-foot gaping hole in the hull of the U.S.S. *Cole* after the apparent terrorist attack on October 12. We have all seen the grief on the faces of the wounded sailors and their families. But in all this tragedy, I would like to tell you a story about a brave young soul who made it his duty to make sure that all the wounded were rescued and that the ship was saved. This, Mr. Speaker, is Will Merchen's story.

As the number one nozzle man, Will was a specialist at putting out fires and stopping flooding at sea. But he never dreamed that his skills and knowledge would be tested just 3 months into his first 6-month cruise on a destroyer.

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, gloves and fire helmets with headlamps, the three 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 save a senior chief, who spent his last 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.''

Will himself lost three very close friends in that tragedy.

But Will and his team's job was not yet finished. They still needed to stabilize the ship from the rushing waters. Will Merchen and damage controlmen worked for 48 hours straight after the blast to empty flooded compartments and save their shipmates. In the end, 17 sailors died, more than three dozen injured, but because Will Merchen survived, many of his shipmates are alive today.

Retired General William W. Crouch, a member of the special commission investigating the attack on the *Cole*, said this of the damage control teams: ''It was an inspired performance and one which every American should be proud of. Those sailors saved themselves, their shipmates, they saved the U.S.S. *Cole*.'' That is exactly what Will Merchen did. This young man went beyond the call of duty.

Mr. Speaker, when Will took some well-deserved time off with his wife Bethany, their 17-month-old daughter, Ellen, his parents, Bill and Betty, and his brother, Scott, in Black Hawk, South Dakota, he shared this with a local reporter: ''I joined the Navy because my father was a first class petty officer on board the U.S.S. *Seattle*. The Navy helped him become a great man, and I hope the same for myself. I am proud of the core values, honor, courage and commitment which the Navy has taught me, and I plan to apply them to all aspects of my life.''

Mr. Speaker, I draw attention today to Will Merchen and to his colleagues on that ship, and perhaps particularly fitting on this anniversary of the bombing of Pearl Harbor, as our country remembers, recognizes, the great sacrifice that is made by these young men and women on a daily basis to keep America safe and strong and secure.

Will Merchen, you already have demonstrated the values of honor, courage and commitment in your life; and for that, many of your crewmates and their families and our country can be

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 very promising futures ahead of 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 their particular fields, I am particularly grateful and proud; and I know that South Dakota is very, very proud as well.

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PRESCRIPTION DRUG COVERAGE

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

Mr. GANSKE. 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 that cost as much as $600 a month. Mr. Newton said, ''She had to have them. There was no choice. It's a very serious situation and it isn't getting any better because drugs keep going up and up.''

Mr. Speaker, when James Weinman of Indianola, Iowa, just south of Des Moines where I live, and his wife, Maxine, make their annual trip to Texas, the two make a side trip, as well. They cross the border to Mexico and they load up on prescription drugs, which are not covered under their MediGap plan. Their prescription drugs cost less than half as much in Mexico as they do in Iowa.

This problem is not localized to Iowa, it is everywhere. The problem that Dot Lamb, an 86-year-old woman in Portland, Maine, who has hypertension, asthma, arthritis, and osteoporosis, has paying for her prescription drugs is all too common. She takes five prescription drugs that cost over $200 total each month, over 20 percent of her monthly income. Medicare and her supplemental insurance do not cover prescription drugs.

Mr. Speaker, I recently received a letter from a computer-savvy senior citizen who volunteers at a hospital that I worked in before coming to Congress.

> Dear Congressman Ganske . . . after completing a University of Iowa study on Celebrex 200 milligrams 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!

He goes on:

> Later on the Internet I found the following:
>
> A. I can order these drugs through a Canadian pharmacy if I use a doctor certified in Canada or my doctor can order it ''on my behalf'' through his office, for 96 cents per pill, plus shipping;
>
> B, I can order these drugs through PharmaWorld in Geneva, Switzerland, after paying either of two American doctors $70 for a phone consultation, at a cost of $1.05 per pill, plus handling and shipping.
>
> C: I can send $15 to a Texan,

which may interest the Speaker,

> and get a phone number at a Mexican pharmacy which will send it without a prescription . . . at a price of 52 cents per pill.

This constituent closes his letter to me by saying,

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

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 for seniors rose much faster than inflation. Thirty-three of the 50 drugs rose in price at least 1½ times inflation. Half of the drugs increased at twice inflation. Sixteen drugs increased at least three times the inflation rate, and 20 percent of the 50 top selling drugs for senior citizens rose at least four times the rate of inflation in the last year.

The prices of some drugs are rising even faster. Furosemide, a generic diuretic, rose 50 percent in 1999. Klor-con 10, a brand name drug, rose 43.8 percent.

That was not a 1-year phenomenon. Thirty-nine of these 50 drugs have been on the market for at least 6 years. The prices of three-fourths of this group rose at least 1.5 times inflation, over half rose at twice inflation, more than 25 percent increased at three times inflation, and six drugs at over five times inflation. Lorazepam rose 27 times inflation and furosemide 14 times inflation in the last 6 years.

Prilosec is one of the two top-selling drugs prescribed for seniors. The annual cost for that 20 milligram GI drug, unless one has some type of drug discount, is $1,455. For a widow at 150 percent of poverty, the annual cost of Prilosec alone will consume more than $1 in $9 of that senior's total budget.

Let us look at a widow living on $16,700 a year. That is 200 percent of poverty. That is a lot more than a lot of widows have. If she has diabetes, hypertension, and high cholesterol, so she is taking a glucophage, Procardin, and Lipitor, her drug costs are going to be 13.7 percent of her income. If she is just taking that drug Prilosec for acid reflex 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 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 are higher here in the United States than overseas.

For example, that drug Prilosec for acid reflux is 2 to 2½ times as expensive in the United States. Prozac was 2 to 2½ times as expensive. Lipitor was 50 percent 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.

High drug prices have been a problem for the past decade. Two GAO studies from 1992 and 1994 showed the same results. Comparing prices for 121 drugs sold in the United States and Canada, prices for 98 of the drugs were higher in the United States. Comparing 77 drugs sold in the United States and the United Kingdom, 86 percent of the drugs were higher in the United States, and three out of five were more than twice as high.

Look at this chart that shows some of the high drug prices in the United States, that is the first row, compared to the European price: Prozac, $36.12 in the United States; the European price, $18.50. Claritin, one of the most popular antihistamines: in the United States, $44; in Europe, $8.75. We can go right down this list. Here is one, Premarin. In the United States, it is $14.98; in Europe, $4.25.

Mr. Speaker, the drug companies claim that drug prices are so high here because of research and development costs. I do want to say that there is a great need for research. For example, around the world, we are seeing an explosion of antibiotic-resistent bacteria, like tuberculosis, and we are going to need research and development for new drugs.

A new report by the World Health Organization outlines that concern on infectious diseases. However, data from PhRMA, the pharmaceutical trade organization, that I saw presented in Chicago several months ago showed little

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. In every 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 more than triple 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 nonseniors 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.

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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 inequitably 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 plans have a $250 deductible. 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 coverage, she would pay $1,320 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 prescriptions purchase a MediGap 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.

The very low income, elderly 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 protection.

Qualified Medicare beneficiaries called Q–M–Bs or QMBs have incomes below the poverty line, so it is less than $8,240 for a single person or $11,060 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 1 have income between 120 percent and 135 percent of poverty. Medicaid pays part of their part B premium, but not deductibles. Qualifying individuals 2 have income between 135 percent and 175 percent of poverty, and Medicaid pays part of the part B premiums.

Now, the QMBs and the SLIMBs are not entitled to 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, MPAC, 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 then, 14 percent plus 36 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? Should the benefit be comprehensive 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 Medicare in 1965. The reason 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 advertising dollars 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 those 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 also 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 this 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. Well, that experience left a lot of scars 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. Rosti 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 goes 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 seniors 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 made 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.

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A new bureaucracy called the Medicare Benefits Administration would have overseen those private drug insurance plans.

Under the Republican plan, the Government would have paid for all the premiums and nearly all the beneficiary's share of covered drug costs for people with incomes under 135 percent. For people with incomes 135 to 150 percent of poverty level, premium support would have been phased out.

It was assumed that drug insurers would use generic drugs to control costs. The cost of the GOP plan was estimated to be $37.5 billion over 5 years and about $150 billion over 10 years. But the CBO, the Congressional Budget Office, had a very hard time predicting costs because there was no standard benefit in the plan.

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, $24 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 and similar, in my opinion, 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 deductible. 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 GOP plan calculated premiums, and this is the most important point, they calculated those premiums based on the premise 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 said 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.

I could criticize each plan in depth, but I do not have that much time. Suffice it 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.

I also think the 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 been 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 insurmountable financial, 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 look at 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. Put 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 this: 69 percent of the 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? Because we already have those options in the current Medicare plan. We have 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 would have to be fools to be paying 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 Regis could 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 know what would have happened. The premiums would have 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 cost of premiums. But they do not do that.

Another way to control adverse risk is to try to devise a risk adjustment system. We tried to do 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 select plans based on 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 GOP plan had some 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 understatement.

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 still is 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. First, 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 plans? 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 copayments and deductibility.

□ 1630

We could simply give them a card that would enable them to access the State formulary for their State Medicaid drug programs free for those individuals, 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 a lot 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 an equitable 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 $480 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 address that problem in Congress 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 7 million 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 kids enrolled.

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 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 beneficiaries 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 drug programs.

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. Yes, it is more limited 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 common sense 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 this, and I am 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 ''regular order'' with legislation. That means 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. The Senate does the same thing. 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; that people 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 free way, debating amendments to 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.

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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 have always said the Kurds 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 to achieve.

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 that must be halted immediately 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 fine arts and 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 still a 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 me in introducing a House Resolution calling for the immediate and unconditional release from prison of certain 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 Turkey and strengthen separatism seem unwarranted based on the decline in tensions.

Mr. Speaker, Turkey must negotiate with the Turkish leaders. Turkey must lift its blockade of Armenia also. Turkey 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 me in delivering these important messages to the Turkish government at every possible opportunity.

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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 take this opportunity to comment on 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 will be leaving this body, 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 these past 6 years 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 on Judiciary. Of those, 41 bills 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 into law.

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 has held a 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 agencies towards 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 precisely a confirmation of the findings of this joint committee hearing that my subcommittee took part in.

□ 1645

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 are in 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 helped ensure certainty and finality in our criminal justice system and provides 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 helped to enact 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 also has 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; the Sexual Crimes 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 citizens 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 helped protect persons, especially our seniors, 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 fuel 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 Educational 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 am also pleased 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 crimes committed outside the United States by American employees of the Defense Department or the American dependents of our service personnel 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 DNA analysis. The passage 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 a couple of years ago 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 I think reduce the flow of drugs 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 produced a 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 in 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 others at the early stage of their crime life and do not get any punishment.

That is very common today for young people to commit a crime such as one of maybe even robbing a car or 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 none at all.

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 and young people 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 attempted to 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, more judges, more diversion 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 partially 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 prison system in terms of prison industries. We have a problem with that 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 number who are there, less than 20 percent at the Federal level, 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 prisons on a wider basis, to remove a barrier to the understate sale 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 and elsewhere 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 Claims in 1994 and has worked extensively in the area of corrections and computer and other high-tech crimes.

Rick Filkins 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 also a tremendous staffer in the past. Audray 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

retired. Kara Norris Smith succeeded her. Carmel Fisk worked for me when I was the ranking member on the Subcommittee on Immigration and Claims and did a great job and somebody we could not have worked without.

On the Committee on Banking, where I was ranking member of a couple of subcommittees when we were in the minority, domestic monetary policy, Doyle Bartlett, Gerry Lynam, Anita Bedelis, Mark Brender all worked tirelessly on their efforts while I served there. John Heasley and Doyle Bartlett worked as my counsels when I was the ranking minority member on the Subcommittee on Financial Institutions. And Doyle later served as my chief of staff on my personal staff.

I just similarly cannot pass the opportunity of saying that in the tenure that I served here, without those committee staffers and without my personal staff to whom I paid tribute earlier in this Congress, it would not have been possible to do the things that we have done. And I really believe that staff go unrecognized often and they matter a great deal.

It has been a great privilege to have served in this body over these 20 years. It has been a great privilege to have served with these staff members and to have done the work load that we have. I will miss this body. There will be other opportunities in the future, I know, to meet public service; but I want to thank my colleagues for this privilege and great honor of serving here in this institution and thank them particularly for allowing me the opportunity to have been the chairman of the Subcommittee on Crime and to have worked with these wonderful people to craft the legislation I have described.

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FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate has passed without amendment a joint resolution of the House of the following title:

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

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2415) entitled ''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.''

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CONVICTION OF ED POPE IN RUSSIA

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

Mr. WELDON of Pennsylvania. Mr. Speaker, I rise tonight to unfortunately relate to my colleagues my concern about the conviction of an American 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 in Moscow without proper medical care, without proper attention.

In spite of cancer, in spite of an illness that his father has that is terminal, in spite of the pleadings of many of us on both sides of the aisle, in particular the gentleman from Pennsylvania (Mr. PETERSON), who represents 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 criminal. 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 underwater 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, everyone involved with this case understands that Ed Pope is an innocent man.

□ 1700

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 during the first few months of Ed Pope's imprisonment, our State Department and White House were silent. They did not say anything. In fact, the initial response of our ambassador was that it is 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 or a spy that Russia supports 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 situation where we may be forced to trade someone who was a convicted criminal to get someone back who is an innocent citizen.

Russia 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 better 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 McCallum, 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 Russian president release Ed Pope, send him back to his family, and in no way allow the Russians to receive a convicted spy in this country in return for that action.

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RECESS

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

Accordingly (at 5 o'clock and 2 minutes p.m.), the House stood in recess subject to the call of the Chair.

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□ 1920

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.

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REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.J. RES. 128, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 2001

Mr. HASTINGS of Washington, from the Committee on Rules, submitted a privileged report (Rept. No. 106–1025) on the resolution (H. Res. 669) providing for consideration of the joint resolution (H.J. Res 128) making further continuing appropriations for the fiscal year 2001, and for other purposes, which was referred to the House Calendar and ordered to be printed.

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REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.J. RES. 129, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 2001

Mr. HASTINGS of Washington, from the Committee on Rules, submitted a privileged report (Rept. No. 106–1026) on the resolution (H. Res. 670) providing for consideration of the joint resolution (H.J. Res. 129) making further continuing appropriations for the fiscal

year 2001, and for other purposes, which was referred to the House Calendar and ordered to be printed.

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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.

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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. ARMEY) for today on account of his son's hospitalization.

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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.

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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 to be subsequently determined by the Speaker, in each case for 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 truly enrolled a bill 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.

□

ADJOURNMENT

Mr. HASTINGS of Washington. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 21 minutes p.m.), the House adjourned until tomorrow, Friday, December 8, 2000, at 9 a.m.

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EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, 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; FRL–6756–6] (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; FRL–6754–5] (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—National Emission Standards for Aerospace Manufacturing and Rework Facilities [AD-FRL–6913–9] (RIN: 2060–A177) 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, Ventura County Air Pollution Control District [CA 224–0268; FRL–6908–1] received December 5, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

11227. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Ohio [OH–138–2; FRL–6914–7] 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 Special Assistant to the Chief, Mass Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 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.

11230. A letter from the Special Assistant to the Chief, Mass Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies [MM Docket No. 98–204] Termination of the EEO Streamlining Proceeding [MM Docket No. 96–16] received November 30, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

11231. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule—Rules and Regulations Under the Textile Fiber Products Identification Act; Rules and Regulations Under the Wool Products Labeling Act of 1939—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. 99F–1719] 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 State, transmitting the Department's 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.

11234. A letter from the Chair, Railroad Retirement Board, transmitting the semiannual report on activities of the Office of Inspector General for the period April 1, 2000, through September 30, 2000, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

11235. A letter from the Director, The Peace Corps, transmitting the semiannual report of the Peace Corps Inspector General for the period April 1, 2000, through September 30, 2000, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

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 and Threatened Species; Final Endangered Status for a Distinct Population Segment of Anadromous Atlantic Salmon (Salmo salar) in the Gulf of Maine [Docket No. 991108299–0313–02; I.D. 102299A] (RIN: 0648–XA39) 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. FHWA–99–6232] (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 8908] (RIN: 1545–AV84) 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—Determination of Interest Rate—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—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.

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 20, 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 Denton Program for the period July 1, 1999, through June 30, 2000; jointly to the Committees on International Relations and Armed Services.

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REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

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

Mr. LINDER: Committee on Rules. House Resolution 669. Resolution providing for consideration of the joint resolution (H.J. Res. 128) 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 accountablility 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. 128. 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. 129. A joint resolution making further continuing appropriations for the fiscal year 2001, and for other purposes; to the Committee on Appropriations.

By Mr. ENGEL:

H.J. Res. 130. A joint resolution proposing an amendment to the Constitution of the United States to provide a new procedure for appointment of Electors for the election of the President and Vice President; to the Committee on the Judiciary.

By Mr. ENGEL:

H.J. Res. 131. A joint resolution proposing an amendment to the Constitution of the United States to provide a new procedure for 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-ALLARD, and Mr. RODRIGUEZ):

H. Con. Res. 445. Concurrent resolution whereas Henry B. Gonzalez served his Nation and 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.

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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. 2020: Mr. CALVERT.

H.R. 2720: Mr. CUNNINGHAM.

H.R. 4301: Mr. WELDON of Florida and Mr. BENTSEN.

H.R. 4633: Mr. SCHAFFER and Mr. MCHUGH.

H.R. 5172: Mrs. CAPPS.

H.R. 5306: Mr. MCKEON and Mr. BACHUS.

H.R. 5447: Mr. RAMSTAD.

H.R. 5500: Mr. LATOURETTE.

H.R. 5520: Mr. CONYERS, Mr. KILDEE, Mr. HOEKSTRA, Mr. BARCIA, Mr. DINGELL, Mr. BONIOR, Ms. RIVERS, Mr. KNOLLENBERG, Mr. UPTON, Mr. SMITH of Michigan, Mr. CAMP, Mr. EHLERS, Mr. LEVIN, Ms. STABENOW, and Ms. KILPATRICK.

H.R. 5612: Ms. 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. GARY MILLER of California, Mr. HORN, Mr. EHRLICH, Mr. BILIRAKIS, Mr. BARR of Georgia, and Mrs. KELLY.

H.R. 5643: Mr. TANCREDO.

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. TALENT, and Mr. BLUMENAUER.

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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 voters; further providing partial Federal reimbursement to states, or localities, for the costs of administering those elections at which any Federal office is to be filled by voters; 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.

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PROCEEDINGS AND DEBATES OF THE 106th CONGRESS, SECOND SESSION

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Senate

(Legislative day of Friday, September 22, 2000)

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 postcloture debate on the bankruptcy conference report. Under the previous order, Senator GRASSLEY, Senator HATCH, Senator LEAHY, and Senator WELLSTONE will each have 30 minutes for debate prior to a 3:45 p.m. vote on final passage. A vote on a 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 Senator 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 this knowledge of fisheries management to the U.S. Arctic Research Commission, a position

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

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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. We 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 Museum of History 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.

There is a saying 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. Alaskans will remember him for generations to come. They, as Nancy and I, will miss him greatly.

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IVETTE FERNANDEZ—MISS ALASKA USA 2001

Mr. MURKOWSKI. Mr. President, congratulations are in order for a ''Royal'' Alaskan on my staff. Staff Assistant Ivette Fernandez was recently crowned Miss Alaska USA 2001 at the state pageant held in Anchorage. Ivette was judged in the interview, swimsuit, and evening gown competitions. Along with the title of Miss Alaska USA, Ivette also was honored with the Miss Congeniality title.

Born and raised in Fairbanks, Alaska, Ivette is the daughter of Antonio and Gloria Fernandez of Fairbanks. She is a graduate of Lathrop High School in Fairbanks and attended the University of Alaska Fairbanks before transferring to The George Washington University (GWU) in Washington, DC. She graduated with a Bachelor of Arts degree from GWU in the fall of 1999. Her future plans include attending law school and working in International Affairs.

As the new Miss Alaska USA, Ivette will represent Alaska in the Miss USA pageant which will be held in early February in Gary, Indiana. Ivette will compete for the title of Miss USA with other young women from 49 states and the District of Columbia.

Upon winning the Miss Alaska USA title, Ivette won scholarship and wardrobe money, a free trip to the national pageant, and other generous prizes, as well as her crown and sash. However, this is not her first time wearing a crown. In April 1999, Ivette represented Alaska as our Cherry Blossom Princess for the National Cherry Blossom Festival here in Washington, DC.

My wife Nancy and I have known Ivette for many years. We are very proud of her and her accomplishments, and we know that she will represent Alaska with poise and distinction. Ivette is a pleasure to be around and a great asset to my office staff.

Mr. President, my staff and I want to wish Ivette the best of luck when she competes in the Miss USA pageant this coming February, and we again extend our congratulations to her on winning her title.

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NATURAL GAS

Mr. MURKOWSKI. Mr. President, I note that the Energy Committee is contemplating a hearing on Tuesday on the spiraling price increases associated with natural gas. We are seeing a situation in existence now where we have terminated trading, for a portion of yesterday at least, in natural gas. I am told that natural gas was selling for about $2.16 per thousand cubic feet about 9 months ago. Last month it was $5.40; $7 last week. Yesterday it hit a high of $8.80. We really have a crisis developing in this country, not only from the standpoint of the adequacy of our natural gas supplies to meet our electric generation requirements but home heating as well, inasmuch as 50 percent of the homes in the United States are heated by gas.

I thank my colleague from Washington, Senator MURRAY, for the time she allotted me. I wish the Chair a good day and my good friend from Washington as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington is recognized.

—

A TRIBUTE TO SENATOR SLADE GORTON

Mrs. MURRAY. Mr. President, as we all know 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, the Senior Senator from Washington state, will be ending his service here after 18 years in the Senate.

Washingtonians—regardless of party affiliation—have come up to me with high praise and 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 Senator Henry M. ''Scoop'' Jackson and Senator Warren G. Magnuson as an extraordinary leader in D.C. on behalf of the state.
>
> Throughout his career in the Senate and state government, Gorton has been a leading force in many major efforts to protect the environment.
>
> He also has been a consistent, passionate advocate for individuals with problems dealing with bureaucracy.
>
> Within the Senate, Gorton has been a grand force for reasoned bipartisanship, never afraid to take a strong stand but also willing to work graciously and effectively with members of the opposition even at the tensest moments.

Many of our colleagues are well aware of SLADE'S history of public service. As a young man, SLADE GORTON moved to Washington state from Chicago almost 50 years ago.

He wanted to go West in search of new opportunities. And with $300 and a one-way ticket on a Greyhound bus, SLADE GORTON moved to Washington State.

History has shown that this Midwest native fit right into Washington State. And like so many immigrants to our great State, SLADE GORTON was welcomed and given an opportunity to make the most of his talents.

From the very beginning, SLADE GORTON went to work on behalf of Washington State. First, he married Sally Clark from Selah, Washington. That same year—1958—SLADE went into politics and was elected to the Washington State House of Representatives where he rose to serve as the majority leader.

In 1968, he was elected attorney general of Washington State. On numerous occasions on several historic cases, SLADE represented the people of Washington before the Supreme Court.

Chief Justice Warren Burger once said that SLADE, ''makes the best arguments before the Supreme Court of any Attorney General in America.'' He was also recognized with the prestigious Wyman Award given to the outstanding attorney general in the United States.

By this time, SLADE had also become a respected leader throughout Washington State.

After three terms as the Washington State Attorney General, SLADE GORTON ran for an won a seat in the United States Senate. He was elected three times to the United States Senate giving him an impressive record of winning statewide election six times in Washington.

All of this is offered as a brief history of SLADE's many years of service. With time, there will certainly be many public tributes to Senator GORTON. But

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 sacrifices our families make 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 tough things 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. And, like all 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 open. And when he took on a cause, he often surprised people. Throughout his career in both Washingtons, 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 eventually pass through 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 appropriators. We were 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 partners in 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 are 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 representing the UW 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 autism 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. He has served as a mentor to literally thousands of professionals. The family tree of Gorton staffers past and present is a truly impressive list of Washingtonians.

One of Senator GORTON's greatest and lasting contributions to our State will be the years of public service his former staffers will give to Washington State.

My staff and I have worked closely 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.

And, 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 the new opportunities to come.

Senator GORTON, on behalf of all of Washington State, thank you for making Washington State your home. We have benefited enormously from the decision you made 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 whether 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 accede to the will of the majority in elections, as 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 thing that brought SLADE GORTON and me together, 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 mattered to farmers, to fishermen, to foresters. He was always there, always anxious to help, always anxious to provide money for salmon restoration and for 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 by farmers. He stood by fishermen. 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 high tech and farmer friendly. 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 from the New Testament 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, a smarter person. 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 for the Senate, and by a margin nearly 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 to try again, as he had tried again. He admonished me to serve and to not hide my light under a bushel because he needed me, and the farmers, 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 said—and I will 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 privilege to be here, 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 SLADE GORTON will have his say again.

Until then, I pray God's choicest 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 initiatives 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 years. Slade's 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, striving to raise the performance of our nation's elementary and secondary schools and the quality of education so that all children may reach a high level of academic achievement. The senior Senator for Washington and I have worked together on a number of proposals to improve our educational system. His contributions have led the way for better educational accountability and innovation in the years ahead.
>
> Of great importance to our country are Slade Gorton's continued efforts to preserve and honor American history by calling for stronger history curriculum standards and literacy awareness in our colleges and universities. I truly believe such endeavors help to 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 put 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 that 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, the senior Senator from Washington state, will be ending his service here after 18 years in the Senate.

Washingtonians regardless of party affiliation have come up to me with high praise and 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 Senator Henry M. 'Scoop' Jackson and Senator Warren G. Magnuson as an extraordinary leader in D.C. on behalf of the state. Throughout his career in the Senate and state government, Gorton has been a leading force in many major efforts to protect the environment. He also has been a consistent, passionate advocate for individuals with problems dealing with bureaucracy. Within the Senate, Gorton has been a grand force for reasoned bipartisanship, never afraid to take a strong stand but also willing to work graciously and effectively with members of the opposition even at the tensest moments.''

Many of our colleagues are well aware of Slade's history of public service. As a young man, Slade Gorton moved to Washington state from Chicago almost 50 years ago. He want to go West in search of new opportunities. And with $300 and a one-way ticket on a Greyhound bus, Slade Gorton moved to Washington state.

History has shown that this Midwest native fit right into Washington state. Like so many immigrants to our great state, Slade Gorton was welcomed and given an opportunity to make the most of his talents.

From the very beginning, Slade Gorton went to work on behalf of Washington state. First, he married Sally Clark from Selah, Washington. That same year—1958—Slade went into politics and was elected to the Washington State House of Representatives. In the Washington House, Slade rose to serve as the Majority Leader.

In 1968, he was elected Attorney General of Washington state. On numerous occasions on several historic cases, Slade represented the people of Washington before the Supreme Court. Chief Justice Warren Burger once said that Slade, ''makes the best arguments before the Supreme Court of any Attorney General in America.'' He was also recognized with the prestigious Wyman Award given to the outstanding Attorney General in the United States.

By this time, Slade had also become a respected leader throughout Washington state. After three terms as the Washington state Attorney General, Slade Gorton ran for and won a seat in the United States Senate. He was elected three times to the United States Senate—giving him an impressive record of winning statewide election six times in Washington.

All of this is offered as a brief history of Slade's many years of service. With time, there will certainly be many public tributes to Senator Gorton. But 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 sacrifices our families make so that we can serve in the Senate. We rely on them in so many ways. Slade is fortunate to have such a supportive family. 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.

Much has been said in Washington state about the differences between Senator Gorton and myself. While Slade and I have had our differences, not enough has been said about our ability to work together on behalf of Washington state. He 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 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 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 fought his own party 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 stepped forward with a plan for the Senate. 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 took on a cause, he often surprised people. Throughout his career in both Washingtons, 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 a community forever. Slade was right there with me from the very beginning, working to raise the profile of the issue and eventually to pass through 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 tough compromises.

At the Appropriations Committee, Senator Gorton and I teamed up in numerous instances each and every year to advance and protect Washington's many interests from agriculture research programs benefitting apple growers and wheat farmers to export promotion programs and land exchanges.

Washington was fortunate to be the only state whose two senators both served on the Appropriations Committee. Of course, Slade chaired the Interior Subcommittee where Washington has so many interests. We worked together to clean up the Hanford Nuclear Reservation. We were partners in 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 are so many other issues that we worked well together on behalf of Washington state. Commercial fisheries are 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 worked 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 representing the UW 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 a significant and positive impact on our state. He was a champion on autism issues, and I regularly worked with him to expand health care for children.

Effective leaders attract talented people to their offices and Senator Gorton has always had a very effective staff both in Washington, DC, and throughout the State of Washington. He has served as a mentor to literally thousands of professionals. The family tree of Gorton staffers past and present is a truly impressive list of Washingtonians. One of Senator Gorton's greatest and lasting contributions to our state will be the years of public service his former staffers will give to Washington state.

My staff and I have worked closely 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 think Slade will tell you, we both really wanted to win that 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 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.

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 people of our state and our country. We have benefitted 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 would 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. Late in the campaign, when asked what was the legacy of his years in public service, he groped for a response. Perhaps that's because Gorton's career was not a straight line toward 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 is career reveals Gorton's better impulses. He is credited with helping to save the National Endowment for the Arts and the Forest Legacy Program, a crucial source of funds for the Mountains to Sound Greenway project along I–90.

Gorton was one of the saner voices in Congress during the impeachment. He teamed with his friend, Democratic Sen. Joseph Lieberman, to broker a middle-ground solution that would short-circuit a trial. They were unsuccessful, but the effort is a revealing example of Gorton at work during a historic time in the nation's Capitol.

Gorton's name is attached to several major accomplishments from the early years of his career. Lawyer and longtime civic activist Jim Ellis credits Gorton with steering through the state legislature the program known as Forward Thrust, a package of major public works in King County.

Among his most loyal backers is a small army of women who have worked for Gorton at various stages of his career.

Many have gone on to their own careers in public life.

Now, facing forced retirement by the narrowest of voter margins, Gorton, 72, can contemplate a life of ongoing service, possibly in a Bush administration, or better yet, as a senior statesman in Washington State and the Northwest where his talents are still welcome and much needed.

[From the Tacoma News Tribune, Dec. 5, 2000]

HOLD A PLACE FOR GORTON AMONG STATE'S POLITICAL GIANTS

(By Peter Callaghan)

It's a journalistic must-do.

When a prominent officeholder is defeated, we roll out the retrospective articles—obituaries for the living.

We attempt to place our politicians in perspective before we have any.

It's Slade Gorton's turn now. The 72-year-old U.S. senator's defeat will become official Wednesday.

But he was pretty sure when the first count of votes was released the day before Thanksgiving when he declared himself ''cautiously pessimistic'' that a recount would make a difference.

It didn't. Last Friday the county-by-county tally showed that Democrat Maria Cantwell's lead actually grew by a few hundred votes.

So Gorton walked in front of the cameras and the newsies to make a very short statement. He took no questions.

That left others to pass judgment on a career in politics that began in 1958. He served 10 years in the state House of Representatives, 12 as attorney general and 18 in the U.S. Senate.

Longevity is just one of the reasons he should be considered for the same status as Warren Magnuson, Dan Evans, Henry Jackson, Wesley Jones, Julia Butler Hansen and Tom Foley—giants all.

Impact is another reason. So is presence. So is the breadth of his legacy.

But there's a much different tone to Gorton's postmortem than for the others. Much of the space is devoted not to what he was but to what he wasn't.

He wasn't wildly popular. He wasn't able to generate affection among voters. He wasn't one to bring home the bacon in the form of dams and hospitals and military bases.

In a phrase, he wasn't Scoop and Maggie.

This presumes, of course, that Gorton could have been just like Scoop and Maggie even had he wanted to be. Times had changed. Gorton was elected in the GOP landslide that ushered in the Reagan era.

It was a time of lowered expectations of the federal government. It was a time when the ability to win hundreds of millions of federal pork was at an end.

Heck, Scoop and Maggie wouldn't be Scoop and Maggie in times such as those.

But Slade Gorton did manage to build his own legacy as a smart, savvy politician who was the go-to guy in the Washington state delegation for much of the last two decades.

If you want your politicians warm and fuzzy, don't knock on Gorton's door. He was of a generation that didn't believe in public displays of affection—especially the phony kind practiced by some politicians.

That he never made an emotional connection with voters hurt him in the two close elections that he lost in 1986 and 2000.

But most other times, Washington voters realized we were electing a U.S. senator, not a host for a children's TV show.

Gorton did something few other politicians could—he learned from that earlier defeat that he had to listen as well as talk.

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.

They 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 two U.S. Senate seats 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 drawn criticism—he ran against Seattle and exploited the resentments many have for the state's biggest city. He was accused of using so-called wedge issues that divided the state.

But that in itself is a Seattle-centric critique. It's OK—in fact, preferred—to represent Puget Sound to the detriment of the rest of the state. 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.

[From the HeraldNet, Dec. 5, 2000]

OUR VIEWS—MARIA CANTWELL FOLLOWS A GREAT LINE OF SENATORS

With a history of outstanding U.S. senators, Washington state is about to embark on what should be a fine new chapter.

With time, Maria Cantwell ought to become another fine senator for Washington. Indeed, the likelihood is that the Democrat from Edmonds will become an effective, high-profile member of the Senate early on. It certainly helps Cantwell's visibility that her election appears to have broken the Republican majority and given Democrats a 50–50 tie for the next session.

The situation undoubtedly influenced two major networks to interview Cantwell on their morning news shows Monday. As Democrats point out, moreover, the election of the former high-tech executive gives the country its first senator from the new economy. Even in a Senate that includes a freshman well enough known to have won election from New York without using her last name, Cantwell's talents should earn her ample notice.

While Cantwell is making a promising entry into the Senate, Washington state certainly will miss the presence of longtime Sen. Slade Gorton. Although Gorton would be an excellent choice for a post in a possible Bush cabinet, the state has lost the clout he carried as a senator with 18 years seniority.

History will rank Gorton with Sen. Henry M. ''Scoop'' Jackson and Sen. Warren G. Magnuson as an extraordinary leader in D.C. on behalf of the state. Throughout his career in the Senate and state government, Gorton has been a leading force in many major efforts to protect the environment. He also has been a consistent, passionate advocate for individuals with problems dealing with bureaucracy. Within the Senate, Gorton has been a grand force for reasoned bipartisanship, never afraid to take a strong stand but also willing to work graciously and effectively with members of the opposition even at the tensest moments.

Gorton's career was certainly marked by tough fights with opponents and a willingness to criticize liberals from the Puget

Sound region. That divisiveness, 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 her credit, Cantwell campaigned 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 but worthwhile task.

Cantwell has talked about the need for action on issues that relate directly to people's lives, including prescription drugs and controls on health maintenance organizations. With her incisive understanding for policy issues, demonstrated in both the state Legislature and the U.S. House of Representatives, she could help 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, Magnuson and Gorton have demonstrated, the length of service is a critical factor in making 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. ROCKEFELLER.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. 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, so to speak, overlapped a good 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 forging 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 Internet; it burst upon us. But 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 which has both 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 entire Senate can be engulfed in a conflagration 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, with his very superior intellect—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 that 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 to do.

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 backslapper. 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. He argued, I am told, 14 times 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 office or one of the top offices. 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 one develops on the way up as one 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 sound judgment on virtually any matter.

He is firm in his views, and I respect that. We differ often on views, 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 think he married in 1958. 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 person, 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's 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, the Energy 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 Senator 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 about Senator GORTON.

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 because time flies and all of a sudden we find Senator GORTON is out of the Senate and we have to speak before he leaves. Today, I want to take a few minutes to share with him and his wife Sally, whom I hope will have occasion to read the RECORD, having served with him in each of his 18 years in the Senate, what he has contributed and who he is.

It will not take me a long time to speak about him, although to tell the truth, he probably is more noteworthy in my life in terms of being a co-Senator on many things that are very big and important to our Nation than any other single Senator here.

SLADE GORTON is a quiet man. Even though he appears on the floor regularly to discuss things, he is a very thoughtful person and also a very hard worker.

As we sometimes coin phrases, he is certainly a workhorse, not a show horse, and he is a very special and unique person because he is also extremely thoughtful and shares willingly his wonderful ideas, thoughts, and innovations with us, his fellow Senators.

I think everybody knows that while he shares no official leadership role and he works hours on end on a subcommittee called the Subcommittee on Appropriations for the Department of Interior, his contributions go well beyond that. Wherever he touches things, either by committee work or by being called in by our majority leader to discuss issues to advise him, he leaves an imprint. It is not that he must get his way all the time, but essentially he is rather compelling and does succeed most of the time by power of persuasion to leave his imprint in the Halls of the Senate, be it in this Chamber, while we discuss things seriously and collegially as Republicans or combined Republicans and Democrats, or certainly where small groups of Senators meet because they must meet in their leadership roles. He is almost always among them.

From my own standpoint, I have had one major commitment, one major user of my time in my work, and that is to understand and make sense of the U.S. budget. While it is not my only job, it is one of those the Senate expects somebody to know a lot about if they are going to come down here and talk about it. I have been privileged to work in that committee since its origin, believe it or not. It is a rather new committee, enforcing a rather new part of the Senate. We used to have just authorizing and appropriations, and some 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 things in that committee. We rather imaginatively broadened the scope called reconciliation where we can insist that things get done without being burdened by filibuster and untold amendments. We have done new and innovative things to set aside money for only one purpose 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 them and to suggest ways of improving them. That is the way he is with everything he does.

He does not have to be the kingpin, but I guarantee you, those who are and who are forced to lead, if he is around helping them, you can just tell; You can see the imprint, the logic, the strength of argument that comes from him being directly involved or indirectly being a helper.

I am not sure in the history of the Senate how we are going to rate Senators over time, but I suggest that SLADE GORTON will certainly be recognized in some very special way for his 18 years because there will be few who trace this history who may just look around and say: Who were the leaders? Who was the majority leader? Who was the minority leader? Who was this or that in terms of a formal job? And then attribute to them some direct legacy in this 18-year span that he served, being absent 2 years while he sought election again.

But if it is looked at carefully, SLADE GORTON has to come out near the top of the list of influential Senators in the 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 many, they have been long, and they have been arduous.

When I had to test them 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. Nobody will really understand 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 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's lawyer. But after all these years in public life, SLADE GORTON could step into the most significant of legal offices in America and be a great, participating, achieving modern-day lawyer, even 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 otherwise.

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.

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 hard to say he will 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. ALLARD). 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 the way 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 and commitment to this body, he has enjoyed the opportunity to preside. And he has presided extraordinarily well.

He, however, as the Senator from New Mexico has mentioned, 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 spokesperson for a philosophy. And he knows how to move that philosophy forward within our institution.

As a result, he has had a tremendous impact on the legislative activity of this body over the years. I suppose we shouldn't be surprised at that though. The truly great Senators in this body—I suggest that maybe one of them is Daniel Webster—have come from a tradition from which SLADE GORTON also comes. He went to school in New Hampshire. He went to school at Dartmouth, as did the great Daniel Webster. Maybe he learned at Dartmouth some of those characteristics which carried both Webster and him forward so well. Clearly, those characteristics are unique and special. We take pride in New Hampshire in claiming a little bit of SLADE GORTON for our own.

As I think of him, I think of a friend, somebody to whom I could always go talk to get ideas. We 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 some Senator 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 a lot of SLADE GORTON and the way he worked as a Senator. That, to me, 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 yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized for 3 minutes.

Mr. DORGAN. Mr. President, I saw the Senator from Washington, Mrs. MURRAY, talking about her colleague, Senator SLADE GORTON. I wanted to come over and say a word about Senator GORTON.

I know people who perhaps watch the proceedings of the Senate see the tug and the pull of debate on public policy and probably think to themselves, gee, those people don't get along very well, or maybe those people don't like each other very much.

The fact is, most of us get along well and enjoy each other's company. SLADE GORTON is one of those Senators, a Republican, someone with whom I have severed on the Appropriations and Commerce Committees. We get along well, like each other, and he has been extraordinarily helpful to me. He is a Senator who always did his homework. There are some with whom you visit about the issues, you get kind of a glassy-eyed stare because you know that this isn't an issue on which they are connecting with you or haven't studied very much. I didn't find that with SLADE GORTON. He was always prepared and had always done his homework. And while at times he could be a bit frustrating because he took a position on an issue that you might have felt was the wrong position, he always had an opportunity to explain it because he had done his homework.

He was a fellow with an independent and stubborn streak, somebody who was patient and helpful. I enjoyed the opportunity to serve with him in the Senate.

He actually was elected to the Senate for the first time the same year I was elected to the U.S. House in 1980. We had an opportunity to be on a panel discussion way back in 1980 and talked about our entry into that Congress.

One of the things SLADE GORTON told me was that he had bicycled across North Dakota. I was surprised by that, but apparently he and his family had bicycled all across America. And in doing so, they had bicycled across I–94 or highway 2 through the State of North Dakota. We had a chance to talk a little about his acquaintance with North Dakota from a bicycle.

This is not a eulogy. We have a number of Members of the Senate who are leaving us, distinguished people who have given immense public service to this country. I have deep admiration and respect for all of them. Because my colleague from the State of Washington was talking about her colleague, Senator GORTON, I wanted to come to say that I have enjoyed serving with him. He has been very helpful to me in a range of ways on both the Commerce Committee and the Appropriations Committee. I wish him well as he leaves his service here in the Senate.

I will come to the floor at some point to speak about the other Senators who

have contributed so much and who are now leaving the Senate Chamber.

I thank Senator MURRAY for doing this. She is a remarkable Representative from her State, as was Senator GORTON. We will now be joined by another Senator, Ms. CANTWELL, from the State of Washington, and I look forward to working with her as well.

The PRESIDING OFFICER. The Senator has used his 3 minutes. Under the previous order, the time until 12 noon is under the control of the Senator from Wyoming, Mr. THOMAS, or his designee.

The Senator from Alaska.

Mr. STEVENS. Mr. President, my good friend from Wyoming is here and has consented that I might take up to 5 minutes of his time at this time. I ask unanimous consent I be recognized for that purpose.

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

Mr. STEVENS. Mr. President, I was in a meeting with the joint leadership discussing the current problems regarding the last appropriations bills and was not able to be here during the time set for comments about our good friend and my southern neighbor, Senator GORTON.

It is with deep sadness that I come to join in the comments concerning Senator SLADE GORTON. I think he has been an exemplary Member of our Senate and has provided enormous contributions to the well-being of the country in his efforts as a Senator.

It is and has been a matter of great pride for me to call SLADE 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 State. Alaskans go through either Utah, Illinois, or Washington to get home from Washington, D.C. Quite often, I have spent time in Washington State and have visited with SLADE GORTON and Sally about the problems of our area. He has been a fierce protector of the interests of the State of Washington in the Senate. As a westerner, he and I have shared many issues and faced the problem of finding solutions to some of these difficulties that we face in the Pacific Northwest together. We have worked with our friend, Senator MURRAY, on these issues. I think we have had a good working team together.

We have often, as members of the Pacific Northwest group in the Senate, had to go head to head with almost every Member of the Senate and the administration to try to protect the interests of the Pacific Northwest. We are an area 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.

Senator GORTON has been to my State quite often, along with me and my colleague, Senator MURKOWSKI, 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 smaller 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 most well-read younger 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 doggedly on issues pertaining to his State. 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 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 they will be going back to Washington. And I think we will hear a great deal of SLADE GORTON and Sally. They have concerns about the country and concerns about our area that are unique. I believe they are going to continue to contribute to the solutions to the problems that I mentioned before.

I am really here to thank him for his friendship and for the dignity he has brought to the office of United States Senator. I really believe he showed great compassion as he spent 2 years out of the Senate when he was not elected after a second term, and he came back again after 2 years and became even a greater Senator because of that. He has been a strong Senator, a thoughtful Senator, a hard-working Senator, and a great personal friend.

I don't look forward to making statements such as this. I certainly don't look forward to losing the partnership 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 were 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. He and Sally have 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, that is fine. If you don't like it, well, that's the way 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 future. I have often said those folks who tend to revise history also tend to tinker with the compass of our Nation, because our decisions are still based on history. SLADE, being the bright and honest man that he is, understands this body and this country so well. He understands our history as it truly is, not as revisionists would have us believe. And I hope historians pay him the same respect and remember him as the great man and great Senator that we know today.

As you know, many years ago when his family was young and he was a little younger, SLADE took a bicycle trip from Olympia, WA, to Boston, MA. I

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 that tells you 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 for what he offered in education to take the money that flows from what I call ''17 square miles of logic-free environment'' to the local communities to let the local communities decide how to use that money. If they need teachers, they could hire teachers. If they need bricks and mortar, they could build. But the decisions on how to use those dollars at the local level should be made at the local level to fill their needs. Nobody fought harder for that.

The chairman of the Appropriations Committee, Mr. STEVENS, a while ago alluded to the fact that in this body there are show horses and workhorses. And all of us know that SLADE is a workhorse. I will tell you, you couldn't hook him wrong, and he worked from both sides of the tongue. There will be some folks who will figure that out and some folks who never will. But it is a quality that every Senator should have.

I remember his fight to keep Mariners baseball in Seattle. They could have lost that ball team had it not been for his efforts to save professional baseball in Seattle, because it was important to him and it was important to his people.

He will be missed here. What he leaves with a lot of us will be used for many years to come.

We don't say goodbye to our friends, we just say so long, because our trails will cross later on in our lives. The friendship forged between the Gortons and I will never be forgotten. We will miss him, and we wish him well. But his influence on this body will be felt for years to come.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I wanted to come over this morning and join my colleagues in talking about our dear friend and colleague, SLADE GORTON. I don't have enough time this morning to list all the things this good man has done for America. It is hard to even contemplate lifting all of the times he has provided critical leadership for the Senate.

The thing that stands out most about SLADE is that he is wise. There is a difference between intellect and wisdom. Intellect is, in my opinion, often overrated. I see intellect as being like the lens on your camera. The better that lens is, the wider your frame can be on the picture and the finer the detail can be on that picture. So if you are blessed to have good intellect, you are advantaged. What is important is the ability to take the information that your lens on the world can see and put that into a perspective where it has meaning. That is where wisdom comes in.

SLADE GORTON, we would agree by almost acclamation, is one of the smartest Members of the Senate. But he is more than that. He is wise. He has the ability to recognize when something is important and when it should be pushed forward and when it represents 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.

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 in the Senate. I believe SLADE is the kind of person that we grew up as children reading about in history books. I think even in this age of cynicism about people who serve in public office, SLADE GORTON stands out as exactly the kind of person the founders had in mind when they wrote the Senate into the Constitution. I think SLADE GORTON in his record would stand up in a comparison to anyone who has ever served in this body or anyone who has served in any legislative body ever.

For those who know and love SLADE and who have worked with him in Washington, it is hard to understand how people back in the other Washington, a continent away, could not reelect SLADE GORTON to the Senate. I think it is important to remember the final judgment ultimately comes as people look in perspective at somebody's service.

In my State, our greatest hero, our most beloved citizen, was defeated by the voters of Texas not once, but twice. He was defeated the first time after he came close to casting the deciding vote, he was on the losing side, on the Kansas-Nebraska Act which he saw as producing the Civil War. And it did. And then as Governor, Sam Houston refused to sign the bill taking Texas out of the Union. So he was rejected by the voters of Texas twice. Yet he is the most honored of our citizens.

For those who serve in public office, it is important to remember that it is not personal; that people change their mind; that people have their own will; that people have their own perspective. In the end, it is good service, it is dedication, and it is effectiveness on behalf of the people who elect you that makes a great elected public official.

I join my colleagues this morning in thanking SLADE GORTON for serving. I am confident in the future when names are listed who belong in the Senate, names that will be remembered here, SLADE GORTON's name will be on the list.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, when I think of my dear friend SLADE GORTON, I am reminded of how many of our colleagues are frequently saying: I wish I were Governor; or, I really ought to be out making some money; or, I am really not satisfied being 1 of 100; or, there must be something better I could be doing with my life.

I have heard that from many of our colleagues on both sides of the aisle. I once asked SLADE GORTON: SLADE, did you ever think about running for Governor? And he said: Absolutely not. I wouldn't have that job. He said: I love the legislative process.

And no one is better at the legislative process than our good friend SLADE GORTON.

I forget which brokerage house it was, but there used to be commercials that said, when so and so spoke, everyone listened. Whether it was the Republican conference meetings or on those rare occasions when all Members met together, SLADE GORTON was rarely the first one to talk, but when he spoke, everyone listened.

SLADE GORTON is one of the great Senators of the 20th century. He had a sense of the history of this body. I 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 about 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 many things that occur here, he was able to sort 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 our 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 GORTON is.

Out of all the maneuvering that occurs here, all of which is important, all of which has an impact on the ultimate outcome, SLADE uniquely could look beyond that and see the big picture and

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. It was 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. Someplace, 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.

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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. Ardizzone, 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, David James, Sally Lee-Kerns, Elizabeth Kim, 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.

Obviously, I am deeply 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 shape the 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 creation and how we 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 that I respect. Janet and I live 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 Southwest 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 accorded me the opportunity to serve as the State auditor of Missouri when he vacated that office upon his election as Governor. I had 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 be the State auditor of Missouri.

It began a marvelous set of opportunities for me for which I am grateful in every respect. I served 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 wonderful privilege of sharing an office with a now Justice of the Supreme Court, Clarence Thomas. We were 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.

I had 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 his son in 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 America and Missouri 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 wish well 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 agreed to allow them all to be here 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 circumstances. 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 placed in the CONGRESSIONAL RECORD 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 commitment and then I signed the commitment, too, so each one of these items contains the signature both of the staff, the real workers of the Senate, and the Senator, 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 participation 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 endowed 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 American people; we serve to secure their rights. Our commitment is to respect diverse political views and serve all people by whose consent we govern.
>
> As people of 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 liberties, and the Nation suffers. We dedicate ourselves to quality service. America's future will be determined by the character and productivity of our people. In this respect, we seek to lead by our example. We will strive to lead with humility and honesty. We will work with energy and spirit. We will represent the American people with loyalty and integrity. Our standard of productivity 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 formulate that format for our service, and I thank them for, in every instance I know, pursuing the fulfillment of that format and formulation for public service. It is an honor to serve with individuals who are in pursuit of principle, and my staff has been consistent in that respect.

We have literally in the last Congress had over 550,000 constituent contacts with our office, to which we have made millions of responses because frequently we can acknowledge the contact and then provide additional service or otherwise follow up. There have been 110,000 specific cases in which individuals had dealings with the Federal Government, and we were able to facilitate those dealings. So I thank the staff. I thank them for their dedication to principle and for understanding that working with humility and integrity and industry and timeliness is a way of fulfilling a sacred trust in the people of my State.

I thank the Members of the Senate. This is an institution that is unique. The function of the Senate is a very frustrating one, and real fulfillment probably is found in the friendships of the Senate more than in the function of this body. I have to say that this opportunity for my service in the Senate has been one that has been a fulfilling experience, in sum because we have been able to achieve things that are very important, in other respects as a result of the relationships that come with the friendships in the Senate.

I have the very pleasing opportunity to think of myself as a friend of each Member of the Senate, and I am grateful for that. I am particularly grateful for the leadership that has been kind to me. For Senator LOTT—and, of course, I have had a lot of fun with Senator LOTT as a Singing Senator. That has ruined more than 1 day for other people—but the leader has been kind to me in every respect. His demeanor in leading this body is one of kindness to every Member.

Senator NICKLES—I had the privilege of nominating him as assistant majority leader, and I respect greatly his contribution.

I see my friends in the Senate today—Senator GRAMM, Senator MCCONNELL, in addition, of course, to the senior Senator from Missouri about whose service I have already remarked, and my colleague, Senator SANTORUM, with whom I have had the opportunity to fight for things in which we believe. These are all very pleasing items.

In particular, I thank Members of the Senate for participating in very important legislative achievements that are a part of what I believe has been important for me to do while I have been here.

I had the privilege of filing legislation to protect the Social Security trust fund, called the Social Security lockbox legislation. I believe I was the first to do that in the Senate. Senator ABRAHAM, Senator DOMENICI, Senator SANTORUM, and I worked awfully hard for that concept. It is now part of the Senate rules, and it has guided the way in which we have appropriated resources.

The Medicare lockbox passed the Senate. I am grateful for that opportunity and was grateful that Senator CONRAD, on the other side, was interested in making sure we put the right framework around the Medicare trust fund so that it was not raided for other purposes.

An effort to repeal the Social Security earnings tax—the test on the Social Security earnings—which we were able to achieve in April of this year under the leadership of Chairman ROTH, and signed by the President, I had the privilege of being the Senate sponsor of that measure. There were about 45 Senators who joined together, but there was even overwhelming help from people on the other side of the aisle, such as Senators LANDRIEU, FEINSTEIN, BAUCUS, DORGAN, LIEBERMAN, and LINCOLN, in addition to members of this caucus.

A big problem in the State of Missouri has been methamphetamines. Over and over again, I have worked to strengthen the law regarding methamphetamines, both with my colleague, the senior Senator from Missouri, KIT BOND, and with others who have also been concerned about this problem.

Senator FEINSTEIN's State of California, similarly, has been afflicted with the curse of methamphetamines, and she was always helpful in this respect. 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.

May I digress for just a second to say I have 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 us in the tensions of give-and-take, and he has masterfully negotiated the shoals in that particular arena.

Of course, I should mention as well JOHN MCCAIN's leadership on the Commerce Committee, on which I have had the privilege of serving, and his graciousness 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 American industry. The revision in the telecommunications law which we were able to achieve is a result of excellent leadership. It has changed the dynamics of the world's economy, not to mention 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 the opportunity to get education and training so that they could in some way begin to undertake an effort on their own behalf, which the law enforcement officer, slain in the line of duty, was otherwise prepared to help them with. I am thankful to Senator SPECTER and Senator COLLINS and Senator BIDEN for working and being so helpful to me in that respect.

Tougher penalties for gun crimes: When I put the amendment into Senator 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 curtailing 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 him.

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 opportunity to work with him and Senator WYDEN and Senator FRIST on that legislation. It was very important legislation 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 and Senator DORGAN, 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 ag 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 HCFA, the Health Care Financing Administration, announced new rules for reimbursing 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 with me to make sure we were able to begin the process of changing the law. And the process was so successful that HCFA changed its rules and regulations. Sometimes that is the way we make progress.

There are the big 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 the country, abusive welfare, 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 am 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 that I thought was 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 criteria. I am grateful for that.

Obviously, I do not want to overstate what it means to have been a Singing Senator, 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 the 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 America. What happens in 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 don't want anyone to ever believe the laws are not important. We do have to have laws that tell us what the baselines 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 for the last 5 years now. I am grateful for that. My son, 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 ever have an 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 one 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. GRAHAM. 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 politics. We have been through a lot together. I lost a couple races as well as winning some. I can tell you, it is not fun. In fact, it is really terrible. I know what it is like.

After my last loss, a good friend came up to me and slapped me on the shoulder and said: Well, experience is what you get when you are expecting to get something else.

I don't know what that proves, but I have had experience, and I know JOHN has had experience. It hasn't made him bitter. Every time he has had an experience, it has made him better.

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 JOHN 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 his first time, I had taken an involuntary hiatus from the Governor's office. I had one of my experiences.

I came back and he was my counsel, my lawyer, kept me out of trouble for 4 years. Then he served 8 great years as a very effective and farsighted Governor of the State of Missouri. I will not impose on the Senate's time to go down the list of accomplishments.

One of my favorite programs is Parents as Teachers. This is a wonderful early childhood program that has revolutionized early childhood education in Missouri. We managed to get it on the books and kind of bring it to life. But JOHN ASHCROFT was the one who funded it, nurtured it, encouraged it, made it flourish to become a national model and even an international model. It has gone to six or seven other countries, last time I heard, because it works. And because of his strong leadership, it was successful.

With his long experience in Missouri, it is no surprise that when he came to Washington he said he was going to Washington not to bring Washington ideas back to Missouri but to bring Missouri values, views, and good ideas to Washington. He has clearly done that.

There are many accomplishments we could cite about his service. He has mentioned a few of them. The methamphetamine problem became a very serious problem in Missouri in the early 1990s. We worked together, he on the Judiciary Committee, fashioning laws. He helped me secure appropriations to deal with this scourge. It was a terrible tragedy for too many Missourians. His work on behalf of ending the food and medicine embargo was just one more step in opening the markets that our farmers and, indeed, our entire world economy needs so they can be healthy from the export markets.

Working together at the staff level, we had great staff efforts. I express my thanks to his staff as well because we worked jointly together and managed to do a lot of good. We sincerely appreciate the service the staff has provided.

We fought the battles. I should note for our colleagues who are not soon going to forget our efforts on behalf of the Missouri River, we appreciate their indulgence. That issue of controlled flooding on the Missouri River was very important to our State, and we fought that battle. We appreciate the suffering of our fellow Senators.

There is no better measure of a man than how he handles adversity. It is something you don't want to experience but when you do, how do you react? Do you get bitter or do you get better? JOHN ASHCROFT showed the nobility, the character, and the honor that has been his trademark throughout.

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 job as one of 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: Look. He wants service to go forward. 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 too—I 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 Janet 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 for the work 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 1 minute, add my voice to those 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 think on one other occasion I joined 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 found 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 of 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 who I did not have the opportunity 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 we had a 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 their State.

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 start the 21st century, Florida has a population of over 15 million. That demographic change has brought a floodtide of other economic, cultural, social, and political changes to our State. They have affected both Senator MACK and myself as we have seen and participated in those changes.

We went to the same college. We are both graduates of the University of Florida, and we share a deep, abiding interest in that institution. It is my hope that there will be a very appropriate tribute to Senator MACK, and that there will be an institute at our alma mater which will symbolize and continue his deep commitment to the work of science and health.

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 neighbors living across the street on Capitol Hill but also very close 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 either of us what our favorite title is, it would probably be the title of grandfather.

But we have also had some differences. Lest we 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 foreshadowing 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 attending this Democratic luncheon at the national convention, 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 for a highway 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 cointroduced 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. CONNIE is a consummate gentleman, a 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 foundation of constructive 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 which 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 running? 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 has lived up to that creed. He was 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 we are completely, totally, right, 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 elected for 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 foundation for public service. 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 different 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 playing by the rules which we have 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 someone setting up a VCR or rushing home after work to catch our latest pontifications on C–SPAN. But the seriousness of this process has added purpose. Time and public debate are the key ingredients that go into solid, sustainable public policy. Legislating 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 must all be able 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 got 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 generally writes down little. 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 been honored to call the Macks friends now for well over a decade. We 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 satisfaction as your days 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.

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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 choosing my 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 my pleasure to work with SLADE GORTON 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 public policy. 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.

SLADE realized that when 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 S-CHIP program, but he has also worked for years to increase Federal research dollars toward autism. That 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.

SLADE 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, SLADE has been front and center in every debate in this Senate.

He has not only been 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.

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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 to see that 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 home as installed performs 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 of Representatives 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 SARBANES, and others. These are designed to increase the stock of affordable housing for elderly and disabled Americans by expanding the pool of available capital. It will also expand the availability of services to help improve the quality of life for elderly and residents of HUD-assisted properties and other eligible people in the neighborhood.

The legislation also includes important reforms to the manufactured housing statute. These reforms provide significant new consumer protections 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 has long been under federal control—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 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 LAFALCE 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 these 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 SARBANES 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. 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 National 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 homeownership, 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 purchase or rent a home, understands 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 job 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 make sure that we pass new legislation, such as my trust fund legislation, that will get the Government back in the business of encouraging the production of new affordable housing.

I support the legislation before us, and I hope that my colleagues will join me in the coming Congress to complete the effort we have begun here today.

Mr. GRAMM. Mr. President, today the Senate is taking up H.R. 5640, the American Homeownership and Economic Opportunity Act, which was passed by the House of Representatives on December 5, 2000. Companion legislation, sponsored by Senator ALLARD and myself, together with Senators SARBANES, SANTORUM, GRAMS, SHELBY, CAMPBELL, and KERRY, was introduced on December 5. This legislation is the product of bipartisan work and negotiations in both bodies, and I urge the Senate to pass this bill 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 ALLARD and want 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 provide that a greater number of 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 significant source of affordable housing—representing 25 percent of all new 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 Board on the conduct of monetary policy.

H.R. 5640 directs that the Chairman of the Federal Reserve appear before the Congress twice annually, once 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 reports 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 SARBANES 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.

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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 MOYNIHANs, or the BOB KERREYs, or the DICK BRYANs, or the FRANK LAUTENBERGs 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 from 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 as friends and colleagues but also 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 of ideas, the competition 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 ROTH 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 ASHCROFT, who as well served with me on the Judiciary Committee, is a gentleman, is a fierce advocate for his point of view, and is a skilled man who dealt in a campaign in extraordinary circumstances, I believe with considerable distinction.

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 who 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 they do but every 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 congratulate those who won and those who 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 them.

We will have a chance in the coming days to welcome each of our Democratic colleagues, as well as thank those who are leaving.

There are few who are finer or served with more distinction than Senator BOB KERREY. Indeed, in so many avenues of American life, he has served our country with distinction. There are probably few who have served here for which it can genuinely be said this is a better Senate. We are all the better having been in the Senate in his presence. That is certainly true with Senator KERREY.

Senator MOYNIHAN as well contributed to our country in so many different endeavors—a giant of the institution, who in his wake clearly made it a better place. There is not a finer or more revered Senator.

But equal in their contributions in their own way are Senator BRYAN, Senator LAUTENBERG, and Senator ROBB—all of whom tirelessly worked for our country and devoted themselves to the Senate. We can all feel the better because they were here.

Thank you for allowing me to share these words. I hope when the years pass we can all remember the distinction with which they served, but also the grace with which some of our colleagues accepted the voters' judgment and their defeat. They did so humbly, and they did so civilly; and, how some of the victors have also come here humbly as well understanding they have a lot to contribute and a great deal to learn with the grace of the public having given them the opportunity.

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 elections understand that it takes some courage and maybe 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. Although we disagree on issues 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 one. 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 election in an effort to be reelected 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 that 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 men and women who have served have done so honorably, and I salute those on both sides who will not be with us in the next Congress.

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 a few months.

We still have major spending bills which have not been passed by this Congress. Frankly, we have run out of

excuses. It is time to pass those bills which will continue the functions of government. The Labor-HHS bill is one that deals with education and health and labor standards in America. Is there any greater responsibility? How can we explain the fact that we still haven't done it? There is no excuse left. We need to pass that legislation and do it quickly.

Secondly, the bill related to the Commerce, Justice, and State Departments not only deals with the administration of justice and law enforcement but the representation of the American Government overseas, the representation of American business in an effort to create new jobs in this country. Yet we haven't passed that legislation.

I hope we won't fall on the easy solution suggested by some that we somehow postpone this for months or another year. That would truly be humiliating to this Congress, if it should fall into that trap. It is better to face four square our responsibility. I hope leaders on both sides of the aisle and the White House can come to an agreement as quickly as possible.

There is one special issue, though, that I hope we can address before we leave. It affects my State and the State of the Presiding Officer, the State of Illinois, the question of hospital care and reimbursement from the Federal Government. More and more, our hospitals across Illinois and around the Nation depend on the Medicare and Medicaid programs to adequately reimburse them for quality health care which American families expect. In an effort to balance the budget, we made cuts in reimbursement under the Medicare program. We had hoped to save a little over $100 billion over some years. We cut too deeply, and now we know unless we reverse that policy, the actual savings or cost cutting will be well over $200 billion.

On its face, it may sound like a good reason, that we are reducing the deficit even more, and that is a very valuable thing. But the price we are paying is too high because in hospital after hospital, in nursing homes and those agencies providing home health care services, they are inadequately reimbursed by the Federal Government and they are forced to cut back time and again on the services the people have come to expect.

Yesterday we had an interesting informal hearing on the Senate side. I hope it is a portent of good things to come. A bipartisan hearing with Senator SPECTER, Senator HUTCHISON, as well as Senator COLLINS on the Republican side, joined with Senators KENNEDY, ROCKEFELLER, WELLSTONE, and myself to talk about this issue and to say that before Congress adjourns, we need to address what is known as the Balanced Budget Act reform as it relates to Medicare and Medicaid. I believe there is a genuine sentiment on the floor of the Senate, a strong bipartisan Senate, that we do this before we go home.

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 general 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 has said he would have 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 remaining agenda of this 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. Morning business is closed.

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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 myself, 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 deadbeats? This bill assumes they are. For example, it would force them into credit 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 has a 500 percent 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 factor 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 deadbeats? 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 is not filing for bankruptcy, 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 deem the full income 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 burden on many 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 undergo these 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 folks 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.

When you push 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 chorus of protest and 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—and that they are only one layoff, 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 it is also the fundamental principles 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 in the Senate today is nothing 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 on the way down. These families 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 middle class 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 their comments show, they realize they 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 they were making much more. When put to a choice between paying credit card debt and mortgage debt, between dealing with a dunning 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 members have for bringing legislation 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 what side 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 if we erode the middle class 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 card companies may pad their profits, but in the long run our families will be less secure, our entrepreneurs will become more risk adverse and less entrepreneurial.

How so? 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 isn't a debate about reducing the high number of bankruptcies. No way will this legislation do that. Indeed, by rewarding the reckless lending 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 uncontrolled and unexpected. This is 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 falling 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, 2000 issue of Time magazine whose 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 true picture of who files for 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 condemn many working families to ''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 you will hear 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 why 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 that'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 unexpected medical bills. 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 yet to be addressed by the bill's supporters. 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 be deemed to be their current monthly income, even 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 allowed 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 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 not have 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 to defend such motions and if 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 weaker 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 the Trapps again amass medical and 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 then, 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, there is no question 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 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?

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 at the same time that voted to end 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 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 then 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 conferees on his 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 bankruptcy reform was passed by the Senate this bill has gotten 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 conferees beat a retreat from balance and fairness.

You know, a lot of folks must be watching the progress of this bankruptcy 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 determination to move by any and all means necessary? Certainly not an increase 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 families if the leadership had the same determination on other issues. Unfortunately 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 industry'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 advantage of naive and overly trusting lenders.

As it turns out, that picture of debtors is almost completely inaccurate. The number of bankruptcies has fallen steadily over the past months, charge offs (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.

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 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. 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 responsible borrowing. After all, debt involves a borrower and a lender; poor choices or irresponsible behavior by either party can make the transaction go sour.

So how responsible has the industry been? I suppose that it depends on 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 perhaps for even higher costs credit like payday loans). So I guess by the standard of responsibility to the bottom line they have done a good job.

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.

According the Office of the Comptroller of 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 sharpest increases in 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.

Indeed, what do credit card companies 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 of who files for bankruptcy and 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 counseling—to promote responsible money management—as a requirement for seeking bankruptcy protection, who argued that reform of the bankruptcy code is needed because of decline in the stigma of bankruptcy have been pouring 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 law 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 customers to compensate them for using deceptive marketing tactics. Among these were baiting customers with ''no annual fees'' but then charging an annual fee unless the customer accepted the $156 credit protection program (coverage which was itself deceptively marketed). The company also misrepresented the savings their customers would get from transferring account balances from another card.

In 1999, Sears, Roebuck & Co. paid $498 million in settlement damages and $60 million in fines for illegally coercing reaffirmations—agreements with borrowers to repay debt—from its cardholders. But apparently this is just the cost of doing business: Bankruptcy judges in California, Vermont, and New York have claimed that Sears is still up to its old strong arm tactics, but is now using legal loopholes to avoid disclosure. Now colleagues, Sears is a creditor in one third of all personal bankruptcies. And by the way, this legislation contains provisions that would have protected Sears from paying back any monies that customers were tricked into paying under these plans.

This July, North American Capital Corp., a subsidiary of GE, agreed to pay a $250,000 fine to settle charges brought by the Federal Trade Commission that the company had violated the Fair Debt Collection Practices Act by lying to and harassing customers during collections.

In October 1998, the Department of Justice brought an antitrust suit against VISA and Mastercard, the two largest credit card associations, charging them with illegal collusion that reduced competition and made credit cards more expensive for borrowers.

These are just a few examples, I could go on and on. At a minimum, these illegal and unscrupulous practices rob honest creditors who play by the rules of repayment. And the cost to debtors and other creditors alike are tremendous.

But other practices are not illegal, merely unsavory.

Let me repeat myself in case my colleagues somehow missed the blatant hypocrisy of what's going on here: The big banks and credit card companies are pushing to rig the system so that you cannot file for bankruptcy unless you perform credit counseling at the same time that they are jeopardizing the health the credit counseling industry and making it significantly more costly for debtors.

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 shaken down by the mainstream creditors. Such operators often target those on the economic fringe like the working poor and the recently bankrupt. They even claim to be performing a public service: providing loans to the uncreditworthy. It just also happens to be obscenely profitable to overwhelm vulnerable borrowers with debt at usurious rates of interest. Hey, who said good deeds don't get rewarded?

Reading this conference report makes it clear who has the clout in Washington. There is not 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 deadbeat debtors, 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 savings, promote excess, and Congress will bail you out by letting you be more coercive in your collections, by putting barriers in between your customers and bankruptcy relief, and by ensuring that the debtor will emerge from bankruptcy with his vassalage to you intact. This is in stark contrast to the numerous punitive provisions of the bill aimed at borrowers.

The record is clear: lenders routinely discourage healthy borrowing practices, encourage excessive indebtedness and impose barriers to paying of debt all in the name of padding their profits. It would be a bitter irony if Congress were to reward big banks, credit card companies, retailers and other lenders for their bad behavior, but that exactly what passage of bankruptcy reform legislation would do.

I would characterize the debate like this and make it very simple for my colleagues. This is fundamentally a referendum on Congress' priorities and you simply need to ask yourself: whose side am I on? Am I on the side of the working families who need a financial fresh start because they are overburdened with debt? Am I for preserving this critical safety net for the middle class? Will I stand with the civil rights community, and religious community, and the women's community, and consumer groups and the labor unions who fight for ordinary Americans and who oppose this bill?

Or will you stand with the credit card companies, and the big banks, and the auto lenders who desperately want this bill to pad their profits? I hope the choice will be clear to colleagues.

Let me say a few words about the process on this legislation, which is terrible. The House and Senate Republicans have taken a secretly negotiated bankruptcy bill and stuffed it into the State Department authorization bill in which not one provision of the original bill remains. Of course, State Department authorization is the last of many targets. The majority leader has talked about doing this on an appropriations bill, on a crop insurance bill, on the electronic signatures bill, on the Violence Against Women Act. So disparate are we to serve the big banks and credit card companies that no bill has been safe from this controversial baggage.

We are again making a mockery of scope of conference. We are abdicating our right to amend legislation. We are abdicating our right to debate legislation. And for what? Expediency. Convenience.

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 because the majority wishes to pass one bill using the popularity of another. Putting it into a conference report makes it privileged. Putting into a conference report makes it unamenable. So they piggy back legislation. Fine. But this may be the first time in 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 civics class 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 vetoed 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 through the Senate with as little interference as possible from actual Senators.

I remind my colleagues of what Senator KENNEDY said 4 years ago when the Senate voted to gut rule XXVIII, the Senate rule limiting the scope of 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 the Senate 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. But if conference committees are permitted to add completely extraneous matters in conference, that is, if the point of order against such conduct becomes a dead letter, conferees 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 send bills to conference and leave all of us vulnerable to passage of controversial, extraneous legislation any time a bill goes to conference. I hope the Senate will not go down this road. Today 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 much more sweeping than the labor law issue that is before us today.

He was absolutely right. We are headed down that slippery slope he described. For the last three years we have handled appropriations in this manner. We have combined bills, the text is written by a small group of Senators and Congressmen and these bills have been presented to the Senate as an up or down proposition. And now we're doing it with so-called bankruptcy reform.

Conference reports are privileged. It is very difficult for a minority in the Senate to stop a conference report as they can with other legislation. That is why these conference reports are being used in this way, and that is why the rules are supposed to restrict their scope.

Last year, Senator DASCHLE attempted to reinstate rule 28 on the Senate floor. He was voted down, and he spoke specifically about how we have corrupted the legislative process in the Senate:

> I wish this had been a one time event. Unfortunately, it happens over and over and over. It is a complete emasculation of the process that the Founding Fathers had set up. It has nothing to do with the legislative process. If you were to write a book on how a bill becomes a law, you would need several volumes. In fact, if the consequences were not so profound, some could say that you would need a comic book because it is hilarious to look at the lengths we have gone to thwart and undermine and, in an extraordinary way, destroy a process that has worked so well for 220 years.

So where does it stop? As long as the majority want to avoid debate, as long as the majority wants to avoid amendments and as long as Senators will go along to get along we will find ourselves forced to cast up or down votes on legislation—a rubber stamp yes or no—with no ability to actually legislate.

Each Senator who today votes for this conference report should know they may find themselves in the majority today, they may be OK with letting this bill go because they are not offended by what it contains, but be forewarned, the day will come when you

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 and rewards the big banks and 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—largely 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 has 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 summer, 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 over here.

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 be here and it will be pocket vetoed and it 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 harsh 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 7 do so 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 done anything to help our 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 faced with a serious illness or disabling injury 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. Since 1981, the number of 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 custody of the children and find themselves in very difficult financial circumstances.

Are single women with children deadbeats? 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 a whole lot of 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, saying: Given this 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 had previously announced 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, 2001. This is some holiday gift from this company to—I 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 with this booming 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. Tough 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 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 aside, one thing 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 tearing up that safety net.

I say to my colleagues, there 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 get behind, and 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 this Congress because this 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 Americans 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 falling heaviest on the supposed 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, 116 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 that this is a significantly worse 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 million-dollar plus mansions. 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 current law of stopping eviction proceedings 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, we gut 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 Entrances Act, which protects women's health clinics, from using the bankruptcy system to walk away from their punishment.

Some folks 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; that is not a priority. 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's propaganda, you would think 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 lenders. As it turns 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. 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 credit card offers to high-debt families every year. There is 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. The lengths these companies go to keep their consumers 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 blatant hypocrisy of what is going on here, the big banks and credit card companies are pushing to rig the system so you cannot file for bankruptcy unless you perform credit counseling, at the same time that they are jeopardizing the health of the credit counseling industry by pumping credit cards, by themselves abusing the system, and hardly making it easier for people, only making it more difficult.

To make it simple for my colleagues, this debate is fundamentally a referendum on Congress's priorities. You simply need to ask yourself again: Whose side am I on?

Are you on the side of working families 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 religious community and the women's community and consumer groups and labor unions who fight for ordinary Americans who oppose this bill or will you stand with the credit card companies 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 Senators.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume.

First of all, in response to the Senator from Minnesota, I was a little bit amused at the use of the words ''blatant hypocrisy.'' I don't question his use of those words at all. But the fact is that this bill 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 legislation. If there is blatant hypocrisy, it is very bipartisan hypocrisy.

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 Schumer 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 correct?

Mr. GRASSLEY. The Senator is correct, but his reference was in regard to the credit card industry—not the Schumer amendment and not the provision on homestead.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, second, 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 discharged of that debt.

It is particularly wrong when it hurts the very same low-income and middle-income people about whom 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 absorbed by the business in most cases; it is going to be passed on to the consumer.

On the basis of ability to pay, particularly for the necessities of life of food and clothing and things of that nature, it is going to hurt the low-income people and middle-income people of America disproportionately because somebody else isn't paying their bills. There is an understanding at the grassroots 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 allowed 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 bankruptcies 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 while at the same time protecting those who fall on hard times. I realize 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-year history of the bankruptcy code of the United States, we have recognized 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 Fontanelle, IA, says:

> People need to be more responsible for their debts. As a small business owner, I have had to withstand several large bills people have left with me due to their poor management and bankruptcy.

That may be a small business person who, unlike a lot of corporations, cannot pass on this $400 per family in additional costs for goods and services because somebody else isn't paying their bills. This person may be so small that they have to absorb those costs unfairly and may be putting their own business in jeopardy.

Another constituent from Cedar Rapids:

> Bankruptcy reform will force the American people to become more responsible for their actions. Bankruptcy does not seem to carry any degree of shame. It is almost regarded as a right or entitlement.

If it has become a right or entitlement, 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 finances. It becomes a financial management tool for some.

Another constituent from Waverly, IA:

> Many don't think the business is who loses. We make it too easy now.

A constituent from Washington, IA:

> The present 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 figured out the ease of using 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 of 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 statement that government ought to promote 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 knowing they can unload the debt with the help of the courts.

That is a person who understands the basic principles of bankruptcy: No. 1, sickness, loss of a job, something beyond the control of an 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 is 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 or nobody 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 original passage. 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 at 1.4 million when times are good, how many hundred thousands more are we going to have when we do have bad times?

When we have bad economic times, high interest rates are not good for 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 bill. The evidence 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.

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

Mr. WELLSTONE. 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 I actually really love working with even though we don't agree on all policies.

I have to say one more time that there is a lot of hypocrisy in a piece of legislation that on the one hand goes after this percentage and on 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 most of the 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 major 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, I 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 in, completely unrelated—never mind rule XXVIII—without the deliberation, without the debate, without the ability offer an amendment. This is not the way we legislate. This is the Senate at its very worst.

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 see him back. 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 except for 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 this kind of trick had to be carried out because the Republican majority could have worked with the President, they could have worked with the Democrats, to pass 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 happens 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 killed a 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 say over it. It might be a nice exercise. It might look good in fundraising letters. But when you have a Democratic President, it is obvious we are spending hundreds of thousands of dollars of time, effort, and taxpayer money up here to pass something 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 had gone to conference and put 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 closet 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. I hope in the last couple of years those countries that get lectures from us about how to run their democracies have not been watching how matters have slipped before the U.S. Senate. Matters of great consequence are slipped before the U.S. Senate without any votes, with the hope they will slip through in the dark of night. I hope those countries, when we tell them how to run elections, are not watching—I don't know—Presidential elections or anything like that in our country.

I look at Canada. I come from the State of Vermont. I think of Canada as that giant to the north. I look at Canada. The whole country votes with paper ballots. Two hours later, they have them all hand counted with no mistakes and the country accepts the result. I hope we won't lecture them as we often do.

But I hope we will not tell people this is the way to pass legislation. I hope we will not tell countries how to do it based on this bill. It is an autocratic, behind-closed-doors, undemocratic process, and it makes a mockery of the legislative process.

This is unfortunate, since both Democrats and the administration have been trying to negotiate in good faith with the Republicans to achieve fair and balanced bankruptcy legislation. Everyone in this Chamber knows we have to have some bankruptcy reform legislation. But it cannot be one sided to any one special interest, it has to be balanced.

There was not even a meeting of the sham conference committee, as far as I can tell. And the House had passed—talk about a CYA; that means ''carefully you're allowed,''—but, in an effort to make sure nobody questions them about this sham process that has slipped through behind closed doors, the House passed a 398–1 vote to instruct conferees to insist on a public meeting of the conference with open debate. By God, we are for government in the sunshine, 398-to-1. Are we not virtuous people in the other body? And the press releases went out. Of course, 2 hours later, the sham conference report was filed, the one that was done behind closed doors, not done in the open. But everybody could say: Why, I voted to have that 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 wage increase, regressive 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 struck 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 expanded the eligibility 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 side giving some things, 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

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 something people 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 one sided; 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 with wealthy debtors who used overly broad homestead exemptions to shield assets from creditors by putting money into multimillion-dollar houses, declaring bankruptcy, and thumbing their nose at their creditors.

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 bankruptcy system.

The Senate passed the Schumer amendment to prevent the discharge of penalties for violence against family planning clinics. This was not a partisan vote. It was 80–17. People said, no matter how you feel about abortion, 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 an end to 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 legal 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 are now 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 have, 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, that both 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 with 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 responsibility for 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, apparently 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 $100,000 nationwide cap on any homestead exemption. 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 laws—debtors moving to expensive homes in a handful of States with unlimited exemptions, declaring bankruptcy, and then keeping their millions of dollars in the homes that they have in those States.

Senator KOHL, along with Senator SESSIONS, put together an amendment that the Senate overwhelmingly adopted. I am beginning to see why everybody voted for it. Some must have gotten word that it would be gutted as soon as it got off the floor, gutted behind closed doors, where nobody votes and nobody's fingerprints are on them. Even to talk about: OK, you want to raise it to $100,000? Raise it to $500,000. Then all of a sudden we find it is gutted. It is going to build a lot of homes in Texas and Florida. It is an amazing coincidence those two States are going to have the advantage of not having that provision. If you want to declare bankruptcy, just put your millions of dollars in a house in Texas or Florida, and under this you are safe.

Again, the Administration made it crystal clear in four letters to congressional leaders that the President would not sign any bankruptcy reform bill that did not end the abuse of unlimited homestead exemptions. In fact, the Republican leadership reached an agreement with Democrats and the Administration to include a nationwide $500,000 cap on homestead exemptions in bankruptcy, but then the majority changed its mind. Why? I do not understand why the majority then reverted to a flawed homestead provision in this conference report.

As early as May 12, 2000, OMB Director Jack Lew made clear the Administration's position. Director Lew wrote to Congressional leaders: It is fundamentally unfair to ask low- and moderate-income debtors to devote future income to repay the debts that they can, while leaving loopholes that allow the wealthy to shield income and assets from their creditors. High or unlimited homestead exemptions allow people with expensive homes to avoid their responsibility to repay a significant portion of their debts.

On June 9, 2000, the President, himself, wrote to congressional leaders about the need to end abusive homestead exemptions in any final bankruptcy reform bill. President Clinton wrote: I am concerned, for example, that the final bill may not adequately address the problem of wealthy debtors who use overly broad homestead exemptions to shield assets from their creditors.

Again, a few weeks later on June 29th, the President reiterated his position by writing to congressional leaders: The proposed limitation on State homestead exemptions will address, for the first time, those who move their residence shortly before bankruptcy to take advantage of large State exemptions to shield assets from their creditors. But the proposal does not address a more fundamental concern: unlimited homestead exemptions that allow wealthy debtors in some States to continue to live in lavish homes. In light of how other provisions designed to stem abuse will affect moderate-income debtors, it is unfair to leave this loophole for the wealthy in place.

A few weeks ago, it appeared the majority was finally beginning to understand and accept the President's commonsense approach by agreeing to a federal cap on homestead exemptions. On September 22, Gene Sperling, National Economic Advisor to the President, wrote to Majority Leader LOTT: The President appreciates your significant movement on the homestead issue. We realize that the offer goes against strongly held views of some members of your caucus, and we are grateful for the effort. While we had proposed placing a cap of $250,000 on the size of state homestead exemptions, we could accept a homestead cap of $500,000, were we to reach agreement on other issues.

It does not take a rocket scientist to understand that the President would veto a bankruptcy conference report that did not adequately address the discharge of penalties for violence against family planning clinics and the problem of wealthy debtors who use overly broad homestead exemptions to shield assets from their creditors. Four times the Administration wrote to congressional leaders about the need to address these two areas of bankruptcy abuse. Four times.

But this conference report fails adequately to address either of these two abuses of the current bankruptcy system.

Unfortunately, the majority is repeating the same mistakes that killed bankruptcy reform in the last Congress. Instead of keeping on the track of bipartisan compromise that was headed toward enacting a fair and balanced bill, the majority veered off course on behalf of special interests. The result is an unfair and unbalanced bankruptcy conference report.

Fortunately, bankruptcy filings have been declining for the last couple of years. In 1999, the per capita personal bankruptcy rate dropped by more than 9 percent. In the 2000 fiscal year, the decline continued. According to the Administrative Office of the U.S. Courts, bankruptcy filings for fiscal year 2000 are down 6.8 percent for personal filings, down 6.6 percent for business filings and down 9.2 percent for chapter 7 filings. Over the last two years, Chapter 7 filings have dropped 15 percent and personal bankruptcy filings overall have declined by 12 percent.

In my home state of Vermont, the recent decline in personal bankruptcy filings is even more dramatic. In 1999 consumer bankruptcy filings in the District of Vermont dropped 11 percent compared to 1998 and fell an additional 20 percent so far this year as compared to last year that is approximately a one-third decrease over the last two years.

Clearly, the justification that we must pass this flawed measure now because of a bankruptcy crisis rings hollow given the latest bankruptcy filing facts across the nation. There is no need to rush a bad bill into law.

On June 9, 2000, President Clinton wrote to congressional leaders that: I have long made clear my support for legislation that would encourage responsibility and reduce abuses of the bankruptcy system on the part of debtors and creditors alike. We also must ensure that a reasonable fresh start is available for those who turn to bankruptcy as a last resort when facing divorce, unemployment, illness, and uninsured medical expenses. Bankruptcy reform legislation should strike the right balance.

Unfortunately, this conference report fails to strike that right balance. The President will and should veto it.

The administration has helped to make the economy a lot better. We can take a moment. Let us wait until next year and pass a good bill. Let us take care of those problems that are in there, but let's not allow the haters, the crime inciters, the murderers, and the firebombers to go free. For Pete's sake, let's not let somebody who has amassed millions of dollars of assets, and even more millions of debt, to say: I will go buy a house in Texas or Florida because then I can escape my creditors.

Mr. President, how much time does the Senator from Vermont have remaining?

The PRESIDING OFFICER. Four and one-half minutes.

Mr. President, I yield the floor and reserve the remainder of my time.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. We are waiting for the Senator from Alabama to come and speak. Before he gets here, I will take a moment, so I yield myself such time as I might consume.

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

Mr. GRASSLEY. I am glad the Senator from Vermont pointed out the many compromises that were made to accommodate the President and to accommodate Democrats in the Senate. He did not say this, but there were also a lot of changes made to accommodate Republicans. But he pointed out that we have two issues on which we disagree. That is what the Senator from Vermont said. I do not think that Senators should vote against this bill over two issues which are not central to the concept of bankruptcy reform.

I was disappointed, however, in his comments on the process. He referred to a very unusual process. I confess that it was a very unusual process by

which this bill was conferenced 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 probably be one more 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 in conference.

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 an abortion clinic.

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:

CONGRESSIONAL RESEARCH SERVICE,
LIBRARY OF CONGRESS,
Washington, DC, October 26, 2000.

MEMORANDUM

To: Hon. Charles Grassley.
From: Robin Jeweler, Legislative Attorney, American Law Division.
Subject: Westlaw/LEXIS survey of bankruptcy cases under 11 U.S.C. §523.

This confirms our phone 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, Inc. v. Behn (In re Behn), 242 B.R. 229 (Bankr. W.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'' injury. The court surveyed the extant 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:

''[W]hen 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 court or (so long as there was a full and fair opportunity to litigate the question of volition and violation) in the issuing court) are ipso facto the result of a 'willful and malicious injury.' ''—242 B.R. at 238.

The PRESIDING OFFICER (Mr. L. CHAFEE). 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. I thank 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 who has worked hard and tirelessly to keep this legislation on track despite the many obstacles that it has faced—I have to say phony obstacles at that.

Thanks to the majority leaders's commitment to moving this legislation, we now find ourselves in a position to weed out many of the abuses in the bankruptcy system and also to enhance consumer protection.

I also acknowledge and thank the ranking member of the Senate Judiciary Committee, Senator LEAHY, who has worked with me and Senator GRASSLEY and others to reach agreement on many of the bill's provisions.

Most of all, I commend the original authors of the legislation, Senators GRASSLEY and TORRICELLI, chairman and ranking minority member of the Subcommittee on Administrative Oversight and the Courts, respectively, for their hard work in crafting this much needed legislation and for their unrelenting commitment to making the development and passage of this bill a bipartisan process.

As I have mentioned, my praise also goes to Senator SESSIONS and Senator BIDEN, 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 from 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 that 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 the minority have been made.

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 White House, we took 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 kiters and counterfeiters from collecting attorney's fees in lawsuits that they bring against debt collectors—I might add, multiple lawsuits that really don't make sense. Many others in the majority also made concessions 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.

Let me 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'm 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 and financial 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

county and State agencies which administer the Federal child support program 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 Bills.

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 this 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 National Association of Attorney Generals, and the National Women's Law Center to improve current bankruptcy law with respect to child support and alimony. Currently bankruptcy law is simply not adequate. Frankly, I was outraged to learn of the many ways deadbeat parents were manipulating and abusing the current bankruptcy system in order to get out of paying their domestic support obligations. I am proud of the improvements we are making in this legislation over current law in terms of ensuring that parents meet their child support and other domestic support obligations in bankruptcy.

I have worked tirelessly, as others have—those I have mentioned—provision by provision, both last year and this year, to make this conference report one that dramatically improves the position of children and ex-spouses who are entitled to domestic support. No one who actually looks at what the conference report says can in good conscience say that this bill is not a tremendous improvement for children and families over current law.

This bill for women and children gives child support first priority status, up from seventh in line, meaning they will be paid ahead of the lawyers, if you can imagine that. It is about time. It makes staying current on child support a condition of discharge. It makes debt discharge in bankruptcy conditional upon full payment of past due child support and alimony. It makes domestic support obligations automatically nondischargeable without the cost of litigation. It prevents bankruptcy from holding up child custody, visitation and domestic violence cases. And it helps avoid administrative roadblocks to get kids the support they need.

It is a very important set of changes, without which we are going to be abusing children in the law.

That is not all. The conference report makes more improvements over current law for women and children. This chart shows that. It makes the payment of child support arrears a condition of plan confirmation. It provides better notice and more information for easier child support collection. It provides help in tracking down deadbeats. It allows for claims against a deadbeat parent's properties. It allows for the payment of child support with interest by those with means. And it facilitates wage withholding to collect child support from deadbeat parents. It does all of that.

I am also happy to say that the conference report prevents deadbeats from using 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 to avoiding child support with this legislation.

The automatic stay cannot be used to put a hold on the interception of a deadbeat parent's tax refund to pay support.

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 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 doesn't 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.

All things considered, it is pretty simple. 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 debtors' 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 carts;

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

Equal protection for retirement savings in bankruptcy.

You can't look at this bill and what it means to people in this country without realizing that this is a step forward.

A vote for this legislation is also a vote for families by preventing wealthy people from continuing to abuse the system at the expense of everyone else.

Under the current system, people with high incomes can run up massive debts and then use bankruptcy to get out of honoring them. All of us end up paying for the unscrupulous who abuse the system. In fact, it has been estimated that every American family pays $550 a year in a hidden taxes as a result of these abusers. This legislation helps eliminate this hidden tax by implementing a means test to make wealthy people who can repay their debts honor them.

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. Again, 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 also is 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. Although this reform provision does not go as far as some of us would like, without it we are back to business as usual with no improvement to current law at all.

A vote for this conference report is also a vote for families who work to

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 clearly given the 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 this reform package, family farmers lose out on the special bankruptcy 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 also 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 Senator has studied and sponsored the amendment that made some of the historic 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. I personally compliment 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 true 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, no 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 he is on the floor today. 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. I intend to try to go over the points that they raise fairly and honestly, 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 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, wives and mothers 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 homestead notwithstanding—of a deadbeat 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 incurred by fraud nondischargeable, just like taxes and child support are nondischargeable. Debtors who defraud creditors should not be able to discharge their debts in bankruptcy and not pay them. They only ought to be able to discharge the 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 at 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 representatives 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 every 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 we 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 distributions 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 into Chapter 13 if they can repay 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 file 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. In effect, you 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 in a higher level than they have ever been before.

The letter further says:

Under current law, child support and alimony share a protected post-bankruptcy position with only two other recurrent collectors of debt—taxes and student loans. The bill would allow credit card debt and other consumer credit to share that position, thus elbowing aside women trying to collect on their own behalf.

That is not true. I can understand why some of our Senators are concerned about the bill after they read this letter. It has a bunch of professors' names on it. They think it is true—but it is not true. The fact is, the bill allows only consumer debt that was incurred by fraud to be nondischargeable, which is fundamentally the law today. Even so, only alimony and child support claimants will be able to levee on any of these assets. No one else can levee or get ahead of a parent or a child to claim these exempt assets. Thus, mothers will not have to compete with the IRS, the student loan companies, credit card companies, or anyone else, to attach exempt assets after bankruptcy.

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 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 subjected 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 want to wrap up. 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 is because they 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 don't 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, three or four times, and a President Reagan or his 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 chairman.

Mr. President, what is the time 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 in America 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. The perfect 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. Chairman 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 question for the chairman of 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 this legislation?

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 Courts, bankruptcies 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 explosion in bankruptcy comes at a time of unprecedented prosperity, with low unemployment and high wages. Unemployment is at an all-time low. Consumer confidence has been high and the Dow Jones Industrial Average at one point rose above the 10,000 mark. Thus, the high rate of bankruptcy filings cannot reasonably be attributed to a slow economy.

This state of crisis has a significant negative impact on the American economy. According to the Department of Justice, creditors lose 3.22 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 bankruptcies 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 personal bankruptcy filings is at least partly attributable to the decreased moral stigma associated with declaring bankruptcy. See Testimony of Professor Todd Zywicki, Joint Hearing of the Subcommittee on Administrative Oversight and the Courts and the Subcommittee on Commercial and Administrative Law, March 11, 1999; Testimony of Tahira Hira, 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 Kenneth R. Crone, Subcommittee on Administrative Oversight and the Courts Hearing, ''The Increase in Personal Bankruptcy and the Crisis in Consumer Credit,'' (April 11, 1997); Lee Flint, ''Bankruptcy Policy: Toward a Moral Justification for Financial Rehabilitation of Consumer Debt,'' 48 Wash. & Lee L. Rev. 515 (1991); David Gross and Nicholas Souleses, ''Explaining the Increase in Bankruptcy and Delinquency: Stigma Versus Risk-Competition'' (Preliminary, 1998); F.H. Buckley and Margaret F. Brinig, ''The Bankruptcy Puzzle,'' 27 J. Legal Stud. (1998).

In the view of many in Congress, a decreased moral stigma associated with bankruptcy means that filing for bankruptcy is no longer viewed as a last resort reserved for financially troubled Americans who have no other option but to seek debt forgiveness. As Americans become accustomed to high levels of consumer bankruptcy, it is only natural that declaring bankruptcy has lost much of the shame previously associated with it. Individuals who would have struggled to meet

their financial obligations in the past are filing bankruptcy today in record numbers. See Judge Edith H. Jones and Todd J. Zywicki, ''It's Time for Means Testing,'' 1999 B.Y.U. L. Rev. 177. For example, recent studies suggest that almost half of filers learned about their option to file for bankruptcy from friends or family. See, e.g., Vern McKinley, ''Ballooning Bankruptcies: Issuing Blame for the Explosive Growth,'' Regulation, Fall 1997, at 38. At the same time, there have been strong expressions of concern from the Federal 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 embodied in HR 2415 used S. 625 as 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 his or her general nonpriority unsecured debts (but at least $6,000), or $10,000. This test requires those with greater debts to pay proportionately more than those with smaller debts. For example, the cases of debtors whose unsecured, nonpriority debts are over $100,000 will be dismissed under the means test (absent ''special circumstances'' discussed later) if their projected ability to pay over 5 years is over $10,000, even though that is considerably less than 25% of their debt. 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 $6,000, permitting debtors in this category to remain in chapter 7 even though they have the ability to repay a percentage of their unsecured, nonpriority debts considerably greater than 25%. The debtor can rebut this presumption only by demonstrating ''special circumstances'' that would clearly demonstrate that the bankrupt in fact does not have a meaningful ability to repay his or her debts. It is not intended that the ''special circumstances'' category will be interpreted broadly to allow bankrupts to avoid repayment of financial obligations for reasons unrelated to finances, income or expenses. Therefore, the presumption of abuse may only be rebutted, first on a demonstration that the increases in spending or decreases in income arise directly from ''special circumstances'' and are justified by those circumstances, second, that they are reasonable and necessary, and, third, that there is no reasonable alternative to the expense or income adjustment. For example, if a loss of income occurred because a debtor voluntarily elected to waive a bequest or otherwise reduce income, there would be a reasonable alternative to the reduction because the debtor could have not elected, even though there may have been good reasons to do so. Moreover, the kind of ''special circumstances'' Congress intended would not be present to justify the adjustment, nor would it be reasonable and necessary. Therefore, the additional adjustment to income would not be allowed. Proof that the debtor permitted the reduction in an attempt to avoid payment of creditors or other inappropriate intent is not necessary, and a significant burden is on the debtor to justify the adjustment.

On the other hand, if the debtor was a well paid medical doctor who prior to bankruptcy changed from a demanding private practice requiring 80 hours a week to a significantly less well-paid research staff position with regular nine to five hours in order to have more time to assist in the care of a seriously disabled child, there would clearly be ''special circumstances'' which justified the adjustment, the income reduction would be reasonable and necessary, and the special relationship of parent and child would clearly lead to the conclusion that there was no reasonable alternative to the adjustment.

GENERAL OVERVIEW OF THE CURRENT CONSUMER BANKRUPTCY SYSTEM

Under current law, individuals considering bankruptcy often proceed under Chapter 7, where the bankrupt will surrender all assets which do not qualify for an exemption to a bankruptcy trustee. The bankruptcy trustee then sells the bankrupt's property and distributes the proceeds to the creditors. Any deficiency which remains after the sale of these assets is simply erased (or ''discharged''), and the bankrupt cannot be required to repay debts which have been erased during bankruptcy. Chapter 7, often referred to as ''straight bankruptcy,'' is the oldest and most commonly used type of bankruptcy proceeding.

Individuals may also declare bankruptcy under Chapter 13 of the Bankruptcy Code. Chapter 13 provides for the development of a repayment plan that allows a debtor to repay some portion of his or her debts. At the end of the repayment period, the unpaid portion of debt is erased, and a debtor cannot be required to repay the unpaid portion of the discharged debt. Unlike Chapter 7, the purpose of Chapter 13 is to rehabilitate financially-troubled consumers by using future earnings to repay debts in exchange for a discharge of the unpaid portions of those debts. Two other chapters are also available to individual debtors, but are only rarely used by consumers. Chapter 11, usually used by those with significant assets, permits a debtor to negotiate a plan of reorganization of the debtor's financial affairs with creditors, and in some instances force that plan or unwilling creditors. A discharge is available when the plan is confirmed. Chapter 12 is available for family farmers.

EARLIER REFORM EFFORTS TO REDUCE CONSUMER BANKRUPTCY ABUSE

The idea of requiring bankrupts to repay their debts when they have the ability to do so is not new. This topic has been the subject of many proposed amendments, from the early 1930s to the current Congress. S. 625 is merely an extension of this longstanding effort to ensure that bankruptcy is reserved for those truly in need of debt forgiveness. See Oversight Hearing on Personal Bankruptcy, Committee on the Judiciary, Subcommittee on Monopolies and Commercial Law, 97th Cong. 2nd Sess., (1982).

The general structure of the present federal Bankruptcy Code is the result of the Bankruptcy Reform Act of 1978, Pub. L. 95–598. The 1978 Act was the first major overhaul and attempt to update comprehensively the bankruptcy law since passage of the Chandler Act in 1938. 52 Stat. 840 (1938). Prior to the Chandler Act, individuals in serious financial trouble usually had no choice but to file for ''straight bankruptcy'' under Chapter VII, a proceeding similar to present Chapter 7 under the Bankruptcy Code. However, the Chandler Act provided small debtors a new, 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 would receive a discharge of any unpaid balances of his debts. See generally, Dvoret, ''Federal Legislation, Bankruptcy Under the Chandler Act: Background,'' 27 Geo. L.J. 194 (1938).

The debate over Chapter XIII occurred years earlier in joint hearings before the House and 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 developed a ''repayment option'' which was the model for Chapter XIII. See Weinstein, The Bankruptcy Law of 1938 (1938).

In 1932, Congress conducted hearings on S. 3866. 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 pre-bankruptcy debts in installments. Section 75, with certain modifications, eventually became Chapter XIII, enacted in 1938 as part of the Chandler Act.

Since the 1938 amendments, there have been several proposals to limit bankruptcy relief to those who lack genuine repayment capacity. In the 1960s, Congress considered several such 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. 1057 & H.R. 5771, 90th Cong., 1st Sess. (1967). Under these proposals, an individual debtor seeking relief under the liquidation provisions of the bankruptcy laws would be denied relief if the court concluded that he or she 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 indicated that Chapter 7 resembled a special interest tax loophole, which the wealthy could use to avoid paying their fair share. Senator Gore, Sr. also commented on the moral consequences of a lax bankruptcy system:

''I realize that we cannot legislate morals, but we, as 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 sufficiently unpleasant to persuade him at least to investigate the way of the honest man.''—Cong. Rec. 905, January 19, 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 in 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 proposal in the 97th Congress, so these measure 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 in 1984 to allow judges to dismiss Chapter 7 cases if granting relief would constitute a ''substantial abuse'' of the Bankruptcy Code. Pub. Law 105–165. The focus of the effort was to require bankrupts 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 a judge that granting relief in a particular case would result in a ''substantial abuse.''

Despite Congress' intent that section 707(b) would control 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 has been the ingrained point of 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 taken a ''totality of the circumstances'' approach to determining whether there is substantial abuse. *In re Green*, 934 F.2d 568 (4th Cir. 1991)(a ''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 doing so in effect. See *In re Adams*, 209 B.R. 874 (Bankr. M.D. Tenn. 1997)(Paine, J.)(honest debtor with ability to repay cannot be dismissed from chapter 7); *In re Braley*, 103 B.R. 758 (Bankr. E.D. Va. 1989)(Bonney, J.). Other Circuit Courts have disagreed and insisted that debtors with ability to pay must do so. *In re Kelley*, 841 F.2d 908 (9th Cir. 1988); *In re Walton*, 866 F. 2d 981 (8th Cir. 1989); *United States Trustee* v. *Harris*, 960 F.2d 74 (8th Cir. 1992); *In re Koch*, 109 F. 3d 1285 (8th Cir. 1997); *In re Lamanna*, 153 F. 3d 1 (1st Cir. 1998). A few bankruptcy courts have followed the direction of these Circuit Courts, *In re Shelley*, 231 B.R. 317 (Bankr. D. Neb. 1999)(Minahan, Jr. J.); *In re Cox*, 2000 Bankr. Lexis 571 (Bankr. N.D. Fla., May 16, 2000).

It was this evidence which led Congress to conclude that the complete overhaul of section 707(b) was necessary, with clear, nondiscretionary requirements imposed on the bankruptcy court to reject the notion that debtors were entitled to a discharge as a matter of right without regard to their ability to pay and to assure that in practice those with ability to pay would not be entitled to chapter 7 relief. In the 105th Congress, the House passed HR 3150 and the Senate passed S. 1301, two bills which would have inserted means-testing in section 707(b). A Conference Committee reconciled the two bills and produced a Conference Report (H. Rep. 105–794) which passed the House at the end of the 105th Congress but was never voted on in the Senate. Senate Report 105–253 provides the legislative history of S. 1301. House Report 105–540 provides the legislative History of HR 3150.

THE CURRENT LEGISLATION

HR 2415 is the culmination of these efforts and is intended to both remove unequivocally the bankruptcy court's discretion with regard to whether a debtor with ability to pay should be dismissed from chapter 7, and to restrict as much as possible reliance upon judicial discretion to determine the debtor's ability to pay. Limited judicial discretion remains to deal with the hardship case, but that discretion is not to be abused by lax enforcement of the standards in HR 2415.

Section 102 of HR 2415 provides that a Chapter 7 case will be presumed to be an ''abuse'' of Chapter 7 if the debtor has the ability to repay, in a 5–year repayment plan, 25% of the debtor's nonpriority unsecured claims (but not less than $6,000), or $10,000, whichever is less. For purposes of determining the debtor's repayment ability, section 102 provides that the debtor's monthly expenses shall be applicable monthly expenses under standards issued by the Internal Revenue Service (''IRS'') for the area in which the debtor resides. The IRS standards applicable under section 102 are the IRS ''National Standards,'' ''Local Standards,'' and certain categories of ''Other Necessary Expenses'' which are specifically listed in the Standards. These Internal Revenue Service standards are currently used to determine appropriate living expenses for taxpayers who are required to repay delinquent taxes. These standards have been developed by the Treasury Department to assist the Department in the collection of taxes and, of course, can be revised from time to time, as needed. These expense categories allow expenses for housing, food, transportation, and, for purposes of the means test, certain specified ''other necessary expenses.''

In order to provide flexibility in appropriate cases of hardship, Section 102 also provides that in some cases where the presumption applies the debtor may be able to demonstrate ''special circumstances'' that ''justify'' additional expenses or an adjustment to the debtor's income for which there is no reasonable alternative. In addition, the debtor must demonstrate that the adjustments are reasonable and necessary and there is no reasonable alternative to the expense or income adjustment. If the debtor can make this showing, the presumption is rebutted. It is not intended that the ''special circumstances'' test will allow the presumption of abuse to be rebutted by relying on factors other than ability to pay.

The presumption of abuse arises due to a financial calculation assessing a Chapter 7 debtor's ability to pay. Thus, the presumption of abuse under Section 707(b) may only 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, must assume the cost of the debts discharged by the debtors seeking the preferential treatment. It also is 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 must pay the cost when others discharge debts in bankruptcy, it is essential that the ''special circumstances'' test establish a significant, meaningful threshold which a debtor must satisfy in order to 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 for such adjustments.

Under this bankruptcy reform package, the Office of United States Trustee or bankruptcy administrator is required to file a motion to dismiss or convert 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 presumption of abuse can be rebutted, then it must file an explanatory statement with the bankruptcy court detailing why a motion to dismiss or convert is not appropriate. If private trustees or creditors disagree, they can commence a motion under 707(b).

Importantly, creditors are now explicitly given the power to bring 707(b) motions before the bankruptcy court, although creditors' and private trustees' motions are restricted to cases in which the debtor's current monthly income exceeds the applicable 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 bankruptcy attorneys who recklessly steer individuals with repayment capacity to 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). Thus, contrary to the assertions of some, there are real and meaningful reasons why creditors will not improperly use their right to file 707(b) motions.

The new section 707(b) also provides that in addition to the means test, Chapter 7 debtors' cases may be dismissed if the filing is not in good faith or the ''totality of the circumstances'' indicate that granting relief under Chapter 7 would constitute abuse. No inference should be drawn, however that by referencing the ''totality of the circumstances'' Congress intended to approve the result in *In re Green*, 934 F.2d 568 (4th Cir. 1991) or similar cases. Such cases are rejected by the means test reforms and the change in the standard from ''substantial abuse'' to ''abuse'' in HR 2415. However, situations in which courts dismiss debtors from Chapter 7 today clearly continue to be grounds for dismissal under HR 2415, including such cases as *In re Lamanna*, 153 F. 3d 1 (1st Cir. 1998). In addition, since the standard for dismissal is revised to require ''abuse'' rather than ''substantial abuse'', the courts are clearly given additional discretion to control abusive use of chapter 7 when that is appropriate.

Congress thus intends that the new section 707(b) provide a tightly-focused mechanism for identifying bankrupts who have repayment capacity and sorting them out of Chapter 7, as well as dealing with other forms of abuse. At the same time, the new section 707(b) means test contains procedural safeguards which ensure that any special financial circumstances of a debtor will be appropriately considered before he or she is dismissed from bankruptcy or converted to another chapter.

ENHANCED CONSUMER PROTECTIONS AND CREDIT CARD DISCLOSURES

Importantly, HR 2415 retains Title XIX of the Senate bill. This title amends the Truth in Lending Act (''TILA'') to require significant new minimum payment disclosures in connection with open-end credit plans. Among other things, HR 2415 requires credit card companies, on the front of each monthly statement, to provide:

—a statement that making only minimum payments will increase the interest costs and the time it takes to repay the account balance;

—an example showing the length of time it would take to repay a specified amount if making minimum payments only; and

—a toll-free telephone number which cardholders could call to receive additional repayment information.

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 inquiries through the toll-free telephone number. Finally, the Federal Reserve Board is authorized to study the types of information available to consumers regarding factors qualifying potential borrowers for credit, repayment requirements, and the consequences of default, including information related to minimum payments. The study would include consideration of the extent to which the availability of low minimum payment options is a cause of consumers experiencing financial difficulty.

HR 2415 also amends TILA to require certain applications or solicitations for credit cards that include an introductory rate of less than one year, and all promotional materials accompanying such an application or solicitation, 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 the 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 policies, terms, and fee amounts applicable to 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 (or, if the card issuer contractually establishes a different date, the earliest date on which a 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 extension of credit may exceed the fair market value of the dwelling. Under the amendment, a creditor must disclose at the time the creditor distributes 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 cases filed.

In addition to these new credit card disclosures, HR 2415 contains several important reforms which will protect individuals and help them better understand their 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 bankruptcy reform package retains the Senate-passed amendments related to the reaffirmation agreements, with slight changes affecting only credit union debt.

HR 2415 also requires the Attorney General to designate prosecutors and investigators to enforce current criminal statutes designed to protect debtors in bankruptcy court from deceptive or coercive collection practices as well as enforcing those same statutes against debtors in appropriate cases. By committing substantial new resources to fighting abusive creditor and debtor 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 declaring bankruptcy and the creditor 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 G. 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 would be subject to a tougher standard 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 system involve individuals who repeatedly file for bankruptcy with the sole intention of using the automatic stay (i.e., a court injunction which arises whenever a bankruptcy case is filed). National Bankruptcy Rev. Comm. Rep., ''Bankruptcy the Next Twenty Years,'' October 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 random audits of bankruptcy petitions to verify the accuracy of information contained in bankruptcy petitions, and makes debtor attorney's 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. Of course, such laxity fosters an environment in which the overall financial condition of the bankrupt is likely to be inaccurate, with the result that creditors may receive less than they could 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.

ENHANCED PROTECTIONS FOR CHILD SUPPORT

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 orders. And in about half of those 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-passed version of bankruptcy reform (S. 625), including provisions closing various serious loopholes which allowed those who owed child support, alimony and in some instances other marital dissolution obligations to use the bankruptcy laws to delay and sometimes defeat payment of those obligations. HR 2415 also contains a new provision which requires bankruptcy trustees to notify child support creditors of their right to use state child support enforcement agencies to collect outstanding amounts due. In addition, HR 2415 permits general creditors to disclose the last known billing address of a debtor who owes child support or alimony to child support claimants. Taken together, these changes place child support and alimony claimants in a far better position under HR 2415 than under current law.

BUSINESS PROVISIONS

HR 2415 contains the small business reform measures from the Senate passed version of HR 833. Although business bankruptcy filings are low at this time, several changes to Chapter 11 are warranted. HR 2415 contains provisions intended to speed up Chapter 11 for small business debtors, enact recommendations of the United Nations Commission on Internal 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 non-residential real property lease has filed for Chapter 11 relief, it has 60 days to decide whether to accept or reject its lease, with extensions for cause. Unfortunately, bankruptcy judges have allowed the exception for cause to swallow the rule. Today, bankruptcy judges routinely extend the time within which retail debtors must assume or reject the lease for years, including until confirmation of the plan. Moreover, while these tenant-debtors are supposed to pay their rent while the proceedings continue, they do not always do so and bankruptcy judges have not always compelled them to do so.

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 current on post-petition rents. It is hoped that the provisions contained in the current bankruptcy reform agreement will mitigate the unfairness confronting landlords of nonresidential leases. The House bill provided 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 confirmation of a plan or a date that is no more than 120 days after the date of the order for relief, with an additional 120 days if granted by the court for cause. The court, under the House bill, could then grant an extension beyond 240 days after the date of the order for relief ''only

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 of a plan or the date which is 120 days after the date of the order for relief. No additional extension is permitted except ''upon motion of the lessor.'' Both bills, 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, with 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 can 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. Importantly, HR 2415 clearly retains 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—either in the form of a lessor's motion, or in the form of a prior written consent to a trustee's motion, to extend the time. Moreover, a lessor's written consent to one extension beyond the 210 period does not constitute such consent for a subsequent extension: each 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 assuring that section 365(f) does not override any part 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), which is to be given full effect. Contrary legal interpretations in case law are overturned.

SECTION BY SECTION EXPLANATION

TITLE I—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's case meets certain standards. Present law already 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 also creates a presumption against dismissal and prevents anyone other than the court or the United States Trustee from raising the issue. 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 credit 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 from chapter 7 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 improper use of chapter 7.

The means test.—Section 102 establishes a means test enforced by required dismissal from chapter 7. To apply the means test, the debtor must complete revised schedules of income and expense similar to those now required, but revised to show net income determined in a particular way and a calculation of how much the debtor can afford to pay under the new means test. The means test should for the most part be self-enforcing. It should be infrequent that a debtor will fill out the schedule of income and expenses which show that 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 by the bankruptcy courts and others whenever fraudulent completion of the schedules is apparent.

The means test initially focuses upon the debtor's net income determined 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 monthly expenses as specified under the National Standards and Local Standards issued by the Internal Revenue Service for the area in which the debtor resides, and the debtor's actual monthly expenses for the categories specified as Other Necessary Expenses under those same standards. The categories specified as Other Necessary Expenses means only those categories of expense specifically listed in the Internal Revenue Service Manual at 5323.423(1), (3) and (4).

It is not intended that additional expenses will be deductible except as otherwise specified in section 707(b). For example, an additional allowance is available if demonstrated to be reasonable and necessary up to 5% of the monthly allowances for food and clothing categories as specified by the National Standards. Moreover, actual monthly expense allowances are specified for certain reasonably necessary family violence expenses and for reasonable and necessary continued expenses of supporting an elderly, chronically ill or disabled family member. The debtor's monthly expenses for priority debts and secured debts (including the averaged cost of curing arrearages with respect to secured debts as permitted in chapter 13) are also deductible. They are determined based on the average of those expenses over a 60 month period.

Also allowed are deductions for actual average monthly expenses that are entitled to administrative expense priority under the Bankruptcy Code, but never more than 10% of projected plan payments, as determined under a schedule to be issued from time to time as necessary by the Executive Office of United States Trustees. This schedule is to be based on the standing chapter 13 trustee's fee as allowed from time to time in each district and should not include other amounts. Other fee schedules may be provided for cases when a debtor qualifies for chapter 12 or would have to use chapter 11 because excluded from chapter 13. In applying the 10% cap, only projected plan payments which are reasonable and necessary should be considered. Generally, plan payments to pay secured debt should be excluded from projected plan payments when calculating administrative expenses, unless there is a compelling reason for concluding that payment of the secured debt would be included in the debtor's plan. Although the administrative expenses may be otherwise entitled to priority, it is intended that they be accounted for under this specific administrative expense provision and not also allowed under the provision for priority expenses.

Actual expenses for private elementary or secondary private school tuition not exceeding $1,500 per child per year are also deductible.

Once the monthly expense allowances are determined, they are then subtracted from current total monthly income to obtain the debtor's net monthly income. Net income is then multiplied by 60. If the result is greater than the lesser of a threshold amount of (1) $10,000 or (2) 25% of the nonpriority unsecured claims in the debtor's case but not less than $6,000, there is a presumption that the debtor's case must be dismissed from chapter 7.

This presumption may be rebutted if there are special circumstances that justify adjustments to income or expenses for which there is no reasonable alternative. To claim such additional expense or income adjustment, 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 to the resulting net income. The presumption 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 current monthly income is less than the appropriate state median income as determined by current statistical information supplied by the Bureau of the Census, then only the judge, United States trustee, 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, in that for such debtors, neither the judge, the United States Trustee, the bankruptcy administrator, a private trustee nor a party in interest can bring a motion to dismiss under the presumed abuse provisions of the means test. It is expected that the Bureau of the Census will promptly make available state median income information by family size for households of 1–4 members based upon information it collects. For these purposes, a family or household consists of the debtor and the debtor's dependents, and in a joint case, the debtor's spouse. The median income for families larger than 4 persons is determined by taking the monthly median income for a family of 4 and adding $525 to that figure for each additional family member.

Under subsection (e) of section 102 of HR 2415, creditors are permitted to report information concerning a debtor's failure to satisfy the means test or other abuse to the United States Trustee, bankruptcy administrator, case trustee or judge assigned the

case, and participate with them in the preparation and presentation of a motion to dismiss, as in *Kornfield* v. *Schwartz*, 164 F. 3d 778 (2d Cir. 1999). Contacts with the judge, however, cannot be ex parte.

The bill provides that the Internal Revenue Service standards relied upon for the means test will be studied by the Executive Office of United States Trustees, with a report to the respective Judiciary 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 over median income, using 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.

Present 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 applied to pay unsecured creditors, and (2) that for debtors whose current monthly income is in excess of the applicable median income level, their disposable income be determined using basic means test concepts which define current monthly income (section 101(10A)), and allowable expenses (section 707(b)(2)(A)(ii), (iii) and (B)).

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 expended for the maintenance and support of the debtor or a dependent of the debtor are deducted. The deductions 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 should be accounted for as required under 707(b)(2)(A)(iii), and payments for secured debt paid under the plan should be what is provided in the plan as long as it is not more than the amount permitted under 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 purposes of setting the amount which must be paid to both nonpriority and priority unsecured creditors. The means test only determines the projected amount available to pay nonpriority unsecured creditors.

The provision also provides for the adjustment of the determination of disposable income if the debtor has obligations to pay child support, foster care payments or disability payments for a dependent child, and for certain continuing charitable contributions as allowed under present law. As with the means test, adjustments are also permitted to income or expenses based on the ''special circumstances'' provisions of the means test.

Once net monthly income is determined, it is then multiplied by the applicable commitment 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 confirmable.

Administration of the means test.—Several important additional provisions assist in the efficient administration of the means test. Enforcement 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 bankruptcy administrator will be involved in determining whether debtors have accurately disclosed their income and expenses, and in preliminarily reviewing debtor's claims that ''special circumstances'' exist which justify adjustments to otherwise allowed monthly income and expense amounts. Case trustees, judges and creditors are also entitled to investigate means test issues and raise them by motions to dismiss, or by bringing them to the attention of others involved in the enforcement 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 presumption in favor of dismissal applies. That will be determinable on the face of the schedules, since debtors are required to do the necessary calculations of the means test threshold. If the presumptions arises, the court is to notify creditors within ten days after the case is filed that this is a presumption case.

Next, the United States trustee or bankruptcy administrator is required to review the debtor's filing to evaluate whether there should be a motion to dismiss filed. The United Sates Trustee or bankruptcy administrator is to file with the court a statement whether the debtor's case would or would not be presumed to be an abuse under the means test of section 707(b) not later than 10 days after the date of the first meeting of creditors. Moreover, if the debtor's current monthly income is over 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 statement 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 ''mini screen'' does not change the substantive requirements of the means test. Its application is limited and is intended only to permit the United States trustee or bankruptcy 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, further administration of the means test is not required. Otherwise, the full means test calculation will be made to determine whether dismissal or conversion is appropriate. In other cases, a similar calculation can be made since the short-hand method of calculation is one 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 section 707(b) motions. Certain small businesses with less than 25 employees are exempted from this requirement. In addition, the accuracy of the schedules the debtor must file with the petition, and particularly the statements of assets, debts and income, expenses and means test calculations, is enforced by a requirement that debtor's counsel have no knowledge that the schedules are incorrect after appropriate inquiry. An attorney's inquiry is expected to be more than a cursory acceptance of the debtor's word and must be sufficient to verify or disprove any knowledge, information or belief which would lead a diligent attorney to doubt the accuracy of the schedules.

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 ''substantial abuse'' 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 circumstances. The ''bad faith'' and ''totality of the circumstances'' of the debtor's situation is adopted as an appropriate standard. It is intended that all forms of inappropriate and abusive debtor use of chapter 7 will be covered by this standard, whether because of the debtor's conduct or the debtor's ability to pay. If a debtor's case would be dismissed today for ''substantial abuse'' as in *In re Lamanna*, 153 F. 3d 1 (1st Cir. 1998), it is intended that the case should be subject to dismissal under H.R. 2415. Cases which have decided that a debtor's ability to pay should not be considered when determining abuse, or can be outweighed if the debtor is otherwise acting in good faith, are intended to be overruled. In dealing with ability to pay cases which are abusive, the presumption of abuse and the safe harbor protecting debtors from application of the presumption will not be relevant.

In addition, the standard of abusive conduct is specifically intended to include consideration of whether a chapter 7 filing is being used without justification to secure rejection 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 receive before filing a bankruptcy petition. The content and 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, review the benefits and costs of each chapter, the services that are available from a nonprofit credit counseling agency, and a disclosure of the debtor's responsibilities in completing a petition with respect to the accuracy 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 alternatives for debt adjustment offered by the Bankruptcy Code, the debtor's responsibilities 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 materials to educate individual debtors in personal financial management. The materials are to be developed after consultation with experts. The materials are to be tested in 6 judicial districts over 18 months. At the end of the test, a report on the results is to be provided to the Speaker of the House and the President pro tem of the Senate.

Section 106. Credit counseling

Credit counseling is an alternative to filing bankruptcy for some debtors. It is intended that debtors be fully informed before 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 undergo credit counseling, but they must be made aware that such alternatives to bankruptcy do exist. The case of a debtor must be dismissed if it is filed without meeting that requirement unless the debtor can demonstrate exigent circumstances which temporarily excuse satisfying the requirement. It is expected that when courts do not enforce this requirement sua sponte, the United States trustee or bankruptcy administrator will bring the matter to the court's attention by appropriate motion, but any trustee or other party in interest could do so.

Concern has been expressed that the bankruptcy relief debtors obtain under present law stops at the discharge, failing to educate debtors about basic budget management so they can avoid financial difficulties in the future. Under this section, individual debtors will be required to attend a course of instruction in personal financial management approved by the United States trustee or bankruptcy administrator for the district in which the petition is filed. It is intended that the United States trustees and bankruptcy administrators will strongly promote the development of effective courses, both through the formal approval process and informally. If the debtor fails to attend a required course, the debtor will not be able to obtain a discharge in either chapter 7 or 13. Provisions similar to those applicable to credit counseling allow the United States trustee or bankruptcy administrator to excuse all filers in a district from the requirement if the trustee or administrator finds that there are not enough providers of the courses in the district. Congress intends that this exemption will not be lightly imposed, and that the trustee or administrator will use every reasonable effort to see that there are adequate credit counseling and courses of instruction available.

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. This section sets standards which the United States trustee or bankruptcy administrator must apply in deciding whether to approve a particular agency or course. Prior to approval, the qualifications of the agency or course are to be carefully reviewed by the United States trustee or bankruptcy administrator. It is intended that they will require applicants to provide adequate information about qualifications and programs for this purpose. Agencies and courses will be initially approved only for a probationary period of no more than 6 months. After that, their qualifications and performance will be reviewed each year by the United States Trustee or bankruptcy administrator. Review of the United States trustee or bankruptcy administrator's decision to renew approval for the first full year term after the probationary period and every 2 years thereafter is available in the United States district court at the request of any party in interest. In addition, at any time the district court sitting as a bankruptcy court can review and disapprove an agency or course of instruction.

Section 107. Schedule of reasonable and necessary expenses

This provision directs the Director of the Executive Office of United States Trustees to issue schedules of reasonable and necessary administrative expenses for each judicial district not later than 180 days after enactment. It is intended that the administrative expenses for these purposes include only the chapter 13 trustee's fee as allowed in the district from time to time, and that the schedules will be revised as necessary to reflect changes in that fee. Since the trustee's fee is determined as a percentage of payments made to creditors, the Director may determine that the appropriate way to state the schedule is by providing percentage amounts and a method for determining projected plan payments. These will generally just be unsecured debts unless there is a compelling reason to conclude otherwise.

TITLE II—ENHANCED CONSUMER PROTECTIONS

Section 201. Promotion of alternate dispute resolution

This section permits the court, on motion of the debtor and after a hearing, to reduce a claim based in whole on unsecured consumer debts by not more than 20% if (1) the claim was filed by a creditor who unreasonably refused to negotiate a reasonable alternative repayment system proposed by an approved credit counseling agency acting on behalf of the debtor; (2) the debtor's offer was made at least 60 days before the filing of the bankruptcy petition and provided for payment of at least 60% of the debt over the repayment period of the loan, or a reasonable extension thereof; and (3) no part of the debt under the alternative repayment schedule is nondischargeable. An approved credit counseling agency means one approved under the credit counseling provisions of this Act.

This section applies only to claims which are based on debts which are wholly unsecured consumer debts. The provision is also carefully drafted so as only to 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, although it is expected that negotiations could result in reasonable alternative plans being adopted. Furthermore, the debtor's proposal must provide for at least 60% repayment to the creditor. The debtor's proposal should not be considered reasonable if it is unlikely the debtor will be able to make the repayments as proposed.

Section 202. Effect of discharge

A creditor's willful failure to credit plan payments in the manner required by the plan is a violation of the post-discharge injunction under section 524(a)(2) if the creditor's acts to collect and failure to credit payments in the manner required by the plan causes material injury to the debtor. However, if a plan has been dismissed, is in default, or the creditor has not received payments required under the plan, the failure to credit the payments is not a violation of the injunction.

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 foreclosure or other enforcement proceeding 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 would be a violation of the post-discharge injunction.

Section 203. Discouraging abuse of reaffirmation practices

This provision amends section 524(c)(2) of the Code to provide a clearly understandable disclosure form to explain the debtor's rights and obligations in the reaffirmation process. 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. It is expected that 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 debtors who do reaffirm will be better informed about what they are doing. The provision is also intended to create a nationwide method of processing reaffirmations so that companies who must administer reaffirmations in several areas are freed from special requirements in particular localities.

The statutory form, in addition to clearly explaining to debtors what they are doing 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 and expenses, including other reaffirmed debts. If debtors cannot complete the form showing they have ability to pay the reaffirmed amount, there is a presumption of undue hardship for a period of 60 days, and the reaffirmation must be submitted for review by the court even when the debtor's attorney certifies that the 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 expense 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.

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 faith 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 construed as a violation when those errors occur in good faith. Under present law, violations of the reaffirmation requirements are enforceable only as violations of the post-discharge injunction. Enforcement of the injunction is an equitable proceeding in which the equities are weighed, courts take into account the good faith of the creditor. Under this section, creditors may accept payments from debtors before and after the filing of a reaffirmation agreement, and may accept and retain payments under a reaffirmation agreement which the creditor believes in good faith to be effective, even though subsequently it is determined that the reaffirmation agreement is not in fact effective. For example, if the creditor and debtor agree that the debtor is responsible to file the reaffirmation agreement, and the debtor does not do so, the creditor should be able to accept and retain payments from the debtor unless it knew the debtor had not in fact filed the agreement with the court. Likewise, if a debtor indicates that he or she has ability to pay in Part D, a creditor can rely upon that statement. Moreover, the requirements of subsection (c)(2) and those added by this section are satisfied if the disclosures required under those provisions are given in good faith. For the purposes of this section, ''good faith'' is

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 requirements 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 address violations of criminal law relating to bankruptcy crimes when they involve abusive reaffirmations or materially fraudulent statements on schedules.

Subtitle B—Priority Child Support

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. However, the treatment of domestic support in bankruptcy had developed somewhat haphazardly over time as new issues and concerns have been raised and addressed piecemeal. Moreover, the Code had lagged behind in dealing with the changing legal status of payments made to governmental entities for such obligations, specifically whether such payments were to be paid directly to support the child or family of the debtor, or were to be retained by the government because the parent or child was receiving public assistance.

Under current nonbankruptcy law the status of a support obligation may change rapidly as the recipient moves on or off government assistance even though the underlying responsibility to support the child or family is unaltered. Thus, there is little reason for payments of domestic support obligations to governmental entities not to be treated equally with payments of such obligations directly to a parent or child, or for a debtor to have a lesser duty to satisfy those debts.

Prior to HR 2415 the principle of favored treatment for all domestic support obligations had only been partially recognized in the Code, and there were a 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 bankruptcy process should 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 nondischargeable debt to the greatest extent possible within the context of a bankruptcy case 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. Conspicuously, debts owed to the government and based upon the payment of government funds for the maintenance and support of the children or family of the debtor were not given the advantages which the Code affords to debts payable directly to the family of the debtor. Specifically, support debts assigned or owed to the government on the petition date have not been entitled to any priority under section 507(a), have not been protected from loss of their secured status under section 522(f)(1)(A), and have been recoverable by the trustee as a preference under section 547(c)(7)(A). Conversely, support debts which were not assigned on the petition date were entitled to superior treatment as provided in sections 507(a)(7), 522(f)(1)(A), and 547(c)(7)(A).

Because support debts which are assigned to a governmental entity when a petition is filed may become unassigned during the course of a Chapter 12 or 13 bankruptcy plan, and vice versa, the disparate treatment of these debts in the Bankruptcy Code makes little sense. A family which is in need of support after assistance terminates certainly should not lose the advantages the Code gives unassigned support simply because the support was assigned on the petition date. The contrary was also true. Governmental entities under former law received the advantages given to the creditor of unassigned support when the support became assigned during bankruptcy. An overriding purpose of Subtitle B is to eliminate substantially such distinctions in the treatment of support obligations.

In addition to the disparate treatment of support debts found in the Code, the courts also drew distinctions with respect to the dischargeability of support debts owed to the government and support debts owed to the parent or child of the debtor. These distinctions were often arcane and technical. To illustrate, if the debts were owed to the government and based upon the payment of public assistance, the dischargeability of such debts turned on the irrelevant circumstance of when the aid was paid. As a result, judgment debts for support based upon the payment of public assistance prior to the date a petition for on-going support was entered could 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 for the support and maintenance of a child, but which debts were never owed to the child or family of the debtor directly, could be discharged. In particular the following were found to be dischargeable: debts incurred for the costs of maintenance of a child in a juvenile detention facility; debts incurred to support a child who was made a ward of the state; debts for support which had not been reduced to a judgment at the time the bankruptcy petition was filed; and debts for child support and maintenance resulting from the placement of the debtor's children in shelter care facilities. In all of these situations debtors have the same legal, equitable, and moral obligations to provide for the support of their children, but under the peculiarities of former law they could transfer that burden to the taxpayers. The domestic support enforcement provisions of HR 2415 is designed to insure compliance with those obligations, during and after bankruptcy.

Section 211. Definition of domestic support obligation

To ensure that all debts relating to the support of a debtor's spouse, former spouse, family or child are given a similar treatment in bankruptcy, section 211 of HR 2415 provides a sweeping definition for the concept of a ''domestic support obligation.'' This definition is intended to clarify the following:

1. The domestic support obligation includes interest on that obligation as provided under applicable nonbankruptcy law. Thus, if a State provides for prejudgment or postjudgment interest on support, such interest is included in the definition of a domestic support obligation.

2. To be nondischargeable support, the obligation must be owed to or recoverable by a ''spouse, former spouse, or child of the debtor or such child's parent, legal guardian, or responsible relative'' or the debt must be owed 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. This definition is meant to preserve present statutory or decisional law affecting the dischargeability of debts in the nature of support owed to attorneys or other persons or entities providing assistance to the creditor spouse and children in a domestic proceeding. Nor is there any remaining requirement that the debt be assigned to a government or recoverable under Title IV–D of the Social Security Act for the debt to be excepted from discharge. The debt need only be owed to or recoverable by a governmental unit. Likewise, the debt does not become dischargeable simply because the support was ordered to be paid to the government or a nonparent. Support ordered to be paid to a legal guardian or responsible relative is also not dischargeable.

3. As under the former law, to be excepted from discharge the debt must be ''in the nature of support.'' Unlike the former law, however, a debt based upon assistance provided by a governmental unit for the benefit of a spouse, former spouse or child of the debtor, is now specifically included as a debt in the nature of support. This classification applies whether or not the debt incurred by the debtor is specifically designated as support and whether or not the spouse, former spouse or child has a separate legal right to establish a support obligation.

4. Under former law the support debt had to made ''in connection with a separation agreement, divorce decree, or other order 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 nondischargeable debt.

5. Finally the definition of a domestic support obligation continues to exclude support which has been assigned to a nongovernmental entity, unless the assignment is merely made for the purpose of collecting the debt. This definition codifies existing case law.

Having created this definition of a ''domestic support obligation,'' HR 2415 uses it in twenty specific places. In so doing, HR 2415 generally treats support related debts 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 assigned to the government. Therefore all claims filed as priority 1(A) must be paid prior to claims filed as priority 1(B).

When, however, such claims are filed by a governmental unit and that unit receives payments on the claim, the subsequent application and distribution of moneys are governed not by the claim as it existed on the petition date, but by nonbankruptcy law applicable to such governmental units. Thus, receipt of money claimed as a priority 1(A) debt may be distributed by the government to reimburse itself for the payment of public assistance if the creditor assigns that debt to the government postpetition. Likewise, debts which are assigned to the government prepetition and claimed as priority 1(B) debts will be distributed directly to the support obligee if the debt is no longer assigned as of the date the government received the funds.

Other changes in distribution may also occur. If the trustee pays a governmental entity on a claim in one month, and the debtor owes but has not paid a support order accruing in that month, the governmental unit may credit the payment to the current month's obligation, not to the claim. The governmental unit may also credit any payment received on the claim against newly accrued postpetition judgment interest, rather than against the principal portion of the claim. The purpose of these rules relating to governmental support claims is to allow the distribution of money received as support in the same manner it would be distributed if the debtor had not filed a bankruptcy petition.

Section 213. Requirements to obtain confirmation and discharge in cases involving domestic support obligations

Section 213 sets up four check points to ensure that debtors are complying with their domestic support obligations when they have filed a bankruptcy case under Chapters 11, 12, and 13.

1. A case can be converted or dismissed at any time if the debtor does not remain current in the payment of an on-going support obligation. Under former law the Code did not explicitly require such payments or mandate an early termination of a plan when a debtor was not in compliance with an on-going support order, although some courts used their discretion to dismiss such cases for ''cause.'' HR 2415 allows the court to convert or dismiss a Chapter 12 or 13 plan for failure of the debtor to pay postpetition on-going support.

2. To be confirmed a plan must provide for payment of all past due priority claims for domestic support obligations. The Code does, however, provide two exceptions. It allows a creditor the option of accepting less than full payment under the plan. It also allows a debtor to ''cram down'' a less than full payment plan for priority support debts which are assigned to a governmental entity, so long as the plan provides for payment of all disposable income of the debtor for the maximum five year period allowed for a plan in Chapters 12 and 13. However, since these debts will not be discharged in any event, the debtor will be given a substantial incentive to propose and complete such a plan.

3. A plan under Chapters 11, 12, and 13 may not be confirmed unless the debtor has remained current in the payment of all support first becoming due postpetition. Nor can a debtor in a Chapter 12 or 13 case obtain a discharge unless all support becoming due postpetition has been paid. These provisions are designed to be self-executing, at least to the extent they do not require affirmative action on the part of a support creditor to implement them. Payment of domestic support obligation arrears, in order to receive a discharge, is required only to the extent ''provided for by the plan.'' Thus, agreements made at the time of confirmation to accept less than full payment or the use of ''cram down'' rights possessed by the debtor may allow the debtor to receive a discharge without full payment of all prepetition domestic support obligations. Of course, completion of such a plan would not discharge any remaining domestic support obligations, but would allow the debtor to be relieved from other debts covered by the general discharge under the relevant chapter.

4. HR 2415 allows, but does not require, the debtor to include in a plan the payment of postpetition interest on a nondischargeable debt if the debtor is able to do so after paying other debts. This provision is a departure from former law which did not allow a claim for interest, unless the claim was secured, even though interest continued to accrue on nondischargeable debts. As a result, even if the debtor provided for full payment of the prepetition support debt, this debtor would be left at the end of the plan with a remaining debt for interest. Accordingly, while a debtor will often not have sufficient income to make postpetition interest payments, the debtor may wish, if feasible, to make such payments in order to obtain a fresh start at the completion of the plan.

Section 214. Exceptions to automatic stay in domestic support obligation proceedings

HR 2415 also adds additional exceptions to the automatic stay. Under section 362(a) various activities of creditors are stayed once a bankruptcy petition has been filed. Under former law there were exceptions to the automatic stay which permitted the establishment of paternity, and the establishment or modification of a support order but they did not deal with a number of other domestic issues. In addition, under former law the automatic stay did not apply to the collection of support so long as it was collected from property which was not property of the bankruptcy estate. Since property of the estate included debtor's income in Chapter 12 and 13 cases, at least until confirmation of the plan, a support creditor had no way of obtaining either on-going support or prepetition support arrearages, unless the obligor/debtor paid these debts voluntarily or the creditor obtained relief from the stay. These amendments deal with both issues. They include the following:

1. The existing exceptions are amended to refer to the new definition of a domestic support obligation. Additional language is added to clarify that certain other family-related matters such as custody, divorce, and domestic violence proceedings may continue to be pursued without obtaining relief from the automatic stay except to the extent a divorce proceeding seeks to deal with the division of estate property. Property division issues in a divorce are not intended to impinge on the exclusive jurisdiction of the bankruptcy court over estate assets.

2. Section 362(b)(2)(C) is added to provide for the withholding of income from property of the debtor or from property of the estate for the payment of a domestic support obligation. In this provision Congress has divested the bankruptcy court of exclusive jurisdiction over the bankruptcy estate to the extent a debtor's wages are estate property. Under prior law such withholding would have been allowed only if it were determined that the debtor's income was no longer property of the estate. This section specifically allows the use of estate property to pay support through the wage withholding process without any bankruptcy imposed limitation. The purpose of this provision is to allow income withholding to be implemented or to continue after a Chapter 11, 12 or 13 petition is filed, just as it would if a Chapter 7 petition were filed. The income withholding provisions were enacted to allow compliance with procedures mandated in the Child Support Enforcement Program, Social Security Act, Title IV–D. Income withholding applies to the collection of on-going support and support arrearages. It may be implemented by court order or through an administrative process.

3. Use of other support enforcement techniques are also excepted from the reach of the automatic stay. Under the amendment, the withholding, suspension, or restriction of drivers' licenses, professional and occupational licenses, and recreational licenses under state law as provided in the Social Security Act is not stayed. Likewise, the automatic stay does not bar the reporting of overdue support to a consumer reporting agency as required by the Social Security Act. Also excepted from the automatic stay is the interception of tax refunds as required by the Social Security Act. Thus, refunds which are payable to the debtor by the State taxing authorities or the IRS, and even refunds which the debtor intends to include or includes in his or her bankruptcy estate, may be seized to satisfy support obligations as required or allowed under State and federal law without requiring relief from the automatic stay. Finally, under the enforcement of medical support obligations as mandated by the Social Security Act is not stayed.

Section. 215. Nondischargeability of certain debts for alimony, maintenance, and support

This section makes all domestic support obligations non-dischargeable. The most significant effect of this change is that all debts owed to a governmental entity which are derived from payments by the government to meet needs of the debtor's family for support and maintenance are excepted from discharge. This change will nullify the holdings cited in footnotes 2, 4, 5, 6, and 7. By amending 523(a)(5) and (15), all ''domestic support obligations'' as broadly defined in new section 101(14A) of the Bankruptcy Code are excepted from discharge.

Section 215 also makes nondischargeable all non-support debts incurred in connection with a divorce or separation. Previously such debts may have been determined to be nondischargeable only if the support creditor brought a timely proceeding to determine the dischargeability of the debt and proved not only that the debtor had the ability to pay the debt but that discharging the debt would result in a benefit to the creditor which outweighed the detriment to the debtor. This provision gives debts resulting from the division of property the same protection from discharge as support debts.

Section. 216. Continued liability of property

Section 522(c)(1) of the Code, as amended by this section, incorporates the new definition of a domestic support obligation into the existing provision which subjects otherwise exempt assets to debts for nondischargeable taxes and support obligations. This section expands this principle to preempt state law and specifically provides that under federal law such exempt property must be made available to satisfy a domestic support obligation, notwithstanding state law to the contrary. The purpose of this provision is to nullify the Fifth Circuit en banc holding in Matter of Davis, 170 F.3d 475 (5th Cir. 1999), and to reinstate the holding of the original Fifth Circuit panel.

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 this exception to domestic support obligations. Therefore, any judicial lien placed on the debtor's property which secures a support related obligation, whether assigned or not, may not be avoided even though the lien impairs the exemption to which the debtor would otherwise have been entitled.

Section 217. Protection of domestic support claims against preferential transfer motions

Section 547(c)(7) previously barred the trustee from recovering, as a preferential transfer, bona fide payments of an unassigned support obligations. This section extends this 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 added to chapter 13 simply repeats language already added by section 102 of this Act.

Section 219. Collection of child support

This section improves the information available to child support and alimony 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 both the support claimant and 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. Creditors whose names are the subject of a notification are required, when asked, to provide the last known address 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 finances for use in primary and secondary education. Consumer credit has become widely available in our economy. Congress considers it to be of the greatest importance that educational programs like those sponsored and promoted by the Jump Start 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 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 allowed to be exempt from current income taxation under the Internal Revenue Code. It provides protection from creditors' claims for tax-favored retirement plans or arrangements which are not already protected from creditors' claims under current law. The section carries no implication that the protection from the bankruptcy estate afforded to plans by virtue of section 541 of the Bankruptcy Code as applied in the Shumate decision, and the line of cases following that decision, or by any provision of the Bankruptcy Code or other state 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 not 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 not received such letters but are intended to be operated in accordance with ERISA and or Internal Revenue Code, as applicable. It also covers plan assets in transit such as when they are directly 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 distributed amount in another qualified retirement plan or into an Individual Retirement Account.

In addition, the Section provides that if there is an outstanding pension 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 under the ERISA rules cause the amount of 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 which the participant is expected to return to the plan.

Under the asset limitation provision of this section, the maximum amount exempt for bankruptcy purposes in an IRA or Roth/IRA, other than a simplified employee pension under section 408(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 402(c), 402(e)(6), 403(a)(4), and 403(a)(5) of the Internal Revenue Code, as well as earnings thereon. The $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 interests of justice so require.

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 the federal government and the states to encourage saving for post-secondary education. Congress has expressed a clear interest in encouraging the post-secondary education of children by permitting individuals to save exclusively to cover the expenses of higher education through Qualified State Tuition Programs on a tax-favored basis. However, Congressional 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 from 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, books, supplies and room and board) of a designated beneficiary of the debtor and cannot be transferred to any person other than a qualified family member without adverse federal tax and other consequences. Section 225 would only permit exclusion from the bankruptcy estate funds in qualified state tuition programs for a restricted group of designated beneficiaries, limited to children and grandchildren (including step-children and step-grandchildren). The provision recognizes that adopted and foster children fall into this category and that ''step-grandchild'' is intended to include both the stepchild of the debtor's child as well as the child of the debtor's stepchild.

This provision makes clear that, subject to certain requirements, contributions to these accounts are not to be pulled into the debtor's estate for bankruptcy purposes. All contributions and earnings thereon are thus protected except: (1) contributions made to a program less than 365 days before the date of filing the bankruptcy petition; or (2) contributions in excess of $5000 made to a program less than 720 days before filing the bankruptcy petition.

Section 225 includes similar provisions extending protection to funds placed in education individual retirement accounts, as defined in Section 530 of the Internal Revenue Code.

Sections 226–229. Debtor's bill of rights

These four sections, derived from federal law regulating credit repair agencies, provide for new disclosures and restrictions on practices with which bankruptcy petition preparers, attorneys and anyone else who meets the definition of a debt relief agency must comply. Congress was concerned that debtors who file bankruptcy be better informed about the nature and scope of bankruptcy, the different remedies that are available, and the significance of the step they are taking, so that they can both better evaluate it, better understand what is going to happen, and better protect themselves. It is also the intent that debtors be better able to negotiate with their attorneys about fees and services provided. For example, provisions require that debtors be clearly informed 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'', what is ''bankruptcy assistance'', and who is a ''debt relief agency''. It is intended that these provisions be broadly interpreted since they define the scope of the protections which debtors receive under the related provisions. Authors, publishers, distributors or sellers of works subject to copyright protection when acting solely as such an author, publisher, distributor or seller are excluded from the definition. Thus an attorney who writes a book on how to file bankruptcy is not a debt relief agency when promoting or selling the copyrighted book. But when that same attorney represents debtors filing petitions, the attorney is a debt relief agency because no

longer acting in the capacity of an author, even if he gives his clients a copy of the book.

Section 227. Restrictions on Debt Relief Agencies

This section creates a 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 sections 527 and 528.

Enforcement is provided for any violations of new Code section 526, 527 or 528. Intentional or negligent failures to comply with any requirements of the three sections permit the debtor to obtain restitution of any fees or charges made by the agency, as well as actual damages and reasonable attorneys fees. The same damages are available for intentional or negligent disregard of the material requirements of the Bankruptcy Code or Rules. Any contract for bankruptcy assistance that does not comply with the material requirements imposed is void, except that the assisted person can enforce it. State attorney generals are also empowered to enforce the provisions of these sections, and the United States District Court are granted concurrent jurisdiction of any such enforcement proceeding. The court, the United States Trustee or the debtor may also seek injunctive relief or civil penalties against intentional violators or those with a clear and consistent pattern or practice of violation of any of these sections.

The section also provides that its requirements in new sections 527 and 528 do not excuse any person from complying with State laws unless the State law is inconsistent with those sections. Also specifically preserved from preemption are any practice of law requirements under State or federal law if they conflict with the requirements of sections 526, 527 or 528 added to the Code. It is not expected that any of these new sections will impose upon debt relief agencies requirements that would force them to violate applicable unauthorized practice of law restrictions. For example, providing the disclosures under section 527 should not be the practice of law, since the content of the disclosure is set by federal law and does not involve giving a debtor advice. For similar reasons, the additional information debt relief agencies are required by section 527(c) with respect to valuation of assets, completion of the list of creditors and exempt property should not involve giving legal advice. However, in the event applicable unauthorized practice rules proscribe non-lawyers from providing such information, the provision states that it is only required to the extent permitted by nonbankruptcy law.

Section 228. Disclosures

This section creates new Bankruptcy Code section 527 which requires a debt relief agency to deliver to an assisted person required disclosures either described or set forth in the section. Within 3 business days after the agency first offers to provide bankruptcy assistance in a written, face to face, telephone, internet or similar solicitation or contact, the agency must provide, the agency must provide a clear and conspicuous written notice which states that the information the assisted person provides in the bankruptcy proceeding must be complete, accurate and truthful, assets and liabilities must be completely and accurately disclosed and assets must be valued and income and expenses stated after reasonable inquiry, and that information provided may be audited. Before the commencement of the case, the agency must provide the debtor with the notice required under section 342(b)(1) (as amended by this Act) and an additional disclosure set forth in the section which explains the bankruptcy process and relief and what the debtor can expect. The agency must also instruct the debtor in how to value assets, how to complete the list of creditors, and how to determine exempt property. Record keeping requirements are imposed upon the agency to keep copies of the notices required under this section for a period of 2 years after delivery. It is expected that the Bankruptcy Rules will provide model forms of disclosure and specify further the time and manner in which these disclosures will be made.

Section 229. Requirements for debt relief agencies.

This section creates a new section 528 of the Code that regulates agencies' contracting and advertising. The agency is required to execute a written contract with the assisted person within 5 business 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 or benefits are with respect to bankruptcy relief. Congress is specifically concerned that debtors understand the services they are being offered involve 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. A standard form of disclosure that the services are with respect to bankruptcy relief is set forth in the section.

TITLE III—DISCOURAGING BANKRUPTCY ABUSE

Section 301. Reinforcement of the fresh start

Present law makes nondischargeable any fee or charge imposed by a court 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 terminate with respect to the debtor 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 a motion and demonstrating that the second filing is in good faith, but there is a presumption that under certain circumstances the second filing is not in good faith.

Upon the third or an additional filing within a one year period, the automatic stay does not go into effect at all. On motion made within 30 days of the third filing, the court may order the stay to take effect as to some or all creditors. The party in interest must demonstrate that the third filing is in good faith, and there is a presumption that under certain circumstances the third filing is not in good faith.

Clear and convincing evidence must be presented in order to rebut the presumptions which arise both with respect to the second and third or later filings.

Conduct covered by this section may also provide an appropriate ground to dismiss a chapter 7 under section 707(b) as revised by HR 2415.

Section 303. Curbing abusive filings

This provision authorizes in rem orders to prevent abusive use of bankruptcy filings. The bankruptcy court is authorized to order that the automatic stay be lifted as to a secured creditor with respect to the current and all subsequent cases to which the automatic stay would otherwise apply if the court finds that the filing of a bankruptcy was either part of a scheme to delay, hinder, and defraud creditors by means of transferring all or part of an interest in real property without the secured creditor's consent or court approval, or involved multiple bankruptcy filings affecting real property.

Once such an order is issued, it can be recorded by anyone in the real property records affecting the real property involved, and recording agencies must accept for recording and record and index any such order so that it will be notice to third parties. Such a recorded order is notice to third parties for 2 years after recording. The court can reimpose the automatic stay in a subsequent case after appropriate notice and hearing if good cause or changed circumstances are shown.

In addition, the automatic stay does not apply at all to prevent acts to enforce security interests in real property if the debtor is ineligible for bankruptcy under section 109(g) or the filing violates a court order in a previous case baring the debtor from refiling.

Section 304. Debtor retention of personal property security

This provision is intended to prevent ''ride through'' 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 reaffirming. This section and section 305, taken together, are intended to reverse the results of such cases as *Capital Communications Fed. Credit Union* v. *Boodrow*, 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 redeems the property under section 722 of the Code. The debtor is given 45 days after the first meeting a creditors to take one of those two steps or to relinquish possession of the personal property to the creditor. If the debtor fails to complete one of the steps within the prescribed period, the automatic stay is terminated with respect to the property whether it is property of the estate or not, and the creditor may take whatever action as to the property as is permitted by applicable nonbankruptcy law. Although the automatic stay ends upon the expiration of the 45 day period, a creditor is free to allow a debtor to retain possession of collateral and accept continued payments by not taking any actions to collect, since this provision is for the creditor's benefit.

However, the trustee can bring a motion before the end of the 45 day period asserting that the property is of consequential value or benefit to the estate. If the court finds that the retention of the property will benefit creditors significantly, orders appropriate adequate protection of the creditor's interest, and orders the debtor to deliver the property to the trustee, the court may extend application of the stay for a further reasonable time to permit the trustee to obtain the benefit for the estate.

The section also amends section 722 to make it absolutely clear that the full, complete and immediate cash payment of the redemption amount to the creditor is necessary for there to be a redemption. Installment redemptions are not permitted.

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 any property the section covers. Any personal property of the estate or of the debtor securing a claim or subject to an unexpired lease is covered by the section, and in certain instances creditors will be protected by both this section and the previous section, in which case the provisions can be applied cumulatively.

The section provides that the automatic stay terminates if the debtor fails to timely (1) file a statement of intention covering the property indicating that the debtor will either redeem the property under section 722 of the Code, reaffirm the debt it secures 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 on the original contract terms). Although the automatic stay ends upon the expiration of the period for taking action, a creditor is free to allow a debtor to retain possession of collateral and accept continued payments by not taking any actions to collect, since this provision is for the creditor's benefit.

However, as with the previous section, the trustee can bring a motion before the end of the period set by section 521(a)(2) asserting that the property is of consequential value or benefit to the estate, and on similar findings, the court may extend application of the stay for a further reasonable time to permit the trustee to obtain the benefit for the estate.

In addition, this section validates certain clauses which have the effect of placing the debtor in default 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, in order for a debtor's plan to be confirmed, it must provide that a creditor's lien will continue until the earlier of payment of the underlying debt under nonbankruptcy law or the grant of discharge under section 1328. Nothing in this provision is intended to alter other requirements for confirmation. Thus if a secured debt will not be fully paid before the end of the plan, this provision does not authorize a plan to provide that the lien terminate upon discharge.

Moreover, the plan must provide that if the case is dismissed or converted without completion of the plan, the creditor will retains the lien to the full extent permitted by nonbankruptcy law. It is intended that any benefits debtors obtain under a plan as against their secured creditors will be lost unless the debtor fully completes the plan. In the event a debtor's case is discharged under the hardship discharge provisions without completion of the plan, the creditor's lien nonetheless survives unaffected by the bankruptcy to the extent permitted by nonbankruptcy law.

Second, the extent to which claims secured by purchase money security interests in personal property are subject to cramdown to fair market value is limited. It is intended that cramdown not apply to any collateral described in this provision during the periods of time specified, and that the amount of the claim which must be paid under the plan be 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(5)(B)(ii) over the duration of the plan must 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.

Third, terms used in section 1322(b)(2) which limits cramdown of certain real estate mortgages are defined to make clear that a debt secured by real estate which is the debtor's principal residence includes any 1 to 4 family structure, including incidental property, without regard to whether the structure is attached to real estate, and includes condominium or cooperative units and mobile or manufactures homes or trailers. Incidental property includes any property commonly conveyed with a principal residence in the area where it is located.

This provision is intended to reject those cases which have allowed cramdown of real estate mortgages on the grounds that the security property is not a ''principal residence'' or covers property which is not real estate, simply because the property included multi-family housing, or the mortgage encumbered incidental property, or covered less traditional forms of housing such as condominiums, coops or mobile homes or trailers.

Section 307. Domiciliary requirements for exemptions

This provision limits the state exemptions which debtors can enjoy in bankruptcy when they have moved into a state within two years of filing. If a debtor has lived for 2 or more years in a State immediately prior to filing, the debtor can use the exemptions allowed by the state where the debtor resides under section 522 of the Code. If the debtor has lived in a state for less than 2 years at the time of filing, then the debtor must use the State exemptions of the State where the debtor lived 2 years prior to filing if the debtor lived there all of the 180 days which precede that 2 year period. If the debtor lived in more than one State during that 180 day period, the State exemptions of the State where the debtor lived the longest during that period will control.

If a debtor has to use a particular State's exemptions, the law of that State also determines whether the debtor can elect to use the federal exemptions available under section 522(d) of the Code.

Section 308. Residency requirement

Any home equity acquired within the 7 years prior to filing is not exempt if: (1) such equity was attributable to property that the debtor disposed of with the intent to hinder, delay, or defraud a creditor; and (2) such property was not an exempt asset. For example, if a debtor disposes of cash, a non-exempt asset, by exchanging that cash for a residence with the intention of delaying the payment of a creditor, such residence would not be exempt from the bankruptcy estate. It is the intent of Congress that it should be easier to prove intent to hinder or delay than to prove intent to defraud.

Section 309. Protecting secured creditors in chapter 13 cases

This provision adjusts the relationship of debtors to lessors and secured creditors in bankruptcy proceedings.

First, it amends section 348(f) to assure that when a debtor converts a case from 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 determined under nonbankruptcy law has been paid in full, and unless a prebankruptcy default has been fully cured prior to conversion. If a debtor converts 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. This provision, however, 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 from 30 days after 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 523(a)(2)(A) of the Bankruptcy Code. Under section 523(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 debts to a single creditor aggregating for purchases on a credit card of more than $250 for luxury goods or services within 90 days of filing for bankruptcy, such 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 significant amounts of items or services not necessary for the support of the debtor (i.e. luxury goods and services).

A related provision is included with 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 language is carefully drafted to require the aggregation of all cash advances within 70 days of filing, even if they involve more than one creditor. Furthermore, there is no requirement to demonstrate that the cash advances were for ''luxury goods'' since such a requirement would be virtually impossible to fulfill 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 after filing are not barred by the automatic stay if the lease has terminated before or after filing of bankruptcy. Third, the automatic stay also will not bar eviction proceedings based on endangement to property or person or the use of illegal drugs, or to any transfer that is not avoidable under sections 544 or 549 of the Code.

Section 312. Extension of period between bankruptcy discharges

The period of time which must elapse between bankruptcies is increased by this provision. When a chapter 7 proceeding is involved, the period 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 void a non-purchase money security interest in certain categories of goods if the property subject to the security interest is otherwise exempt in the debtor's case. One of the categories is ''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, and so that debtors and creditors alike can know whether a loan is truly secured or unsecured. It is expected that the additional clarity will assist debtors in obtaining the lowest price available for this type of secured credit.

Section 314. Debt incurred to pay nondischargeable debts

If a claim arises from payment of a tax to a governmental unit other than the United States and the tax that was paid would be nondischargeable under section 524(a)(1), then the debt incurred to pay the tax is also nondischargeable.

Section 315. Notice to creditors

This section changes the requirements for providing notice to creditors and also changes what information they must provide in the schedules or otherwise as part of a bankruptcy filing.

Notice.—This section is intended to ensure that creditors receive actual, meaningful, and timely notice of bankruptcy filings.

In order to ensure proper processing by a creditor, debtors will need to include the account number in any required notice to a creditor with respect to any debt owed to such creditor. Furthermore, any notice required to be given by the debtor to the creditor must be done so at an address specified by the creditor. Creditors will be required to include the account number and appropriate address in the last two communications supplied to the debtor within the 90–day period prior to filing for bankruptcy. However, if any legal requirement impedes the creditor's ability to communicate with the debtor at any point during the 90–day period prior to filing, the creditor's burden will be satisfied if the appropriate information was included on its last two communications with the debtor. For purposes of this section, the creditor's communications with the debtor are those which deal specifically with an individual debt. ''Communications'' do not include promotional material or other communications that do not pertain specifically to a debtor's debt to the creditor.

Language in the Bankruptcy Code which states that failure to include the specified information in a notice does not invalidate the legal effect of such notice is deleted.

Furthermore, if a creditor in an individual chapter 7 or 13 case has specified an address for notice by filing a statement to that effect with the court, the court and the debtor are required to use such an address starting five days after receiving the address. A creditor may file a notice address with the court to be used generally by the court, parties in interest and the debtor to provide notice to the creditor in all cases under chapters 7 and 13. In the event a creditor has provided different notice addresses by more than one of the permitted methods, a debtor may use any one of them, except that a notice address filed in a particular case shall control.

Notices which are not sent to the appropriate address as specified by the creditor are not effective until the notice is brought to the creditor's attention. If the creditor has designated an entity to be responsible for receiving notices concerning bankruptcy cases and has established reasonable procedures so that these notices will be delivered to such entity, a notice will not be deemed to have been received by the creditor until it has been received by the designated entity. Sanctions for violation of the automatic stay under section 362 of the Code or for the failure to comply with the turnover provisions in sections 542 and 543 of the Code may not be imposed if a creditor has not received proper notice.

Tax Return Information.—The section also requires debtors to provide certain tax return information. By no later than 7 days before the date first set for the first meeting of creditors, a debtor must provide the trustee, without any prior request, the debtor's tax return or transcript, or the case will be dismissed unless the debtor can show that the failure to file a return is due to circumstances beyond the control of the debtor. Such circumstances would include that the debtor did not file a return for the period required, but not that the debtor could not find the return unless the debtor in addition showed that a significant, diligent and timely effort had been made to obtain at least the transcript of the return from the Internal Revenue Service and it was not forthcoming. A transcript is a computer generated line by line statement of debtor supplied information with respect to a tax return which the Internal Revenue Service will provide any tax return filer on request.

Once such information is provided the trustee, creditors in chapter 7 and 13 cases can obtain it by request to the trustee or through the procedure set forth for creditors to obtain copies of the petition and schedules from the court. It is intended that the trustee and the court will make arrangements for the tax return information the debtor provides to be made available to the court to satisfy creditor requests. Creditors can also request the tax return directly, in which case the debtor must provide it directly to the creditor or the case will be dismissed, subject to limitations already discussed.

Debtors are also required to provide tax returns with respect to the period after filing, or with respect to pre-filing periods if they are filed with the taxing authorities after bankruptcy filing. The Director of the Administrative Office of United States Courts is to develop procedures for safeguarding privacy of these returns, and to make a report to Congress no later and one and one half years after enactment on the effectiveness of these procedures.

Other information. Debtors are required to provide certain other information, including ongoing income and expense information, in certain circumstances.

Section 316. Dismissal for failure to timely file schedules or provide required information

The Fed. R. Bankr. Pro. already provide that schedules must be filed within 10 days of filing unless an extension is granted, and many bankruptcy courts have already established a general practice of dismissing cases when debtors fail to provide all required information within 15 days of filing, unless good cause for additional time is shown. Nothing in this provision is intended to interfere with such requirements. However, if an individual debtor after such extensions as the court may grant, has not filed all of the information required by section 521(a)(1) within 45 days of filing a petition, the case is automatically dismissed. On request of the debtor made before 45 days after filing, the court may grant up to 45 days additional time for the debtor to file schedules. Once the time period provided under this section elapses, the court must enter an order of dismissal within 5 days of request.

Section 317. Adequate time to prepare for hearing on confirmation of the plan

A hearing on confirmation of a chapter 13 plan must be held between 20 and 45 days after the first meeting of creditors. If a plan cannot be confirmed within that period, the court should take appropriate action to dismiss or convert the case.

Section 318. Chapter 13 plans to have a 5-year duration in certain cases

If a debtor's current monthly income is more than the monthly median income, the debtor's plan must be no shorter than 5 years, unless the debtor proposes and confirms a plan which provides for payment in full of all creditors within a shorter period. The same rules apply to modifications.

Section 319. Sense of Congress regarding expansion of rule 9011 of the Federal Rules of Bankruptcy Procedure

It is the sense of Congress that Rule 9011 should be applied to the schedules and other documents filed with the court.

Section 320. Prompt relief from stay in individual cases

Relief from stay proceedings must be finally decided within 60 days after relief is requested, unless the parties agree to the contrary, or 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

This section changes some chapter 11 provisions to bring the chapter more closely into conformance with chapter 13 when the debtor is an individual.

First, the property of the estate is expanded from present law to include all property and earnings acquired between the time of filing and the closing, dismissal or conversion of the case. Such property is placed under the supervision of the court and is protected by the automatic stay. Second, what may be included in a plan is expanded to permit the debtor to subject future earnings and income to the plan. Third, the individual debtor's plan must provide either that it will pay each claim in full or that at least the debtor's disposable income over the first 5 years of the plan is paid to unsecured creditors. Fourth, in an individual case, the discharge is not granted until completion of payments under the plan. Provision is made for a hardship discharge. Fifth, modifications of a plan are subject to the same requirements as an original plan.

Section 322. Limitation

The state law homestead exemption is limited to a maximum of $100,000 for the home equity acquired within the 2 years prior to filing. Amounts acquired within the 2-year period that exceed $100,000, are not exempt from the bankruptcy estate. Amounts of home equity acquired prior to the 2-year period are not subject to the $100,000 cap, but

are subject to the relevant state law homestead exemption. For this purpose, equity acquired 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 exemption. 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 property from the estate

Amounts which have been withheld from wages of employees for payment as contributions to retirement plans or health insurance plans, or received from employees for payment over to such plans are not property of the estate. It is not intended that this provision will affect money which has been paid over and received by the respective plans for the purposes the withholding or contributions have been made.

Section 324. Exclusive jurisdiction in matters involving bankruptcy professionals

This section gives the district court exclusive jurisdiction of any property of the debtor as of the commencement of the case, of property of the estate, and of all claims that involve construction of section 327 (on employment of professional persons) or disclosure rules under that section.

Section 325. United States Trustee Program filing fee increase

This section changes the filing fees for chapter 7 and 13 cases, and changes the sharing percentages with respect to such fees.

Section 326. Sharing of compensation

Section 504 of the Bankruptcy Code restricts the extent to which those being paid compensation or reimbusement in a bankruptcy case may share such compensation or reimbursement. This section creates an exception from those rules to permit bona fide public service attorney referral programs operating 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 it would cost the debtor to purchase a replacement considering the age and condition of the property, without deductions for other costs or expenses of any kind. In personal, family or household transactions, replacement value is based upon what a retail merchant would charge for the property, considering age and condition at the time value is determined.

Section 328. Defaults based on nonmonetary obligations

The requirements of section 365 are altered so that certain defaults relating to nonmonetary obligations of the debtor under an unexpired lease of real property need not be cured. Furthermore, such defaults are excepted from the ordinary rules applying to impaired classes. Technical changes are also made to remove certain provisions relating to

TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Business Bankruptcy Provisions

Section 401. Adequate protection for investors

This section creates a definition for a ''securities self-regulatory organization'' and then provides an exception to the automatic stay for investigations, orders, or delisting activities by such an organization involving the debtor.

Section 402. Meetings of creditors and equity security holders

This section gives the court the authority, for cause, not to convene a meeting of creditors if there is a prepackaged plan of reorganization. This would save time and expenses in those instances where the court determines there would be little or no meaningful benefit to be derived from a creditors meeting.

Section 403. Protection of refinance of security interest

This provision alters the preference provisions 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 perfected within 30 days after it takes effect between the parties. Present law provides only a 10 day period.

Section 404. Executory contracts and unexpired leases

HR 2415 cures some abuses in the Bankruptcy Code regarding executory contracts and unexpired leases. HR 2415 amends Section 365(d)(4) of the Bankruptcy Code. It imposes a firm, bright line deadline on a retail debtor's decision to assume or reject a lease, absent the lessor's consent. It permits a bankruptcy trustee to assume or reject a lease on a date which is 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. A further extension of time may be granted, within the 120 day period, for an additional 90 days, for cause, upon motion of the trustee or lessor. Any subsequent extension can only be granted by the judge upon the prior written consent of the lessor: either by the lessor's motion for an extension, or by a motion of the trustee, provided that the trustee has the prior written approval of the lessor. This provision is designed to remove the bankruptcy judges' discretion to grant extensions of the time for the retail 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 to make sure 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 Section 365(b)(1), that the trustee may not assume an executory contract or unexpired 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 property in a shopping center includes adequate assurance . . . that assumption or assignment of such lease is subject to all the provisions thereof, including (but not limited to) provisions such as a radius, location, use, or exclusivity provision. . . .''

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 followed.

For example, if a shopping center's lease with an educational retailer requires that the premises shall be used solely for the purpose of conducting the retail sale of educational items, as the lease provided in the *Simon Property Group* v. *Learningsmith* case, then the lessor has a right to maintain this 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 lease, in contravention of Section 365(b)(3) of the Code. As a result, the lessor lost control over the nature of its very business, operating a particular mix of retail stores. If other retailers 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 subject to all provisions 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 overturned.

Thus, this section adds language to Section 365(f)(1) for the purpose of assuring that Section 365(f) does not override any part of Section 365(b). The section provides that in addition to being subject to Section 365(c), Section 365(f) is also subject to section 365(b) which is to be given its full effect.

Section 405. Creditors and equity security holders committees

This section is intended to permit small business interests to obtain representation on creditors' committees even though no small business would otherwise be selected under the standards for selecting members of creditors' committees in the present Bankruptcy Code. Bankruptcy judges are given discretion to increase the size of a creditor's committee to place a small business concern on the committee as a fully voting member if the court determines that the small business creditor holds claims the aggregate amount of which is disproportionately large in comparison to the annual gross revenue of that creditor. Congress intends that this standard be liberally applied in favor of a small business concern. For example, a claim that was more than 5% of the net profit after taxes and debt service of the small business concern would be disproportionately large, since if the claim is not paid, it would cause a 5% reduction in profitability, often the difference between success and failure for a small business.

Section 406. Amendment to section 546 of title 11, United States Code

Section 407. Amendment to section 330(a) of title 11, United States Code

Section 408. Postpetition disclosure and solicitation

This provision permits post-petition solicitation of a prepackaged plan of reorganization if both the pre-petition solicitation and the post-petition solicitation comply with applicable nonbankruptcy law. However, the provision only applies when the holder of a claim or interest solicited post-petition has been solicited pre-petition, thus avoiding different standards being applicable to pre- and post-petition solicitations. Time is crucial in a prepackaged plan of reorganization in order to minimize the adverse effects of bankruptcy on the debtor's business and financial affairs. When it applies, this section permits avoidance of the time and expense of going through the disclosure statement process normally applicable to post-petition solicitations.

Section 409. Preferences

The ordinary course of business defense to preference recovery is liberalized. As under current law, the debt must be incurred in the ordinary course. The payment, however, under the new provision must only be in the ordinary course or according to ordinary business terms.

A new preference exception is also added in business cases. Aggregate transfers of less than $5,000 are exempted from preference recovery.

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 debtor's exclusive period to file a plan of reorganization may not be extended beyond 18 months after the order for relief in the case. No change is made to current law that permits, for cause, either the reduction or the extension of the debtor's initial 120-day exclusivity period, except that the period may not be extended beyond the new 18 month maximum.

The new provision also provides that, if the debtor files a plan of reorganization within its applicable exclusivity period, parties in interest may file a reorganization plan if the debtor's plan is not accepted by each impaired class before 180 days after the order for relief, as such date may be extended for cause up to a maximum of 20 months from the order for relief in the case.

The new time periods are maximum periods that may not be extended by the court. They are not, however, minimums. Debtors will still have to show ''cause'' to extend the initial 120-day and 180-day periods in section 1121 and any extensions granted by the court. The establishment of the new so-called ''exclusivity wall'' is not intended to change the standards under section 1104 for conversion or dismissal.

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 even if the creditor or representative is not admitted to practice before the court or before the local federal or state court, notwithstanding any federal or state rule of practice or statutory provision barring unauthorized practice of law. It is intended that this provision will permit non-attorneys to appear at and participate in the meeting of creditors and any related negotiations entered into before or after the meeting to facilitate more efficient and economical participation by creditors in chapter 7 and 13 bankruptcy proceedings.

Section 414. Definition of disinterested person

This provision deletes the per se exclusion of investment bankers and attorneys for investment bankers from being a disinterested person. Whether an investment banking firm or an attorney for an investment banker is disinterested will depend on an ad hoc application of the definition.

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

This section provides for procedures when a trustee is elected, and for handling disputes over election of trustees.

Section 417. Utility service

Section 366 of the Code is amended to permit a utility to refuse to provide service to a debtor under certain circumstances unless adequate assurance payments are received.

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's income is under 150 percent of 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 and commence a bankruptcy 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 on the value, operations and profitability of any closely held corporation in which the debtor has a substantial or controlling interest. This direction is intended to result in changes to the Bankruptcy Rules and Forms so that parties in interest will be able to obtain, on the schedules or otherwise on other disclosures provided by the debtor full and complete information about the value of such an interest in a closely held corporation.

Subtitle B—Small Business Bankruptcy Provisions

These provisions effect reforms in chapter 11 cases. They further two primary goals. First, they are designed to reduce cost and delay in chapter 11 cases. Second, they are designed to ensure that the extraordinary protections provided chapter 11 debtors are used to further the public interest, by limiting those protections to cases in which there is both a likelihood of successful reorganization and in which the debtor fully complies with the applicable statutes and rules.

These sections achieve these goals through the following means:

First, the fast-track plan confirmation rules for small business cases that were adopted by Congress in 1994 have been strengthened. Second, the bill simplifies the process of drafting a plan and disclosure statement to make it easier for the small business debtor to comply with the fast-track requirements. Third, the debtor is required to provide additional information about post-filing operations, and the Advisory Committee on Bankruptcy Rules is directed to promulgate forms that will simplify such reporting. Fourth, the United States trustee is directed to oversee the debtor in small business cases. Fifth, the bankruptcy courts are directed to use case-management conferences and scheduling orders to reduce cost and delay. Sixth, it is made easier to appoint an independent trustee or examiner and to convert or dismiss a chapter 11 case in which the debtor is not playing by the rules or there is little likelihood of a successful reorganization. Seventh, the bill protects creditors against repeat filings after a prior chapter 11 case has failed.

Section 431. Flexible rules for disclosure statement and plan

Under current law, the debtor generally files a drafted-from-scratch plan and disclosure statement, even if the debts and assets involved are small. This practice is expensive, and imposes an undue burden on the debtor. Section 1125 of the Bankruptcy Code is amended to streamline the plan confirmation process in several ways for small business debtors. First, it encourages the use of standard-form plans and disclosure statements. Second, it directs the court to weigh the cost of providing additional information against the benefit of such information in determining whether a disclosure statement provides adequate information. Third, it provides that a separate disclosure statement is not necessary if the court determines that the plan provides adequate information. Fourth, it permits the court to consider at a single hearing both the adequacy of the disclosure statement and confirmation of the plan.

Section 432. Definition of small business debtor

Sections 101(51C) and (51D) of the Bankruptcy Code are amended in two significant respects. First, the debt limit used to define a small business debtor is increased from $2.0 million to $3.0 million. Second, a debtor with debts within the limit is treated as a small business debtor whether or not it elects to be treated as a small business debtor. All of the provisions applicable to small business debtors are now mandatory. There are two exclusions from the definition: (1) cases in which the debtor is primarily engaged in passive real estate investments; and (2) cases in which the court has certified that there is an active and representative committee of unsecured creditors.

Section 433. Standard form disclosure statement and plan

Section 433 directs the Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States to propose standard forms for plans and disclosure statements in small business cases. Under section 1125 as amended, the debtor may use either a form approved by the court in which the case is pending or a form approved by the Rules Committee. The intent of these provisions is to encourage experimentation in the use of standard forms. Use of an approved form does not by itself satisfy the disclosure requirements. The court must determine that the form provides information that is adequate in light of the facts of the case.

Sections 434 and 435. Reporting requirements

New section 308 of the Bankruptcy Code imposes new reporting requirements on small business debtors, and section 435 of the bill calls for the Advisory Committee on Bankruptcy Rules to promulgate uniform national reporting forms. These provisions have three chief aims: (1) to assist small business debtors in understanding and improving their businesses through the process of preparing the reports; (2) to provide the persons interested in a case with information about that case; and (3) to provide a data base for further evaluation of the efficacy of chapter 11 for small businesses. The standard imposed on the Rules Committee in promulgating uniform national forms is to effect a practical balance between: (a) the needs of interested parties for information; (b) ease and lack of expense in preparation; and (c) ''the interest of all parties that the required reports help the small business debtor to understand its financial condition and plan its future.''

Section 436. Duties of trustee or debtor in possession in small business cases

New section 1116 of the Bankruptcy Code imposes six types of clear, new duties on small business debtors. The debtor must: (1) promptly file with the court the best available financial information about the debtor's business through its most recent financial statements or federal income tax return; (2) attend through its responsible individual and counsel meetings scheduled by the court or the United States trustee; (3) timely file the schedules and statements of affairs (with a strict limit on extensions) and financial and other reports required by law; (4) maintain insurance necessary to protect the public and the estate; (5) timely pay all administrative expense tax claims; and (6) allow the United States trustee at reasonable times after reasonable notice to inspect the debtor's business premises and books and

records. These provisions are designed to assist the debtor, the courts, and the United States trustee in effectuating expeditious administration 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 to require a small business debtor to file a plan within 300 days after the petition date. This deadline is based on the assumption that the typical small business debtor can reasonably file a plan and disclosure statement within 300 days. Any request for extension of this deadline is an appropriate occasion to require the debtor to justify the continuation of the broad injunctive relief the debtor received automatically upon the filing of the petition. The amendment does this by requiring the debtor to show that it is more likely than not that the debtor will confirm a plan within a reasonable 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 relief, unless such time is extended under section 1121(e)(3) of the Code. If a plan is not confirmed within the period and the period is not extended, it is expected that the case will be dismissed or converted, as appropriate.

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 contemplated when chapter 11 was first enacted. To fill this void and to provide adequate supervision of the debtor, section 586 of the Judicial Code is amended to enlarge the duties of the United States Trustee in small business cases. One of these duties is to conduct an initial debtor interview promptly after the order for relief and before the official creditors' 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 business plan is, and explain the debtor's reporting and other compliance obligations. In addition, new 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 books and records and timeliness of filing of tax returns.

The amendments to section 586 of the Judicial Code also require the United States Trustee in cases where there are grounds for conversion or dismissal under section 1112 of the Bankruptcy Code to ''apply promptly to the court for relief.'' This duty applies in all chapter 11 cases, not only small business cases.

Section 440. Scheduling conferences

Section 105(d) of the Bankruptcy Code is amended to provide that bankruptcy judges are now required to hold status conferences and enter scheduling orders in chapter 11 cases whenever that would ''further the expeditious and economical resolution of the case.'' The change reflects a determination that bankruptcy judges should assume responsibility for reducing cost and delay in the chapter 11 cases before them, and that active case management by the trial judge is a proven means of cost and delay reduction.

Section 441. Serial filers

This section creates a new section 362(k) of the Bankruptcy Code that provides that the filing of a chapter 11 petition does not create an automatic stay if the debtor: (1) is a debtor in another pending chapter 11 case; (2) was a debtor in a chapter 11 case dismissed within the previous two years; (3) confirmed a plan in a chapter 11 case within the previous two years; or (4) succeeded to the assets of an entity that was a chapter 11 debtor within the previous two years. A debtor affected by this provision is not precluded from filing a chapter 11 petition, and is not precluded from seeking protection from creditor action. The protections of section 362(a) do not go into effect, however, unless and until the debtor makes the required showing regarding the likelihood of confirming a plan and the reasons a second chapter 11 case is necessary. The logic of this provision is that in each of the four identified circumstances there is sufficient likelihood of abuse to require the debtor to make some showing before receiving injunctive relief. The exception to the automatic stay does not apply to an involuntary petition that is not filed in collusion with the debtor or its insiders.

Section 442. Expanded grounds for dismissal, conversion, or appointment of a trustee or examiner

Section 1112 of the Bankruptcy Code is amended to expand the circumstances in which the bankruptcy court may dismiss a chapter 11 case, convert the case to another chapter, or appoint a chapter 11 trustee or examiner. The most salient characteristic of chapter 11 is its most problematic—the debtor is protected against all creditor action automatically upon filing, while remaining in control of all its assets. Any non-debtor seeking comparable injunctive relief must show a likelihood of prevailing on the merits of the dispute and that the equities weigh in favor of equitable relief. Under current law, a chapter 11 debtor gets what is perhaps the broadest injunction available under American law, without making any showing whatsoever. Some courts impose a heavy burden on any party who, by moving for dismissal of the chapter 11 case or appointment of a trustee, seeks to deprive the debtor of that relief.

The amendment to section 1112 is intended to effect a significant change in the burden of proof governing motions to dismiss, convert, or appoint a chapter 11 trustee or examiner. First, the amendment creates an expanded definition of ''cause'' for such relief. Each type of cause listed represents a warning sign that the chapter 11 case is not proceeding properly (e.g., that assets of the estate are being diminished, that the debtor is not complying with applicable statutes or rules, or that the debtor is not moving promptly toward confirmation of a plan of reorganization). Second, the amendment creates a new shifting burden of proof. If a creditor establishes one or more of the specified warning signs, the burden shifts to the debtor to show: (1) that the debtor is likely to confirm a plan promptly; and (2) if the basis for relief is the debtor's failure to comply with an applicable statute or rule, that there is a reasonable justification for the lack of compliance, and that the lack of compliance will be cured within a reasonable time fixed by the court. If the debtor fails to meet its burden of proof, the court must convert, dismiss, or appoint a chapter 11 trustee or examiner, whichever is in the best interest of creditors and the estate. In substance, the amended section 1112 adopts a position midway between current chapter 11 law and traditional injunction practice. The debtor still receives the protection of the automatic stay upon filing, but the debtor will now be required to prove up its entitlement to that injunction in a wide variety of circumstances.

The bankruptcy court should determine whether there is a reasonable possibility that the debtor will confirm a plan within a reasonable time in much the same manner the court would determine whether a party seeking a preliminary injunction is likely to prevail upon the merits. The determination is a preliminary one regarding the likelihood of prevailing in the future, not a final determination on the merits. The hearing may often be a summary one. The court need not conduct a miniature confirmation hearing. The debtor should be required to prove a likelihood that its business is financially viable enough to pass the feasibility requirements of section 1129(a)(11), and that it will be able to pay in full those claims (i.e., secured and priority claims) that must be paid in full in order to confirm a plan.

If the debtor shows that it is likely to make a distribution to general unsecured creditors and that those creditors have no realistic alternative to debtor's plan, the debtor need not submit additional evidence that general unsecured creditors will vote to accept the plan in order to establish a prima facie case. The moving party or any other creditor may rebut debtor's evidence. The debtor does not satisfy its burden of proof when unsecured creditors holding claims sufficient to block acceptance by that class state their intent to vote against the plan and the debtor cannot show a likelihood that it will be able to confirm a plan notwithstanding such rejection.

Attention from the debtor and the court to the economic viability of the debtor's business is appropriate in all cases except liquidating chapter 11 cases. A debtor with a business that is not viable should not be allowed to remain a debtor in possession under chapter 11, unless it is avowedly using chapter 11 to confirm a liquidating plan promptly. Because the likely-to-confirm-a-plan standard turns on issues of business feasibility as much as on issues of law, the parties should be permitted to introduce evidence from accounting and other professionals concerning the viability of the debtor's business. The likely-to-confirm-a-plan standard should be applied in the same manner when it arises in a motion to extend the deadlines provided for in the amendments to section 1121.

All of the provisions of the amended section 1112 apply to all chapter 11 cases. This is so even though some of the listed examples of ''cause'' for dismissal, conversion, or appointment of a trustee or examiner resemble duties that under new sections 308 and 1116 apply only to small business debtors.

Section 443. Study of operation of title 11, United States Code, with respect to small businesses

Requires the Adminstrator of the Small Business Administration, in conjunction with the Attorney General and the Director of the Executive Office of United States Trustees and Director of the Administrative Office of United States Courts to conduct a study of small business bankruptcies and report to Congress how Federal bankruptcy laws may be made more effective with regard to such businesses.

Section 444. Payment of interest

This provision continues present law under section 362(d)(3) which provides that the court shall grant relief from stay to a real estate secured creditor holding security in a single asset real estate debtor unless not later than 90 days after the order for relief the debtor has either filed a plan of reorganization that has a reasonable possibility of being confirmed or commences making interest payments. This provision permits the debtor to make those interest payments from rents or other income the debtor holds, and requires that the interest be at the non-default interest rate under the contract with the creditor.

Section 445. Priority for administrative expenses

This section amends section 503 of the Bankruptcy Code to provide that certain

amounts owed with respect to nonresidential real property leases become administrative expenses.

TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

Section 501. Petition and proceedings related to petition

This section amends section 921(d) of the Code to clarify that the special rules with respect to commencement of a case of an unincorporated tax or special assessment district in that section control over 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 two 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 is also the order for 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 to avoid a stay violation or other 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 case 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 discharged debt.

This section creates a standardized and centralized method for collecting relevant bankruptcy statistics for cases involving primarily consumer debts filed 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 make annual reports to 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), 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 final reports filed by bankruptcy trustees 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 completeness of information supplied by individual debtors in connection with their bankruptcy cases under chapter 7 and chapter 13 of the Bankruptcy Code. The audit must be in accordance with generally accepted auditing standards and performed by independent certified public accountants or independent licensed public accountants. However, the Attorney General is given 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 or supervise them, will in doing so consult with those units in the Department of Justice which enforce against bankruptcy fraud and bankruptcy crimes, including the bankruptcy fraud task force 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 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 the audits is to 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 conspicuously specify any material misstatement of income, expenditures or assets. In any case where a material misstatement of income, expenditures or assets has been reported, the clerk of the bankruptcy court 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 national policy of the United States that all data collected by the bankruptcy clerks in electronic form (to the extent such data related to public records as defined in Section 107 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 as determined by the Judicial 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 record.

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 provide greater protection for holders of ad valorem tax liens on real or personal property of the estate. Many school boards obtain liens on real property to ensure 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 subordinated 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 purposes are limited to paying for chapter 7 administrative expenses and priority claims for postpetition ''wages, salaries, and commissions'' and claims for ''contributions to an employee benefit plan.'' Thus, subordination for the purpose of paying chapter 11 administrative expenses is not permitted. Also, section 701 requires the chapter 7 trustee to utilize all other estate assets before 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 redetermining the amount of the claim under nonbankruptcy law has expired. This addresses those instances where debtors or trustees use section 505 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 agreement simplifies the filing of claims by states against truckers for unpaid fuel taxes by modifying section 501 of the Bankruptcy Code. Rather than requiring all states to file a claim for unpaid fuel taxes (as is the case under current law), the designated ''base jurisdiction'' under the International 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 administrative tax liabilities 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 notice to the government.

The conference agreement requires that each bankruptcy court clerk maintain a listing under which government entities may designate their addresses for service of debtor requests. If a governmental entity does not designate an address and provide that address to the bankruptcy court clerk, any request made under section 505(b) of 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 rate of interest 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, the interest rate 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)(8) of the Bankruptcy Code, tax claims are entitled to a priority if they arise within certain time periods. In the case of income taxes, a priority arises, among other times, 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 also 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 for a hearing and an appeal of any collection action taken against the debtor, the priority is tolled, plus 90 days. Also, during any time in which there was a stay of proceedings in a prior bankruptcy case 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, replacing the word ''assessed'' with ''incurred'' in the case of real property taxes. Under current law, many provisions of the Bankruptcy Code are keyed to the word ''assessed.'' While this word has an accepted meaning in the federal system, it is not used in many state and local statutes and has created some confusion. Replacing the word ''assessed'' with ''incurred'' in the case of real property taxes in section 507(a)(8)(B) of the Bankruptcy Code eliminates this problem.

Section 707. No discharge of fraudulent taxes in chapter 13

The conference agreement follows the Senate bill. Under current law, a debtor's ability to discharge his tax debts varies depending on whether the debtor is in chapter 7 (liquidation) or chapter 13 (income earner plans of repayment). Chapter 7 contains a much narrower discharge. Under chapter 7, taxes from a return due within 3 years of the petition date, taxes assessed within 240 days, or taxes related to an unfiled return or false return are not dischargeable. Chapter 13, on the other hand, permits what is known as a ''superdischarge,'' which allows courts to discharge these same tax debts.

The conference agreement repeals the superdischarge for fraudulent and non-filed taxes by amending section 1328(a)(2) of the Bankruptcy Code. Fraudulent and non-filer claims would not receive any special treatment. The conference agreement also repeals the superdischarge for a tax required to be collected or withheld and for which the debtor is liable in whatever capacity, such as an employee's share of federal payroll and trust fund taxes. However, the conference agreement leaves the superdischarge in place for other tax claims. Thus, consistent with the IRS Restructuring and Reform Act of 1998, taxpayers who have complied with a reorganization plan—which includes paying taxes—would continue to receive the superdischarge.

Section 708. No discharge of fraudulent taxes in chapter 11

The conference agreement follows the Senate bill with a modification. Under current law, the confirmation of a plan of reorganization under chapter 11 discharges the debtor from all liability. The conference agreement would except, in the case of corporations, fraudulent taxes, willfully evaded taxes, and debts for money or property obtained in a false or fraudulent manner from the broad chapter 11 discharge. Congress believes the Bankruptcy Code should not encourage fraud by allowing the discharge of debts incurred through fraud or false representation simply because those debts were incurred in a corporate setting.

The conference agreement amends the discharge provisions of chapter 11 (Bankruptcy Code section 1141(d)) to prevent the discharge of tax or customs duty tax claims resulting 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 modifies the Senate bill to prevent the discharge of any debt for money, property, services, or credit, obtained by a corporate debtor in a false or fraudulent manner (applying section 523(a)(2) of the Bankruptcy Code to corporate debtors).

Section 709. Stay of tax proceedings limited to pre-petition taxes

The conference agreement modifies the Senate and House bills. Under current law, filing a petition for relief under the Bankruptcy Code triggers an automatic stay which precludes the commencement or continuation of a case in U.S. tax court. This rule was arguably extended in *Halpern* v. *Commissioner*, 96 T.C. 895 (1991), in which the tax court ruled that it did not have jurisdiction to hear a case involving a post-petition year. The conferees believe that *Halpern* went too far.

In order to address this issue, the conference agreement specifies that the automatic stay is limited to an individual debtor's prepetition taxes (taxes incurred before entering bankruptcy). Thus, the automatic stay would not apply to cases involving an individual debtor's postpetition taxes. The agreement allows the bankruptcy court to determine whether the stay will apply to the postpetition tax liabilities of a corporate debtor.

Section 710. Periodic payment of taxes in chapter 11 cases

The conference agreement follows the Senate bill with a modification. Section 710 of the conference agreement limits the discretion of the debtor and the trustee regarding treatment of pre-petition tax claims in chapter 11 cases. Under current law, non-tax claims are paid out over several years in equal installments. Tax claims must be paid out over six years from the date of assessment and typically include interest-only payments in the early years and a balloon payment at the end.

The conference agreement modifies section 1129(a)(9) of the Bankruptcy Code by reducing the maximum period of tax payments from six years from the date of assessment to five years from the entry of the order for relief and by specifying that payment should be made in ''regular installment payments.''

The conference agreement modifies the Senate bill to delete language regarding the interest rate applicable to installment payments in chapter 11 cases.

Section 711. Avoidance of statutory liens prohibited

The conference agreement follows the Senate bill. Under the Bankruptcy Code, trustees may act to keep assets in the bankruptcy estate even though a statutory lien exists against the asset. The Internal Revenue Code gives special protection to certain purchasers of securities and motor vehicles notwithstanding the existence of a filed tax lien. The conference agreement amends section 545(2) of the Bankruptcy Code to prevent trustees from using the tax code provision to displace an otherwise valid lien. In other words, trustees could not keep securities or motor vehicles in the bankruptcy estate if they were subject to a lien under the tax code provisions.

The conference agreement prevents the avoidance of unperfected liens against a bona fide purchaser, if the purchaser qualifies as such under section 6323 of the Internal Revenue Code or a similar provision of either state or local law.

Section 712. Payment of taxes in the conduct of business

The conference agreement follows the Senate bill. Bankruptcy laws and statutes-at-large generally require trustees and receivers to pay business taxes in the ordinary course. Other kinds of administrative expenses can be paid only upon motion after a court order. Some bankruptcy courts have not permitted debtors to pay post-petition tax liabilities (those accruing after filing a bankruptcy petition) prior to the approval of a plan for the bankruptcy estate. The conference agreement amends section 960 of title 28 of the U.S. Code to provide clear authority to pay taxes in the ordinary course of business. The agreement also amends section 503(b) of the Bankruptcy Code to require payment of ad valorem taxes as an allowed administrative expense tax and eliminates any requirement to file a request for payment of any administrative expense taxes.

Section 713. Tardily filed priority tax claims

The conference agreement follows the Senate bill. Under current law, in chapter 7 of the Bankruptcy Code, tax claims timely filed are entitled to their full statutory priority. Late-filed tax claims lose their full statutory priority, but are entitled to distribution as unsecured claims provided they are filed before the trustee commences distribution of the estate. The problem is that a claim filed just before distribution can significantly delay the process of distribution due to certifying the validity of the claim and determining its proper priority.

The conference agreement modifies section 726(a)(1) of the Bankruptcy Code to require a tax claim to be filed either before the trustee commences distribution or 10 days following the mailing to creditors of the summary of

the trustee's final report, whichever is earlier, 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 Senate bill. In general, taxpayers cannot be discharged from taxes unless a return was filed. Courts have struggled with what constitutes filing a return. The tax code authorizes the Secretary of Treasury to file a return on behalf of a taxpayer if either (1) the taxpayer provides information sufficient to complete a return, or (2) the Secretary can obtain sufficient information through testimony or otherwise to complete a return.

The conference agreement modifies section 523(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 can be discharged) but that a return filed on behalf of a taxpayer based on information the Secretary obtains through testimony or otherwise does not constitute filing a return (and the debt cannot be discharged).

Section 715. Discharge of the estate's liability for unpaid taxes

The conference agreement follows the Senate bill. Under the Bankruptcy Code, a debtor may request a prompt audit to determine post-petition tax liabilities. If the government does not make a determination or request extension of time to audit, then the debtor's determination of taxes will be final. Several court cases have held that while this protects the debtor and the trustee, it does not necessarily protect the estate.

The conference agreement modifies section 505(b) of the Bankruptcy Code to clarify that the estate is also protected if the government does not request an audit of the debtor's tax returns. Therefore, if the government does not make a determination of the debtor's post-petition tax liabilities or request extension of time to audit, then the estate's liability for unpaid taxes will be discharged.

Section 716. Requirement to file tax returns to confirm chapter 13 plans

The conference agreement follows the Senate bill with a modification. Under current law, a debtor may be entitled to the benefits of chapter 13 (reorganization) even if he is delinquent in his tax returns. Without access to tax return information, creditors cannot obtain full information about the debtor's status. Most districts have established procedures requiring the filing of returns prior to the initial meeting of creditors.

The conference agreement amends section 1325(a) of the Bankruptcy Code (and adds section 1308 to the Code) to require a debtor to be current on the filing of tax returns for the four years prior to the filing of a petition in order to have a chapter 13 plan confirmed. If the returns have not been filed by the date on which the meeting of creditors is first scheduled, the trustee may hold open that meeting for a reasonable period of time to allow the debtor to file any unfiled returns. The additional period of time may not extend beyond 120 days after the date of the meeting of the creditors or beyond the date on which the return is due under the last automatic extension of time for filing. However, the debtor may also obtain an extension of time to file from the court if the debtor demonstrates by a preponderance of the evidence that the failure to file was attributable to circumstances beyond the debtor's control.

Section 717. Standards for tax disclosure

The conference agreement follows the Senate bill. Under current law, before a chapter 11 (business bankruptcy) plan may be submitted 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 information'' on which they can make a decision as to whether or not to vote in favor of the plan. A chapter 11 plan's tax consequences represent an important aspect of that plan.

The conference agreement amends section 1125(a) of the Bankruptcy Code to require that a chapter 11 disclosure statement discuss the potential material Federal tax consequences of the plan to the debtor and to holders of claims and interests in the case.

Section 718. Setoff of tax refunds

The conference agreement follows the Senate bill. Under current law, a petition for bankruptcy triggers an automatic stay of the setoff of any debt owing to the debtor that arose before the commencement of the case against any debt owed by the debtor. This automatic stay precludes setoff of a pre-petition tax refund against a pre-petition tax obligation unless the bankruptcy court has approved the setoff. Because the interest and penalties which may continue to accrue are often nondischargeable, the inability to promptly apply income tax refunds against tax claims can cause individual debtors undue hardship.

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 or legality of the tax liability. In that circumstance, the governmental authority may hold the refund pending resolution of the action.

Section 719. Special provisions related to the treatment of State and local taxes

The conference agreement follows the Senate 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 the Bankruptcy Code, state and local tax years are divided differently—January 1 to March 5, and March 6 to December 31. Section 719 of the conference agreement requires the states to follow the federal convention.

The conference agreement conforms state and local tax administration to the Internal Revenue Code in the following areas: division of tax liabilities and responsibilities between the estate and the debtor, tax consequences with respect to partnerships and transfers of property, and the taxable period of a debtor. The conference agreement does not conform state and local tax rates to federal tax rates.

Section 720. Dismissal for failure to timely file tax returns

The conference agreement follows the Senate bill. Under existing law, there is no definitive rule concerning whether a bankruptcy court should dismiss a bankruptcy case if the debtor fails to file tax returns after entering bankruptcy. The conferees believe 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 debtor would have 90 days from the time of the request to file the return or to obtain an extension, or the court would be required to dismiss or convert the case.

TITLE VIII—ANCILLARY AND OTHER CROSS-BORDER CASES

This Title adds a new chapter to the Bankruptcy Code (the ''Code'') for transactional bankruptcy cases. This incorporates the Model Law on Cross-Border Insolvency to encourage cooperation between the United States and foreign countries with respect to transnational insolvency cases. Title IX is intended to provide greater legal certainty for trade and investment as well as to provide for the fair and efficient administration of cross-border insolvencies, which protects the interests of creditors and other interested parties, including the debtor. In addition, it serves to protect and maximize the value of the debtor's assets.

Section 801. Amendment 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 Bankruptcy Code the Model Law on Cross-Border Insolvency (''Model Law''), which was promulgated by the United Nations Commission on International Trade Law (''UNCITRAL'') at its Thirtieth Session, May 12–30, 1997.

Cases brought under this chapter are intended to be ancillary to cases brought in a debtor's home country, unless a full United States bankruptcy case is brought under another chapter. Even if a full case is brought, the court may decide under section 305 to stay or dismiss the United States case under the chapter and limit the United States' role to ancillary case under this chapter. If the full case is not dismissed, it will be subject to the provisions of this chapter governing cooperation, communication and coordination with foreign courts and representatives. In any case, an order granting recognition is required as a prerequisite to use the sections 301 and 303 by a foreign representative.

Section 1501 combines the Preamble to the Model Law (subsection (1)) with its article 1 (subsections (2) and (3)). It largely follows the language of the Model Law and fills in blanks with appropriate United States references. However, it adds in subsection (3) an exclusion of certain natural persons who may be considered ordinary consumers. Although the consumer exclusion is not in the test of the Model Law, the discussions at UNCITRAL recognized that some such exclusion would be necessary in countries like the United States where there are special provisions for consumer debtors in the insolvency laws.

The reference to section 109(e) essentially defines ''consumer debtors'' for purposes of the exclusion by incorporating the debt limitations of that section, but not its requirement or regular income. The exclusion adds a requirement that the debtor or debtor couple be citizens or long-term legal residents of the United States. This ensures that residents of other countries will not be able to manipulate this exclusion to avoid recognition of foreign proceedings in their home countries or elsewhere.

The first exclusion in subsection (c) constitutes, for the United States, the exclusion provided in article 1, subsection (2), of the Model Law. Foreign representatives of foreign proceedings which are excluded from the scope of chapter 15 may seek relief from courts other than the bankruptcy court since the limitations of section 1509(b) (2) and (3) would not apply to them.

The reference to section 109(b) interpolates into chapter 15 the entities governed by specialized insolvency regimes under United States law which are currently excluded from liquidation proceedings under title 11. Section 1501 contains an exception to the

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, section 1501(d) 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 1502. Definitions

''Debtor'' is given a special definition for this chapter. That definition does not come from the Model Law but is necessary to eliminate the need to refer repeatedly to ''the same debtor as in the foreign proceeding.'' With certain exceptions, the term ''person'' used in the Model Law has been replace with ''entity,'' which is defined broadly in section 101(15) to include natural persons and various legal entities, thus matching the intended breadth of the term ''person'' in the Model Law. The exceptions include contexts in which a natural person is intended and those in which the Model Law language already refers to both persons and entities other than persons. The definition of ''trustee'' for this chapter ensures that debtors in possession and debtors, as well as trustees, are included in the term.

The definition of ''within the territorial jurisdiction of the United States'' in subsection (7) is not taken from the Model Law. It has been added because the United States, like some other countries, assets insolvency jurisdiction over property outside its territorial limits under appropriate circumstances. Thus a limiting phrase is useful where the Model Law and this chapter intend to refer only to property within the territory of the enacting state. In addition, a definition of ''recognition'' supplements the Model Law definitions and merely simplifies drafting of various other sections of chapter 15.

Two key definitions of ''foreign proceeding'' and ''foreign representative,'' are found in sections 101(23) and (24), which have been amended consistent with Model Law article 2.

The definitions ''establishment,'' ''foreign court,'' ''foreign main proceeding,'' and ''foreign non-main proceeding,'' have been taken from Model Law article 2, with only minor language variations necessary to comport with United States terminology. Additionally, defined terms have been placed in alphabetical order.

In order to be recognized as a foreign nonmain proceeding, the debtor must at least have an establishment in that foreign country.

Section 1503. International obligations of the United States

This section is taken exactly from the Model Law with only minor adaptations of terminology.

Although this sections makes an international obligation prevail over chapter 15, the courts will attempt to read the Model Law and the international obligation so as not to conflict, especially if the international obligation addresses a subject matter less directly related than the Model Law to a case before the court.

Section 1504. Commencement of ancillary case

Article 4 of the Model Law is designed for designation of the competent court which will exercise jurisdiction under the Model Law. In United States law, section 1334(a) of title 28 gives exclusive jurisdiction to the district courts in a ''case'' under this title.

Therefore, since the competent court has been determined in title 28, this section instead provides that a petition for recognition commences a ''case'', an approach that also invokes a number of other useful procedural provisions.

In addition, a new subsection (P) to section 157 of title 28 makes cases under this chapter part of the core jurisdiction of bankruptcy 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 title ''ancillary'' in this section and in the title of this chapter emphasizes the United States' policy in favor of a general rule that countries other than the home country of the debtor, where a main proceeding would be brought, should usually act through ancillary proceedings, in preference to a system of full bankruptcies (often called ''secondary'' proceedings) in each state where assets are found. Under the Model Law, notwithstanding the recognition of a foreign main proceeding, full bankruptcy cases are permitted in each country (see sections 1528 and 1529). In the United States, the court will have the power to suspend or dismiss such cases where appropriate under section 305.

Section 1505. Authorization to act in a foreign country

The language in this section varies from the wording of articles 5 of the Model Law as necessary to comport with United States law and terminology. The slight alteration to the language in the last sentence is meant to emphasize that the identification of the trustee or other entity entitled to act is under United States law, while the scope of actions that may be taken by the trustee or other entity under foreign law is limited by the foreign law.

The related amendment to section 586(a)(3) of title 28 makes acting pursuant to authorization under this section an additional power of a trustee or debtor in possession.

While the Model Law automatically authorizes an administrator to act abroad, this section requires all trustees and debtors to obtain court approval before acting abroad. That requirement is a change from the language of the Model Law, but one that is purely internal to United States law.

Its main purpose is to ensure that the court has knowledge and control of possibly expensive activities, but it will have the collateral benefit or providing further assurance to foreign courts that the United States debtor or representative is under judicial authority and supervision. This requirement means that the first-day orders in reorganization cases should include authorization to act under this section where appropriate.

This section also contemplates the designation of an examiner or other natural person to act for the estate in one or more foreign countries where appropriate. One instance might be a case in which the designated person had a special expertise relevant to that assignment. Another might be where the foreign court would be more comfortable with a designated person than with an entity like a debtor in possession. Either are to be recognized under the Model Law.

Section 1506. Public policy exception

This provision follows the Model Law article 5 exactly, is standard in UNCITRAL texts and has been narrowly interpreted on a consistent basis in courts around the world. The word ''manifestly'' in international usage restricts the public policy exemption to the most fundamental policies of the United States.

Section 1507. Additional assistance

Subsection (1) follows the language of Model law article 7.

Subsection (2) makes the authority for additional relief (beyond that permitted under sections 1519–1521, below) subject to the conditions for relief heretofore specified in United States law under section 304, which is repealed. This section is intended to permit the 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 upon 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 references to ''estate'' in section 304 have been changed to refer to the debtor's property, because many foreign systems do not create an estate in insolvency proceedings or the sort recognized under this chapter. Although the case law, construing section 304 makes it clear that comity is the central consideration, its physical placement as one of six factors in subsection 304 is misleading, since those factors are essentially elements of the grounds for granting comity. Therefore, in 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 concepts more clearly in terminology which accords with that of the bankruptcy laws of the United States.

Interpretation of this chapter on a uniform basis will be aided by reference to 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 CLOUT, the UNCITRAL Case Law On Uniform Texts, which is a service of UNITRAL. 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 are these sources persuasive, but they are important to the crucial goal of uniformity 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

This section implements the purpose of article 9 of the Model Law, enabling a foreign representative to commence a case under this chapter by filing a petition directly with the court without preliminary formalities that may delay or prevent relief. It varies the language to fit United States procedural requirements and it imposes recognition of 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 (subsection (b)(1)), may request such relief in a state or federal court other than the bankruptcy court (subsection (b)(2)) and may be granted comity or cooperation by such non-bankruptcy court (subsection (b)(3) and (c)). Subsections (b)(2), (b)(3) and (c) make it clear that chapter 15 is intended to be the exclusive door to ancillary assistance to foreign proceedings. The goal is to concentrate control of these questions in one court. That goal is important in a federal system like that of the United States with many different courts, state and federal, that may have pending actions involving the debtor or the debtor's property. This section, therefore, completes for the United States the work of article 4 of the Model Law (''competent court'') as well as article 9.

Although a petition under current section 304 is the proper method for achieving deference by a United States court to a foreign insolvency under present law, some cases in state and federal courts under current law have granted comity suspension or dismissal

of cases involving foreign proceedings without requiring a section 304 petition or even referring to the requirements of that section. Even if the result is correct in a particular case, the procedure is undesirable, because there is room for abuse of comity. Parties would be free to avoid the requirements of this chapter and the expert scrutiny of the bankruptcy court by applying directly 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 concentrates the recognition and deference process in one United States court, ensures against abuse, and empowers a court that will be fully informed of the current status of all foreign proceedings involving the debtor.

Subsection (d) has been added to ensure that a foreign representative cannot seek relief 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 collection of a claim which is property of 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 306 is not included, the court has the power under section 1522 to attach appropriate conditions to any relief it may grant. Nevertheless, the authority in section 1522 is not intended to permit the imposition of jurisdiction over the foreign representative beyond 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 303

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 given its many bankruptcy court districts and the importance of full information and coordination among them.

Article 11 does not distinguish between voluntary and involuntary proceedings, but seems to have implicitly assumed an involuntary proceeding.

Subsection 1(a)(2) goes farther and permits a voluntary filing, with its much simpler requirements, if the foreign proceeding that has been recognized is a main proceeding.

Section 1512. Participation of a foreign representative in a case under this title

This section follows article 12 of the Model Law with a sight alternation to adjust to United States procedural terminology. The effect of this section is to make the recognized foreign representative a party in interest in any pending or later commenced United States bankruptcy case.

Throughout this chapter, the word ''case'' has been substituted for the word ''proceeding'' 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 creditors, except as provided in subsection (b) and section 1514. It follows the intent of Model Law article 13, but the language required alternation to fit into the Bankruptcy Code.

The law as to priority for foreign claims that fit within a class given priority treatment under section 507 (for example, foreign employees or spouses) is unsettled. This section permits the continued development of case law on that subject and its general principle of national treatment should be an important factor to be considered. At a minimum, under this section, foreign claims must receive the treatment given to general unsecured claims without priority, unless they are in a class of claims in which domestic creditors would also be subordinated.

The Model Law allows for an exception to the policy of nondiscrimination as to foreign revenue and other public law claims. Such claims (such as tax and social security claims) have been denied enforcement in the United States traditionally, inside and outside of bankruptcy. The Code is silent on this point, so the rule is purely a matter of traditional case law. It also allows the Department of the Treasury to negotiate reciprocal arrangements with out tax treaty partners in this regard, although it does not mandate any restriction of the evolution of case law pending such negotiations.

Section 1514. Notification of foreign creditors concerning a case under title 11.

This section ensures that foreign creditors receive proper notice of cases in the United States.

As ''foreign creditor'' is not defined term, foreign addresses are used as the distinguishing factor. The Federal Rules of Bankruptcy Procedure (''Rules'') should be amended to conform to the requirements of this section, including a special form for initial notice to such creditors. In particular, the Rules must provide for additional time for such creditors to file proofs of claim where appropriate and must provide for the court to make specific orders in that regard in proper circumstances. The notice must specify that secured claims must be asserted, because in many countries such claims are not affected by an insolvency proceeding and need not be filed. Of course, if a foreign creditor has made an appropriate request for notice, it will receive notices in every instance where notices would be sent to other creditors who have made such requests.

Subsection (d) replaces the reference to ''a reasonable time period'' in Mode Law article 14(3)(a). It makes clear that the Rules, local rules, and court orders must make appropriate adjustments in time periods and bar dates so that foreign creditors have a reasonable time within which to receive notice or take an action.

Section 1515. Application for recognition of a foreign proceeding

This section follows article 15 of the Model Law with minor changes.

The Rules will require amendment to provide forms for some or all of the documents mentioned in this section, to make necessary additions to Rules 1000 and 20002 to facilitate appropriate notices of the hearing on the petition for recognition, and to require filing of lists of creditors and other interested persons who should receive notices. Throughout the Model Law, the question of notice procedure is left to the law of the enacting state.

Section 1516. Presumptions concerning recognition

This section follows article 16 of the Model Law with minor changes.

Although section 1515 and 1516 are designed to make recognition as simple and expedient as possible, the court may hear proof on any element stated. The ultimate burden as to each element is on the foreign representative, although the court is entitled to shift the burden to the extent indicated in section 1516. The word ''proof'' in subsection (3) has been changed to ''evidence'' to make it clearer using United States terminology that the ultimate burden is on the foreign representative.

''Registered office'' is the term used in the Model Law to refer to the place of incorporation or the equivalent for an entity that is not a natural person.

The presumption that the place of the registered office is also the center of the debtor's main interest is included for speed and convenience of proof where there is not serious 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 dependent upon any findings about the nature of the foreign proceedings of the sort previously mandated by section 304(c). The requirements of this section, which incorporates the definitions in section 1502 and sections 101(23) and (24), are all that must be fulfilled to attain recognition.

Reciprocity was specifically suggested as a requirement for recognition on more than one occasion in the negotiations that resulted in the Model Law. It was rejected by overwhelming consensus each time. The United States was one of the leading countries 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 meeting the standards of section 1502 (that is, one brought where the debtor has an establishment) were entitled to recognition under this section. The Model Law has been slightly modified to make this point clear by referring to the section 1502 definition of main and non-main proceedings, as well as to the general definition of a foreign proceeding in section 101(23). 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 creates a status 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 section 1519 and 1521. Subsection (4) states the grounds for modifying or terminating recognition. On the other hand, the effects of recognition (found in section 1520 and including an automatic stay) are subject to modification under section 362(d), made applicable by section 15320(2), which permits lifting the stay of section 1520 for cause.

Paragraph 1(d) of section 17 of the Model Law has been omitted as an unnecessary requirement for United States purposes, because a petition submitted to the wrong court will be dismissed or transferred under other provisions of United States law.

The reference to section 350 refers to the routine closing of a case that has been completed and will invoke requirements including a final report from the foreign representative in such form as the Rules may provide or a court may order.

Section 1518. Subsequent information

This section follows the Model Law, except to eliminate the word ''same'' which is rendered unnecessary by the definition of ''debtor'' in section 1502 and to provide for a formal document to be filed with the court.

Judges in several jurisdictions, including the United States, have reported a need for a

requirement of complete and candid reports to the court of all proceedings, worldwide, involving the debtor. This section will ensure that such information is provided to the court on a timely basis. Any failure to comply with this section will be subject to the sanctions available to the court for violations of the statue. The section leaves to the Rules the form of the required notice and related questions of notice to parties in interest, the time for filing, and the like.

Section 1519. Relief may be granted upon petition for recognition of a foreign proceeding

This section generally follows article 19 of the Model Law.

The bankruptcy 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 such relief 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 foreign main proceeding

In general, this chapter sets forth all the relief that is available as a matter of right based upon recognition hereunder, although additional assistance 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 Code. Subsection (a)(1) 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, but include all the restrains the Model Law provisions would impose.

As the foreign proceeding may or may not create an ''estate'' similar to that created in cases under this title, the restraints are applicable to actions against the debtor under section 362(a) and with respect to the property of the debtor under the remaining sections. The only property covered by this section is property within the territorial jurisdiction of the United States as defined in section 1502. To achieve effects on property of the debtor which is not within the territorial jurisdiction of the United States, the foreign representative would have to commence a case under another chapter of this title.

By applying section 361 and 362, subsection (a) makes applicable the United States exceptions and limitation to the restraints imposed 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 concept of adequate protection provided in sections 362 and 363.

These exceptions and limitations include these set forth in section 362(b), (c) and (d). As one result, the court has the power to terminate 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 foreign representative of a foreign main proceeding an automatic right to operate the debtor's business and exercise the power of a trustee under section 363 and 542, unless the court orders otherwise. A foreign representative of a foreign main proceeding may need to continue a business operation to maintain value and granting that authority automatically will eliminate the risk of delay. If the court is uncomfortable about his authority in a particular situation it can ''order otherwise'' as part of the order granting recognition.

Two special exceptions to the automatic stay are embodied in subsections (b) and (c). To preserve a claim in certain foreign countries, it may be necessary to commence an action. Subsection (b) permits the commencement of such an action, but would not allow for its further prosecution. Subsection (c) provides that there is not stay of the commencement of a full United States bankruptcy case. This essentially provides an escape hatch through which any entity, including the foreign representative, can flee into a full case. The full case, however, will remain subject to subchapter IV and V on cooperation and coordination of proceedings and to section 305 providing for stay or dismissal.

Section 108 of the Bankruptcy Code provides the tolling protection intended by Model Law article 2(3), so no exception is necessary as to claims that might be extinguished under United States law.

Section 1521. Relief that may be granted upon recognition of a foreign proceeding

This section follows article 21 of the Model Law, with detailed changes to fit United States law.

The exceptions in subsection (a)(7) relate to avoiding powers. The foreign representative's status as to such powers is governed by section 1523 below. The avoiding power in section 549 and the exceptions to that power are covered by section 1520(a)(2).

The word ''adequately'' in the Model Law, articles 21(2) and 22(1), has been changed to ''sufficiently'' in section 1521(b) and 1522(a) to avoid confusion with a very specialized legal term in United States bankruptcy, ''adequate protection.''

Subsection (c) is designed to limit relief to assets having some direct connection with a non-main proceeding, for example where they were part of an operating division in the jurisdiction of the non-main proceeding when they were fraudulently conveyed and then brought to the United States. Subsections (d), (e) and (f)j are identical to those same subsections of section 1519.

This section does not expand or reduce the scope of relief currently available in ancillary cases under sections 105 and 304 nor does it modify the sweep of section 555 through 560.

Section 1522. Protection of creditors and other interested persons

This section follows article 22 of the Model Law with changes for United States usage and references to relevant Code sections.

It gives the bankruptcy court broad latitude to mold relief to circumstances, including appropriate responses if it is shown that the foreign proceeding is seriously and unjustifiably injuring United States creditors. For response to a showing that the conditions necessary to recognition did not actually exist or have ceased to exist, see section 1517. Concerning the change of ''adequately'' in the Model Law to ''sufficiently'' in this section, see section 1521 Subsection (d) is new and simply makes clear that an examiner appointed in a case under chapter 15 shall be subject to certain duties and bonding requirements based on those imposed on trustees and examiners under other chapters of this title.

Section 1523. Actions to avoid acts detrimental to creditors

This section follows article 23 of the Model Law, with wording to fit it within procedure under this title.

It confers standing on a recognized foreign representative to assert an avoidance action but only in a pending case under another chapter of this title. The Model Law is not clear about whether it would grant standing in a recognized foreign proceeding if not full case were pending. This limitation reflects concerns raised by the United States delegation during the UNCITRAL debates that a single grant of standing to bring avoidance actions neglects to address very difficult choice of law and forum issues. This limited grant of standing in section 1523 does not create or establish any legal right of avoidance nor does it create or imply any legal rules with respect to the choice of applicable law as to the avoidance of any transfer or obligation.

The courts will determine the nature and extent of any such action and what national law may be applied to such action.

Section 1524. Intervention by a foreign representative

The wording is the same as the Model Law, except for a few clarifying words.

This section gives the foreign representative whose foreign proceeding has been recognized the right to intervene in United States cases, state or federal, where the debtor is a party. Recognition begin an act under federal bankruptcy law, it must take effect in state as well as federal courts. This section does not require substituting the foreign representative for the debtor, although that result may be appropriate in some circumstances.

Section 1525. Cooperation and direct communication between the court and foreign courts or foreign representatives

The wording is almost exactly that of the Model Law.

The right or courts to communicate with other courts in worldwide insolvency cases is of central importance. This section authorizes courts to do so. This right must be exercised, however, with due regard to the rights of the parties. Guidelines for such communications are left to the Rules.

Section 1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives

This section follows the Model Law almost exactly.

The language in Model Law article 26 concerning the trustee's function was eliminated as unnecessary because always implied under United States law. The section authorizes the trustee, including a debtor in possession, to cooperate with other proceedings.

Subsection (3) is not taken from the Model Law but is added so that any examiner appointed under this chapter will be designated by the United States Trustee and will be bonded.

Section 1527. Forms of cooperation

This section follows the Model Law exactly. United States bankruptcy courts have already engaged in most of the forms of cooperation mentioned here, but they now have explicit statutory authorization for acts like the approval of protocols of the sort used in cases.

Section 1528. Commencement of a case under title 11 after recognition of a foreign main proceeding

This section follows the Model Law, with specifics of United States law replacing the general clause at the end to cover assets normally included within the jurisdiction of the United States courts in bankruptcy cases,

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 where those assets are controlled by another recognized proceeding, if it is a main proceeding.

The court may use section 305 of this title to dismiss, stay, or limit a case as necessary to promote cooperation and coordination in a cross-border case. In addition, although the jurisdictional limitation applies only to United States bankruptcy cases commenced after recognition of a foreign proceeding, the court has ample authority under the next section and section 305 to exercise its discretion to dismiss, stay, or limit a United States case filed after a petition for recognition of a foreign main proceeding has been filed but before it has been approved, if recognition is ultimately granted.

Section 1529. Coordination of a case under title 11 and a foreign proceeding

This section follows the Model Law almost exactly, but subsection (4) adds a reference to section 305 to make it clear the bankruptcy court may continue to use that section, as under present law, to dismiss or suspend a United States case as part of coordination and cooperation with foreign proceedings. This provision is consistent with United States policy to act ancillary to 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 primacy in the United States, consistent with the overall approach of the United States favoring assistance to foreign main proceedings.

Section 1531. Presumption of insolvency 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 insolvency proceeding has begin 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 debtors in the sort of financial distress requiring a collective judicial remedy. The word ''proof'' here means ''presumption.'' The presumption does not arise for any purpose outside this section.

Section 1532. Rule of payment in concurrent proceeding

This section follows the Model Law exactly and is very similar to prior section 508(a), which is repealed. The Model Law language is somewhat clearer and broader than the equivalent language of prior section 508(a).

Section 802. Other amendments to titles 11 and 28, United States Code

Other sections of title 11 have been amended to apply relevant provisions in those sections to chapter 15 and to specify which portions of chapter 15 apply in cases under other chapters of title 11.

The key definitions of foreign proceeding and foreign representative do not appear in chapter 15, but rather replace the prior definitions of those terms in section 101(23) and 101(24). The new definitions are nearly identical to those contained in the Model Law but add to the phrase ''under a law relating to insolvency'' the words ''or debt adjustment.'' This addition emphasizes that the scope of the Model Law and chapter 15 is not limited to proceedings involving only debtors which are technically insolvent, but broadly includes all proceedings involving debtors in severe financial distress, so long as those proceedings also meet the other criteria of section 101(24).

The amendment to section 157(b)(2) of title 28 provides that proceedings under chapter 15 will be core proceedings while other amendments to title 28 provide that the United States Trustee's standing extend to cases under chapter 15 and that the United States Trustee's duties include acting in chapter 15 cases.

Although the United States will continue to assert worldwide jurisdiction over property of a domestic or foreign debtor in a full bankruptcy case under chapters 7 and 13 of this title, subject to deference to foreign proceedings under chapter 15 and section 305, the situations different in a case commenced under chapter 15. There the United States is acting solely in an ancillary position, so jurisdiction over property is limited to that stated in chapter 15.

Amendments to section 109 permit recognition of foreign proceedings involving foreign insurance companies and involving foreign banks which do not have a branch or agency in the United States (as defined in 12 U.S.C. section 3103). While a foreign bank not subject to United States regulation will be eligible for chapter 15 as a consequence of the amendment to section 109, section 303 prohibits the commencement of a full involuntary case against such a foreign bank unless the bank is a debtor in a foreign proceeding.

While section 304 is repealed and replace by chapter 15, access to the jurisprudence which developed under section 304 is preserved in the context of new section 1507. On deciding whether to grant the Additional Assistance contemplated by section 1507, the Court must consider the same factors that had been imposed by former section 304.

The venue provisions for cases ancillary to foreign proceedings have been amended to provide a hierarchy of choices beginning with principal place of business in the United States, if any. If there is no principal place of business in the United States, but there is litigation against a debtor, then the district in which the litigation is pending would be the appropriate venue. In any other case, venue must be determined with reference to the interests of justice and the convenience of the parties.

TITLE IX—FINANCIAL CONTRACT PROVISIONS

This title addresses recently prominent forms of financial investments which require special treatment in the insovlency context. It amends the Federal Deposit Insurance Act to provide treatment financial contracts, commodities contracts, securities contracts, forward contracts, repurchase agreements and swaps. It also amends the Bankruptcy Code to provide appropriate treatment for those types of financial investments. The Securities Investor Protection Act is amended as well to create an exception from the stay under that Act for certain financial investment instruments. Finally, the Bankruptcy Code is amended to deal with certain specialized aspects of asset securitization.

TITLE X—PROTECTION OF FAMILY FARMERS

Section 1001. Permanent reenactment of chapter 12

Under subsection 1001(a) chapter 12 (Adjustment of Debts of a Family Farmer with Regular Annual Income) is reenacted effective October 1, 1999. No time limit or termination date is established for chapter 12 under this provision. Subsection 1001(b) repeals subsection 302(f) of the Bankruptcy, Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986, which set a now outdated termination date of October 1, 1998 for chapter 12.

Section 1002. Debt limit increase

This section amends section 104(b) of title 11, United States Code, providing for annual or biannual adjustments of the debt limit for family farmers beginning with the adjustment to be made on April 1, 2001.

Section 1003. Certain claims owed to governmental units

Subsection 1003(a) provides for payment in full of all claims entitled to section 507 priority unless the claim is owed to a governmental unit arising from the sale, exchange, or other disposition of any farm asset used in the debtor's farming operation. In that case, the claim is treated as an unsecured claim and the underlying debt is treated the same if the debtor receives a discharge or the holder of a particular claim agrees to a different treatment of that claim. Subsection 1003(b) amends section 1231(d) of chapter 11, providing that any governmental unit'' may provide a determination regarding the tax effects of a proposed plan under chapter 12.

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, files for bankruptcy under chapters 7, 9 or 11.

Section 1101. Definitions

Section 1101 defines the terms ''health care business,'' ''patients,'' and ''patient records,'' which are added to definitions section of the Bankruptcy Code (11 U.S.C. '101).

Section 1102. Disposal of patient records

Section 1102 adds a new section 351 in subchapter III of Chapter 3 of title 11 dealing with the protection and disposal of patient records in a health care business bankruptcy situation.

The Trustee is required to follow certain procedures with respect to general and specific notice to patients and insurance companies regarding patient records, as well as the transfer and disposal of such records. These procedures are intended to protect the privacy and confidentiality of an individual's medical records when they are in the custody of a health care business that has filed for bankruptcy relief.

Section 1103. Administrative expenses claim for costs of closing a health care business

Section 1103 amends section 503(b) of title 11, making the actual, necessary costs and expenses of closing a health care business, including the cost or expense of disposing of patient records and transferring patients to another health care facility, an allowable administrative expense.

Section 1104. Appointment of ombudsman to act as patient advocate

Section 1104 (a) adds a new section 332 in subchapter II of chapter 3 of title 11, providing that the court appoint an ombudsman to act as an advocate for patients of health care facilities that have filed for bankruptcy. The ombudsman will monitor the quality of patient care and report to the court every 60 days regarding the quality of that care. If the ombudsman determines that patient care is declining significantly or is otherwise materially compromised, he/she is to immediately notify the court by motion or written report, with notice to appropriate parties in interest. The ombudsman is to treat any information obtained regarding patients as confidential information. The ombudsman may not review confidential patient records, without the prior approval of the court and under restrictions protecting their confidentiality. Section 1104(b) provides for compensation of an ombudsman under section 330(a)(1) of title 11.

Section 1105. Debtor in possession; duty of trustee to transfer patients

Section 1105 amends section 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 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 program 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, compensation of professionals, conversion, administrative expenses, discharge, discriminatory treatment, and property of the estate provisions.

Section 1213. Preferences

This provision overrules *Levit* v. *Ingersoll Rand Financial Corp.* (*In re V.N. Deprizio Const. Co.*), 874 F.2d 1186 (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, and 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, municipal bankruptcy and railroad line abandonments.

Section 1219. Discharge under chapter 12

Section 1219 amends section 1228 (which deals with discharge under chapter 12) of the Bankruptcy Code to correct erroneous references.

Section 1220. Bankruptcy cases and proceedings

Section 1220 of the of the Act amends section 1334(d) of title 28 of the United States Code to correct erroneous references.

Section 1221. Knowing disregard of bankruptcy law or rule

This section amends section 156(a) of title 18 of the United States Code, which defined ''bankruptcy petition preparer'' and ''document for filing,'' by making stylistic changes and by making a correct reference to title 11 of the United States Code.

Section 1222. Transfers made by nonprofit charitable corporations

Section 1222 amends section 363(d) of the Bankruptcy Code to restrict the right of a trustee to use, sell, or lease property owned by a nonprofit corporation or trust. First, the use, sale or lease must be in accordance with applicable nonbankruptcy law and must not be inconsistent with any relief granted under certain specified provisions of section 362 of the Bankruptcy Code concerning the applicability of the automatic stay. Second, the section imposes similar restrictions with regard to chapter 11 plan confirmation requirements. Third, it amends section 541 of the Bankruptcy Code to provide that any property of a bankruptcy estate, where the debtor is a nonprofit corporation (as described in section 501(c)(3) of the Internal Revenue Code) may be transferred to an entity that is not such a corporation, but only under the same conditions that would apply if the debtor was not in bankruptcy. The amendments made by this section apply to cases pending on the date of enactment of this Act. A limited exception pertains with respect to confirmation of a chapter 11 plan.

Section 1223. Protection of valid purchase money security interests

Section 1223 amends section 547(c)(3)(B) of the Bankruptcy Code extending the applicable perfection 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 1224. Extensions

Section 302(d)(3) of the Bankruptcy, Judges, U.S. Trustees, and Family Farmer Bankruptcy Act of 1986 is amended by striking out all references to ''or October 1, 2002, whichever occurs first'' and ''October 1, 2003, or'' and ''whichever occurs first''. These changes permanently extend the bankruptcy administrator program in Alabama and North Carolina.

Section 1225. 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) Four 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 Jersey.

(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 eastern district of North Carolina.

(N) One additional bankruptcy judgeship for the eastern district of Pennsylvania.

(O) One additional bankruptcy judgeship for the middle 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.

(R) One additional bankruptcy judgeship for the eastern district of Virginia.

The section provides that judgeship vacancies in the above districts resulting from death, retirement, resignation, or removal of a bankruptcy judge which occur 5 years or more after the appointment date shall not be filled.

The section also adds that temporary bankruptcy judgeships authorized for the northern district of Alabama, the district of Delaware, the district of Puerto Rico, the district of South Carolina, and the eastern district of Tennessee under the Bankruptcy Judgeship Act pf 1992 are extended until the first vacancy resulting from the death, retirement, resignation, or removal occurs:

(A) 8 years or more after November 8, 1993, in the northern district of Alabama.

(B) 10 years or more after October 28, 1993, in the district of Delaware.

(C) 8 years or more after August 29, 1994, in the district of Puerto Rico.

(D) 8 years or more after June 27, 1994, in the district of South Carolina.

(E) 8 years or more after November 23, 1993, in the district of Tennessee.

The section also amends section 152(a)(1) of title 28 of the United States Code. It adds that each judge shall be appointed by the U.S. Court of Appeals for the circuit in which such a district is located.

Section 1226. Compensating trustees

This section amends section 326 (Limitation on Compensation of Trustee) with a new subsection (e) providing that, in a case where a trustee in a chapter 7 case makes a motion to dismiss or convert under section 707(b) and such motion is granted, the court shall allow ''reasonable compensation'' under section 330(a) of title 11 for the services and expenses of the trustee and the trustee's counsel. The compensation covers the reasonable costs of preparing and presenting the section 707(b) motion and any related appeals. This section also adds a new subsection (f) to section 326 providing that, subject to the limits established in subsection 326(a), the court shall consider the ''results achieved'' when determining a trustee's compensation. Finally, this section amends subsection 1326(b) dealing with payments under a chapter 13 plan. Specifically, a new paragraph (3) is added to subsection 1326(b) establishing a formula limiting the amount a debtor must pay under a plan to compensate a chapter 7 trustee or trustee's attorney who has been awarded fees in a chapter 7 case, when that compensation is allowed under section 326(e).

Section 1227. Amendment to section 362 of title 11, U.S. Code

Amends section 362(b)(18) to exempt from the automatic stay a special tax or special assessment on real property (whether or not ad valorem), imposed by a governmental unit, if such special tax or assessment comes due after the filing of the bankruptcy petition.

Section 1228. Judicial education

Provides that the Director of the Federal Judicial Center, in consultation with the Director of the Executive Office of U.S. Trustees, shall develop materials and conduct such training as may be useful to the courts in implementing this Act, focusing in particular on the section 707(b) means test and reaffirmation.

Section 1229. Reclamation

Subsection (a) of this section amends section 546(c) of title 11, to allow a seller of goods to reclaim those goods under certain circumstances and establishing the procedures and time limits for doing so. This provision was amended in 1994 so as to expand the ability of sellers of goods to reclaim such goods from a trustee by extending the reclamation demand period from 10 days to 20 days. The amendment made by this Act extends this period to 45 days, subject to certain limitations and requirements. Under existing law and this amendment, the rights and powers of the trustee under sections 544(a), 545, 547 and 549 are subject to the right of a seller of goods that has sold goods to the debtor in the ordinary course of the seller's business.

Specifically, under the new subsection 546(c)(1), the seller's rights to reclaim goods which an insolvent debtor received not later than 45 days after the commencement of the

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 45 days 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, if the 45–day period expires after commencement of the case. Subsection 546(c)(2) states that a failure to provide notice in a manner required under paragraph (1), does not preclude 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. First, such rights do not apply to claims with respect to grain or fish covered in subsection 546(d). Second, another exception is provided for priority claims 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 by the debtor not later than 20 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. In addition, under Rule 2004 discovery, a debtor can be required to disclose tax returns and other tax information in appropriate cases. If a debtor fails to do so, this provision provides sanctions.

Subsection (a) withholds a discharge in a chapter 7 case where the debtor has failed to provide requested tax documents 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 claim under chapter 7, 11 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 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) provides 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 its statutory authority, to encourage responsible lending practices and greater personal responsibility on the part of consumers.

Section 1232. Property no longer subject to redemption

This section amends section 541(b) of the Bankruptcy Code to clarify that pawned, 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 pawned goods have not been redeemed. Thus, pawned personal property is not part of a debtor's bankruptcy estate, after the time under the contract for redeeming the property has expired. This codifies what most courts have held, and will relieve the courts from the burden of having to repeatedly rule on whether pawn 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 panel under subsection 586(a)(1) or appointed under subsection 586(b), to obtain judicial review when they are terminated or cease to be assigned cases. Judicial review shall be available in the United States district court for the district for which the panel to which the trustee was appointed under subsection 586(a)(1) serves, or the district where a trustee appointed under subsection 586(a) resides. 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(e) to allow an individual appointed under subsection 586(b) to seek judicial review of a final agency decision to deny a claim for actual, necessary expenses. Before seeking judicial review, the individual 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.

Section 1234. Bankruptcy forms

This section amends 28 U.S.C. 2075 (Bankruptcy rules) by adding at the end a requirement that a form be prescribed for the statement required under section 707(b)(2)(C) of title 11 concerning the debtor's current monthly income and the calculations that determine whether a presumption of abuse arises under section 707(b)(2)(A)(i). The form may provide general rules on the content of the statement.

Section 1235. Expedited appeals of bankruptcy cases to courts of appeals

Subsection (a) of this section strikes the existing language contained in subsection 158(d) of title 28, United States Code, and replaces it with language establishing an expedited appeals process for judgments, decisions, orders, or decrees issued by bankruptcy judges. Specifically, it provides that where an appeal of a judgment, decision, order, or decree of a bankruptcy judge is filed with the district court, that judgment, decision, order, or decree shall be deemed to be a judgment, decision, order, or decree of (''entered by'') the district court 31 days after the appeal is filed with the district court. This result will occur unless, not later than 30 days after such an appeal is filed with the district court, the district court: (1) files its own decision on the appeal; (2) enters an order extending the 30–day period for cause upon a motion of a party or on its own motion; or (3) all parties to the appeal file a written consent that the district court may retain the appeal. An appeal is to be considered filed with the district court on the date the notice of appeal is filed, or on the date a party makes an election under 28 U.S.C. 158(c)(1)(B).

This section also adds a new subsection (e) to 28 U.S.C. 158, providing that the courts of appeals have jurisdiction over appeals from all final judgments, decisions, orders, and decrees of district courts under subsection 158(a) and of bankruptcy appellate panels under subsection 158(b). In addition, the courts of appeals are granted jurisdiction over appeals from all judgments, decisions, orders, and decrees of the district courts entered under the new subsection 158(d), to the extent such judgment, decision, order, and decree would be reviewable by the district court under subsection 158(a). An appeal from a district court or a bankruptcy appellate panel shall be taken in the same manner as civil appeals are generally taken to the courts of appeals from the district courts as provided in Rule 4 of the Federal Rules of Appellate Procedure. The court of appeals, in its discretion, may exercise jurisdiction over an appeal from an interlocutory judgment, decision, order, or decree to the extent provided in paragraph (3) of subsection (e).

Subsection (b) of section 1237 of this Act, merely makes conforming changes substituting ''section 158(e)'' for ''section 158(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 open-ended credit plan

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 contents of the disclosure will vary depending upon 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 under TILA 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 typically requires 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, making only the typical 2% minimum monthly payment on a balance of $1,000 at an interest rate of 17% would take 88 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum payments, call this toll-free number _____.'':

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 with a different repayment example. Specifically, in such cases, the institution would indicate that ''[m]aking a typical 5% minimum monthly payment on a balance of $300 at an interest rate of 17% would take 24 months to repay the balance in full.'' 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.

Federally regulated financial institutions also would be required to include in the disclosure a toll-free telephone number that the institution's open-end credit accountholders may use to obtain information to be published by the FRB estimating how long it could take to repay a similar outstanding balance. The toll-free telephone number may be operated individually by the institution, jointly with other creditors, or by a third party. The toll-free number may connect accountholders to an automated device that enables accountholders to obtain information through use of a touch-tone telephone or similar device, so long as accountholders 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 charts or tables would be used for responding to accountholders who call the toll-free telephone number.

A special rule is established for depository institutions with total assets not exceeding $250 million. Under this special rule, such depository institutions are not required to comply with the toll-free number provision described above. Instead, such depository institutions are required to furnish a toll-free number which the FRB shall establish and maintain itself, or have established and maintained by a third party, for a period not to exceed 24 months following the effective date of this Act. Once the FRB (or third party) no longer maintains the toll-free telephone number, depository institutions with total assets not exceeding $250 million shall continue to be required to furnish a toll-free telephone number under this Act.

Disclosures for creditors subject to FTC enforcement under TILA. Creditors subject to FTC enforcement under TILA would be required to include the same minimum payment disclosure as financial institutions who require minimum payments in excess of 4% of the outstanding balance. However, instead of including a toll-free telephone number operated by the creditor (or third party), those subject to FTC enforcement under TILA would include a toll-free telephone number through which accountholders could contact the FTC for an estimate of the time it would take to repay the accountholder's outstanding balance. In responding to accountholder calls made to the toll-free number, the FTC will use the same repayment charts or tables developed by the FRB.

Additional flexibility. In order to provide added flexibility in making the new disclosures, new paragraph (11)(D) allows a creditor to use its own repayment example rather than those specified in subparagraphs (A), (B) or (C) provided that the creditor's example is based on an interest rate greater than 17%.

Exemptions from new disclosure requirements. The new section 127(b)(11) does not apply to charge card accounts provided that the primary purpose of such accounts is to require payment of charges in full each month.

Disclosures for creditors providing actual number of months to repay balance. Under new section 127(b)(11)(J), a creditor is not subject to new sections 127(b) (11)(A) or (B) if the creditor maintains a toll-free number which provides open-end credit accountholders with the actual number of months that it will take to repay the accountholder's outstanding balance. In order to qualify for the exemption in subparagraph (J), the creditor would simply include the following statement on each billing statement as provided in new subparagraph (K) (as included in section 1234 of this Act):

''Making only the minimum payment will increase the interest you pay and the time it takes to repay your balance. For more information, call this toll-free number: _____.''

The toll-free number may be operated individually by the institution, jointly with other creditors or by a third party. It is intended that the toll-free number may connect accountholders to an automated device that enables them to obtain information through the use of a touch-tone telephone or similar device, so long as accountholders without a touch-tone telephone or similar device are provided the opportunity to speak with an individual.

FRB study. In addition, the FRB has the authority to conduct a study, if it chooses to do so, to determine the types of information available to potential borrowers regarding factors of notifying potential borrowers for credit, repayment requirements, and the consequences of default.

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) 18 months after the date of enactment of this Act; or (B) 12 months after the publication of final regulations by the FRB.

Section 1402. Enhanced disclosure for credit extension secured by a dwelling

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 provides that, in connection with credit applications and credit advertisements for such loans, the creditor must disclose to the consumer that if the loan exceeds the fair market value of the dwelling, the interest on the portion of the credit that exceeds the fair market value is not tax deductible for federal income tax purposes and that the consumer may want to consult a tax advisor for further information regarding the deductibility of interest and charges. This section and any regulations issued by the FRB to implement this section will not take effect until the later of: (A) 12 months after the date of enactment of the Act; or (B) 12 months after publication of the 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 to open 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'' 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.

3. If the annual percentage rate that will apply after the expiration of the temporary rate 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 60 days before the date of mailing the application or solicitation. Like the fixed-rate disclosure, 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.

4. If the temporary rate can be revoked for reasons other than the expiration of the introductory period, the creditor must clearly and conspicuously disclose on or with the application or solicitation a general description of the circumstances that may result in the revocation of the temporary rate and either the fixed rate that would apply upon the revocation of the temporary rate, or in the case of a variable rate program, the rate that was in effect within 60 days before the date of mailing the application or solicitation.

Effective date. 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. Internet-based credit card solicitations

This section requires that the existing TILA credit card application and solicitation disclosures must be made in connection with a solicitation to open a credit card account via the Internet. It also requires that the new introductory rate disclosures required under section 1603 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 the current policies, terms, and fee amounts applicable to the credit card account. It is intended that the disclosures can be made by allowing a consumer to use 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 1405. disclosures related to late payment deadlines and penalties

This section requires that each monthly billing statement sent to credit cardholders and other open-end credit borrowers must include a new disclosure if a late payment fee will be imposed on the borrower for failing to make the minimum payment by the payment due date. In such cases, the monthly billing statement must clearly and conspicuously state the date that the payment is due or, if the card issuer contractually establishes a different date, the earliest date on which (or time period in which) a late payment fee may be charged and the amount of the late payment fee to be imposed if payment is made after that date (or time period). 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 changes

This section prohibits a creditor under an open-end consumer credit plan from terminating an account of a consumer 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 on the account. This provision makes it clear, however, that the creditor may terminate the account if it is inactive for three or more consecutive months. New section 127(h) of TILA 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 debit 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 regarding 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 consumers 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 required secondary education requirements on 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 noting 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 purposes.

The process that created this conference report was highly partisan and highly unusual. Its provisions were drafted by one party meeting in secret, with no formal input from members of the Democratic Party. Indeed, no formal conference was ever held. Instead, at the last minute the majority found a stalled Department of State authorization bill that was being managed by Senators who were sympathetic to their version of the bankruptcy bill and they performed a legislative bait and switch. They deleted every word from the Department of State bill and then inserted every word of their bankruptcy bill.

Now the Senate is being asked to vote on a so-called Department of State authorization bill that contains not a word about the Department of State. The Department of State bill is nothing but an empty vessel into which a so-called ''compromise'' bankruptcy bill has been poured. But we have to be careful here—the word ''compromise'' doesn't mean what it used to mean, what it normally means in the legislative process. This isn't a compromise between the two Houses of Congress. This isn't a compromise between the two parties. This compromise bill is the result of negotiations among like-minded men and women of the same political party. This is a majority-only bill. There has been no meaningful compromise at all.

Aside from the procedural problems with how this bill has been handled, I have deep and serious concerns about the substance of this legislation.

This legislation will unintentionally injure honest hard-working Americans who have fallen on hard times through no fault of their own. The reason that we have a Bankruptcy Code is because life sometimes deals people a bad hand and we believe that it's important to give people a fresh start—an opportunity to overcome the financial misfortunes that have struck them. This principle is so fundamental that the Constitution expressly lists the establishment of uniform bankruptcy laws as a congressional responsibility. It seems that the Framers understood that society is better off if we find an orderly way to allow people to pay off their debts to the degree possible, and then get back on their feet as productive citizens. Regrettably, that principle seems to suffer at the hands of this conference report.

Evidence suggests that the vast majority of people who file for bankruptcy do so because some financial crisis beyond their control has plunged them into debt that they cannot avoid. People file for bankruptcy because they've lost their jobs or because a child needs medical care that is not covered by insurance.

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 for 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 are 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 their 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—but perfectly foreseeable—consequences of allowing more debts to survive bankruptcy.

For more than 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 children 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 nondischargable. So, while a divorced spouse would still be obliged 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, nonsupport debts are often discharged and debtors can focus entirely on meeting their obligations to their children and ex-spouses. If this conference report becomes law, that will change—debtors will not be able to focus on their children, they will—as a matter of law—have to divert limited financial resources to pay back consumer creditors.

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.

I believe that it is a mistake to make single parents compete with teams of lawyers for the money they need to feed and clothe and educate their children.

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 and fair 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 reasons that we are all 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 have 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 would bet, that most of our constituents would be surprised to find that is not the case today. Today's code makes no clear distinction between those who have the income to pay some of their debts and those whose only recourse is to sell off whatever assets they have to pay their creditors. The bill before us corrects that basic flaw.

I am convinced that flaw has a lot to do with the fact that bankruptcy filings have been at record levels in recent years, in spite of the strongest economy we have ever enjoyed. And—contrary to some of the assertions we have heard recently, those filings are not going down. After a leveling off, following interest rate reductions a couple of years ago that made credit easier, the latest statistics show a revival in the record wave of bankruptcy filings in recent months. The problem has not gone away—and the growing evidence of a slowing economy means we should expect even more filings in the coming months.

The fact is, Mr. President, that we have before us legislation that is the result of weeks of debate and amendment here on the Senate floor last year. Although we could not convene a formal conference, further bipartisan discussions continued this summer, including the direct participation of the White House. I ask my colleagues to consider how closely the legislation before us today matches the letter and the spirit of the bill that had such overwhelming support earlier this year.

I also strongly urge the President to reconsider his threat to veto this legislation, that contains many provisions that are the product of direct negotiations with his White House. I know that important voices in his administration continue to support bankruptcy reform, and I hope that he will heed their advice.

We still have a strong safe harbor, to protect families below the median income, along with adjustments for additional expenses that will assure that only those with real ability to pay will be steered from Chapter Seven to Chapter 13. Senate language, that gives judges the discretion to determine whether there are special circumstances that justify those expenses, prevailed over stricter House language.

Beyond that, the Senate-passed safe harbor provision has actually been strengthened, with additional protection for those between 100 and 150 percent of the national median income, who are largely exempted from the means test.

Compared to current law, this legislation provides increased protections against creditors who try to abuse the reaffirmation 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.

And a feature 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 National District Attorneys 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 Judiciary 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 ''defeat of this legislation based on vague and unarticulated fears'' would be ''throwing out the baby with the bathwater.''

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 specific and considerable 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 about 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 homestead cap. One of the most egregious examples of abuse under current law is the ability of wealthy individuals, on the eve of filing for bankruptcy, to shelter income from legitimate creditors by buying an expensive house in one of the handful of states that have an unlimited homestead exemption in bankruptcy.

It is one of the most egregious abuses, Mr. President, but it is actually pretty rare, involving only a very

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 the Senate included 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 vote for 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 clinics. 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 brazenly announced that they plan to file for bankruptcy, to escape the consequences of their crimes—specifically, to avoid paying damages. Some of these individuals have in fact filed for bankruptcy.

But in no case—in no case that I am aware of, Mr. President, or that the Congressional Research Service has been able to find—has any individual escaped a single dollar's liability by filing for bankruptcy. Not a dollar, not a dime, not a penny. It hasn't happened, and it won't happen. The reason is simple: current bankruptcy already states that such settlements—for ''willful and malicious'' conduct—are not dischargeable in bankruptcy.

If that were not enough, current case law supports a very strong reading of that provision of current law. When one clinic demonstrator—who violated a restraining order—attempted to have the settlement against her wiped out in bankruptcy, her claim was rejected out of hand. The violation of a restraining order setting physical limits around a clinic has been ruled to be ''wilful and malicious'' under the current code. The penalties she was assessed were not dischargeable.

Mr. President, the Congressional Research Service, as of October 26, conducted an exhaustive, authoritative search which, and I quote: ''did not reveal any reported decisions where such liability was discharged under the U.S. Bankruptcy Code.''

So the current bankruptcy statute—and the most recent case law on this point—all say that the Schumer Amendment is not needed. That is to take nothing away from the hard work and dedication of my friend and colleague on the Judiciary Committee, or to minimize the frustration and outrage many Americans feel at the announced attempts to abuse the bankruptcy code. It is simply to say that the women who use and who operate family planning clinics are not without recourse, and not without the full protection of the law, under the current bankruptcy code.

I repeat, Mr. President: no one has escaped liability under the Fair Access to Clinics Entrances Act through an abuse of the bankruptcy code. No one.

So, Mr. President, we will vote today on a conference report that has a strong Senate stamp on it, that contains important victories for Senate positions, victories that make the bill in some ways fairer and more balanced than the version that passed here in January by an overwhelming vote.

While the homestead provision is not what I hoped it would be, I will vote for closing the worst aspects of the homestead loophole in the current code. I will not let the best be the enemy of the good.

And I will vote for this conference report confident that family planning clinics, and the women who need and use them, will continue to enjoy the full protection available under current law.

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-passed bankruptcy bill, and has failed to protect consumers 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 $100,000 nationwide cap on homestead exemptions. The Conference Report 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 judgements against them. The Senate passed the Schumer amendment by an overwhelming 80–17 vote. It protects 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 judgements 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 that 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, in the fine print, these agreements 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 nonpartisan experts on bankruptcy—the judges, trustees, and academics—have expressed serious concerns or opposition to this bankruptcy bill. These organizations include the National Bankruptcy Conference, NBC, the National Conference of Bankruptcy Judges, NCBJ, the National Association of Chapter 13 Trustees, 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 those provisions that adversely affect woman 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 1,442,549. In 1999, bankruptcy filings totaled 1,319,540 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 the minority could support. But they didn't. They deliberately excluded us. The result is a Conference Report the President has vowed to veto.

Bankruptcy reform requires a balanced bill that is 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 105th and 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 Bill because I believe it is unfair and unbalanced, was completed without appropriate consideration by the Minority 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 the midst of 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 turnaround 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. The reason is that lenders 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, there are still those who 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 most need 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 being deprived of needed support 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 after bankruptcy. In addition, 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 of 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 virtually 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 the bankruptcy filing. Because wealthier debtors would have no difficulty tying up their creditors for a relatively short period of time, the two-year residency requirement would have no real effect on debtors moving to 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 first part of that equation is missing entirely in H.R. 2415. At the same time, the bill fails in any way to impose any restrictions on these industries with regard to the way they provide credit to those who can least afford to incur a great deal of debt. The bill does not require important specific disclosures on monthly credit card statements that would show the time it will take to pay a balance and the cost of the credit if only minimum payments are made. This type of disclosure was included 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 finance charges 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 replacing it with a reference to a bankruptcy reform bill introduced earlier that same day. This makes a mockery of the legislative process and demeans 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 cannot afford the added burden 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, this conference report has 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 should not be turned away 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 responsibilities by running to 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 clinics and providers is not an abortion issue, but a women's health and safety issue.

Violent anti-choice groups provide legal assistance 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 we will see real 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 women or children.

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 a bipartisan Congress 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-passed 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 determine if credit card companies use residences or zip codes to determine credit worthiness. 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 curb 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 debt 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 as a government we should make 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 cosponsor 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 debts even when they may have the ability to pay. I support bankruptcy reform because I believe that if an individual has the ability to repay their debts, they should have an obligation to do so. The conference report we're considering today adheres to that basic principle.

While I have supported bankruptcy reform throughout this Congress, however, I'm extremely disappointed with how we got to this point in the process. There has been a lot of 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 dropped in conference, 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 I originally cosponsored. 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 groups and individuals 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 instance. But 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 want to 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, Senators GRASSLEY and TORRICELLI, the Chairman and ranking minority member of the Subcommittee on Administrative Oversight and the Courts, respectively, for their hard work in crafting this much needed legislation, and for their unrelenting commitment to making the development and passage of this bill a bipartisan process. My thanks also goes to Senator SESSIONS and Senator BIDEN, who have shown unwavering dedication to accomplishing the important reforms in this bill; and the many other members of the Senate for their hard work and cooperation.

The compelling need for this reform is highlighted by the large number of bankruptcy filings we have seen over the past several years, which are particularly troubling because they have occurred during a time of relative prosperity for our Nation. Mr. President, the bankruptcy system was intended to provide a ''fresh start'' for those who truly need it. During the process of developing this legislation, I have remained committed to preserving a bankruptcy system that will allow those individuals to emerge from severe financial hardship. At the same time, I believe that individuals should take personal responsibility for their debts and repay them if they are able to do so. I believe the complete elimination of debt should be reserved for those who truly cannot repay their debts, not for those who simply choose not to repay.

This bipartisan legislation, authored by Senators GRASSLEY and TORRICELLI, is carefully structured to achieve an appropriate balance between the rights and responsibilities of both debtors and creditors. If enacted, it will enable those truly in need of a fresh start to get one, and at the same time, reform current law to prevent the system from being abused at the expense of honest, hard-working Americans. Mr. President, again I would like to applaud the bipartisan efforts of my colleagues who have made this a broadly-supported bill that removes some of the abuses of the current bankruptcy system while enhancing consumer protections.

I am particularly proud of the great strides this legislation makes in improving current law. The legislation includes my provision to prevent deadbeat parents from using bankruptcy to avoid paying child support. It includes my provision to protect educational savings accounts that parents and grandparents set up for their children and grandchildren. And, it includes my provision that ensures that the retirement savings of teachers and church workers are given the same protection in bankruptcy as everyone else. It includes my provision that prevents violent criminals and drug traffickers from taking advantage of bankruptcy at the expense of their victims. Specifically, when these criminals voluntarily file for bankruptcy, my provision protects victims by allowing them to move for dismissal of the bankruptcy case. The legislation also includes my provision that is designed to curb fraud in bankruptcy filings by putting in place new procedures and providing new resources to enhance enforcement of bankruptcy fraud laws. My provision requires (1) that bankruptcy courts develop procedures for referring suspected fraud in bankruptcy schedules to the FBI and the U.S. Attorney's Office for investigation and prosecution and (2) that the Attorney General designate one Assistant U.S. Attorney and one FBI agent in each judicial district as having primary responsibility for investigating and prosecuting fraud in bankruptcy.

I would like to take a moment to acknowledge a few people who have worked very hard on this legislation. On my staff, I particularly would like to thank the Committee's Chief Counsel and Staff Director, Manus Cooney, the counsels who worked diligently on this measure, Makan Delrahim, Rene Augustine and Kyle Sampson, and staff assistant Katie Stahl. On Senator LEAHY's Committee staff, I want to recognize Minority Chief Counsel Bruce Cohen, along with counsel Ed Pagano. On the Administrative Oversight and the Courts Subcommittee, I would like to thank John McMickle and Kolan Davis, counsels to Senator GRASSLEY, and Jennifer Leach, counsel to Senator TORRICELLI, for their tireless efforts and input. My thanks also goes to Ed Haden and Sean Costello, counsels to Senator SESSIONS. I also would like to express my gratitude to Senate Legislative Counsel, and in particular I want to recognize 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.

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UNANIMOUS CONSENT AGREEMENT—H.J. RES. 127

Mr. GRASSLEY. Mr. President, I have been asked to propound 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 then 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 gave 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 head of 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 labor, 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 great persistence, 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.

The legislative clerk called 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 result was announced—yeas 70, nays 28, as follows:

[Rollcall Vote No. 297 Leg.]

YEAS—70

Abraham	Dorgan	McCain
Allard	Enzi	McConnell
Ashcroft	Frist	Miller
Bayh	Gorton	Murkowski
Bennett	Graham	Nickles
Biden	Gramm	Robb
Bingaman	Grams	Roberts
Bond	Grassley	Roth
Breaux	Gregg	Santorum
Brownback	Hagel	Sessions
Bryan	Hatch	Shelby
Bunning	Helms	Smith (NH)
Burns	Hollings	Smith (OR)
Byrd	Hutchinson	Snowe
Campbell	Hutchison	Specter
Chafee, L.	Inhofe	Stevens
Cleland	Jeffords	Thomas
Cochran	Johnson	Thompson
Collins	Kerrey	Thurmond
Conrad	Kyl	Torricelli
Craig	Lincoln	Voinovich
Crapo	Lott	Warner
DeWine	Lugar	
Domenici	Mack	

NAYS—28

Akaka	Inouye	Murray
Baucus	Kennedy	Reed
Boxer	Kerry	Reid
Daschle	Kohl	Rockefeller
Dodd	Lautenberg	Sarbanes
Durbin	Leahy	Schumer
Edwards	Levin	Wellstone
Feingold	Lieberman	Wyden
Feinstein	Mikulski	
Harkin	Moynihan	

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 Ed Pagan 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.

I only wish we could have completed our work on this bill and resolved the remaining important issues in a way that I could have supported and the President could sign.

—

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:

[Rollcall Vote No. 298 Leg.]

YEAS—96

Abraham	Enzi	Mack
Akaka	Feingold	McCain
Allard	Feinstein	McConnell
Ashcroft	Fitzgerald	Mikulski
Baucus	Frist	Miller
Bayh	Gorton	Moynihan
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	Roth
Burns	Hollings	Santorum
Byrd	Hutchinson	Sarbanes
Campbell	Hutchison	Schumer
Chafee, L.	Inhofe	Sessions
Cleland	Inouye	Shelby
Cochran	Jeffords	Smith (NH)
Collins	Johnson	Smith (OR)
Conrad	Kennedy	Snowe
Craig	Kerrey	Stevens
Crapo	Kerry	Thomas
Daschle	Kohl	Thompson
DeWine	Lautenberg	Thurmond
Dodd	Levin	Torricelli
Domenici	Lieberman	Voinovich
Dorgan	Lincoln	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 Kolevar, Joe McMonigle, Katie Packer, Cesar Conda, Joe Davis, Margaret Murphy, Jessica Moore, Sue Wadel, 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, at least in their 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 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 COVERDELL; to the Chairman of the Republican Policy Committee Senator LARRY CRAIG; to our new Conference Secretary Senator KAY BAILEY HUTCHISON, and so many others who have provided me with guidance and leadership during the time I have been here.

I also take special note of the people with whom I have served as a member of their committees: To our Commerce Committee chairman, JOHN MCCAIN, who has been a great friend and supporter and through whose help I have been able to pass significant legislation that came from our Commerce Committee agenda.

I thank our Judiciary Committee chairman, ORRIN HATCH, who helped me get on his committee my very first year here and whose support on that committee helped me to achieve a number of personal objectives with respect to legislative goals and who worked closely with me and his staff worked closely with my staff as we fought a number of very important battles in the Senate.

I thank my good friend Senator PETE DOMENICI, who chairs the Budget Committee on which I sat for 6 years. When I came to the Senate, I met with Senator DOMENICI. At the time, I was selected for that committee, and we talked about our goals and hopes that some day we might advance a balanced budget to complete and see the Nation balance its budget. Many people thought we would never achieve that in our lifetime, and yet 3 short years after I arrived on the committee, and under PETE DOMENICI's great leadership, that objective was realized.

I thank 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 JEFF SESSIONS, 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: Senator 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 with whom I 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 RUSS 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 whose campaigns 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 ultimately as whip on 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.

To our 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 cochairman 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. I am going to try to name the ones 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, Margaret Murphy, Julie Teer, Jessica Morris, and Dan Senor.

To a terrific legislative staff, and people who have worked on my subcommittees: Stuart Anderson, Rachel Bohlander, Bob Carey, Ann Coulter, Chase Hutto, Elizabeth Kessler, Ray Kethledge, Kevin Kolevar, Brandi Laperriere, Brian Reardon, Gregg Willhauck; and Tyler White.

To my administrative staff: Katja Bullock, Majida Dandy, Paul Erhardt, Jim Neill, Matt Suhr, and Lillian Smith.

To the many people who have worked with us who are on our Michigan staff: 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 Wimmer.

And there are many others who have served and whose names I ask unanimous 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 State Chief of Staff; Beverly Betel, Staff Assistant; Rachel Bohlander, Legislative Assistant; David Borough, Computer Specialist; Michell Brown, Staff Assistant; Katja Bullock, Office Manager; Carrie Cabelka, Staff Assistant; Cheryl Campbell, Regional Director; Robert H. Carey, Legislative Director; David Carney, Mail Room Manager; Joseph Cella, Regional Director; Cesar V. Conda, Administrative Assistant/Legislative Director; Adam Condo, Systems Administrator; Jon Cool, Staff Assistant; Ann H. Coulter, Judiciary Counsel; Majida 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; Tom Frazier, Regional Director; Bruce Frohnen, Speech Writer; Renee Gauthier, Caseworker; Jessica Gavora, Special Advisor; David Glancy, Staff Assistant; Thomas Glegola, Special Assistant; Todd Gustafson, Regional Director; Alex Hageli, Staff Assistant; Mary Harden, Staff Assistant; Phil Hendges, Regional Director; Paul Henry, Staff Assistant; Joanna Herman, Special Assistant.

Melissa Hess, Staff Assistant; Stephen Hessler, Deputy Press Secretary; Kate Hinton, Deputy Chief of Staff; David Hoard, Special Assistant; Kevin Holmes, Special Assistant; Kelly Hoskin, Caseworker; Michael J. Hudome, Special Assistant; Randa Fahmy Hudome, Counselor; F. Chase Hutto, Judiciary Counsel; Michael Ivahnenko, Staff Assistant; Eunice Jeffries, Regional Director; Kaveri Kalia, Press Assistant; Raymond M. Kethledge, Judiciary Counsel; Elizabeth Kessler, General Counsel; Kevin Kolevar, Senior Legislative Assistant; Jack Koller, Systems Administrator; Peter Kulick, Caseworker; Kristin La Mendola, 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 Mehan, Special Assistant; Rene Myers, Regional Director; Jennifer Millerwise, Staff Assistant; Denise Mills, Staff Assistant; Maureen Mitchell, Staff Assistant; Sara Moleski, Regional Director; Jessica Morris, Deputy Press Secretary; Margaret Murphy, Press Secretary; Tom Nank, Southeast Michigan Assistant; James Patrick Neill, Director of Scheduling; Shawn Neville, Northern West Michigan Regional Director; Na-Rae Ohm, Special Assistant; Lee Liberman Otis, Chief Judiciary Counsel; Kathryn Packer, Director of External Affairs; Chris Pavelich, Regional Director; John Petz, Southeast Michigan Director.

James L. Pitts, Chief of Staff; Conley Poole, Staff Assistant; John Potbury, Regional Director; Tosha Pruden, Caseworker; Laurine Bink Purpuro, Deputy Chief of Staff; Lawrence J. Purpuro, Chief of Staff; Elroy Sailor, Special Assistant; David Seitz, Mail Room Manager; Dan Senor, Director of Communications; Mary Shiner, Regional Director; Anthony Shumsky, Regional Director; Alicia Sikkenga, Special Assistant; Lillian Simon, Staff Assistant; Lillian Smith, Director of Scheduling; Anthony Spearman-Leach, Regional Director; Robert Steiner, Mail Room Manager; Anne Stevens, Special Assistant; Matthew Suhr, Special Assistant; Julie Teer, Press Secretary; Amanda Trivax, Staff Assistant.

Meagan Vargas, Special Assistant; Shawn Vasell, Staff Assistant; Olivia Joyce Visperas, Staff Assistant; Sue Wadel, Legal Advisor; Seth Waxman, Caseworker; Jennifer Wells, Caseworker; La Tonya Wesley, Special Assistant; Tyler White, Special Assistant; Patricia Wierzbicki, Regional Director; Gregg 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 publicly 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 as 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 I have served that have helped us to pass legislation, and to the other people who work in the Senate, from the Capitol Police, who help us in so many ways that go unnoted, to the 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 America, and often without any recognition at all. I hope that we will continue to always be served in this body by people of such great skill and talent.

Finally, I thank the people of Michigan. They gave me and my family the chance to come to Washington to represent them in the Senate.

I thank you for what I consider to be the most tremendous honor that any American can have bestowed upon them 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 reduce the tax burden, 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 can, 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 took a special interest 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 return control of our prisons from judges 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 country.

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 sector.

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 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 and 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 conferred 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 grandson of immigrants, 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 ranks.

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 slash 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 our 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, and increasing environmental 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 strong 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 presiding over 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 remember passing our first bill 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 impeachment of President Clinton, 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 has been served 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 Bob Dole, our President pro tempore STROM THURMOND, retiring Member DANIEL PATRICK MOYNIHAN, and of course the great Senator from West Virginia ROBERT BYRD—two on each side of the aisle whose contributions to their Nation and to this Chamber will never be forgotten, and two on each side of the aisle whose leadership I hope all of us will be able to in some ways emulate in our careers. I know there will be others who are serving here and with whom I have served who someday will be looked upon the same way, as history records their accomplishments.

The second observation I have is for those sitting in the gallery, watching and paying attention to the action of the Senate. Sometimes the media and others tend to focus too much on the areas in which we disagree in this Chamber. Indeed, we do have our disagreements. That is why we have a democratic system that gives each side an opportunity to fight for their causes.

But as the Presiding Officer knows, in the committees and usually on the floor of this Chamber, we work together on a bipartisan basis to get things done for the American people. More often than not, things pass here unanimously. They do so quietly. They do so by the unanimous-consent agreements that don't get reported very often. Indeed, much of America's business is accomplished without rancor and strife, without divisive debates. At the same time, the Founding Fathers created the Senate as the saucer to cool the passions of the day.

I have observed that passion for philosophy, at least for ideas, reigns here in the Senate. I can remember during the last 6 years from the balanced budget amendment debates, when I first got here, to the debates over Bosnia and other foreign affairs issues, to the impeachment trial and so on, while we in the Senate obviously have a reputation for being a deliberative body, we also are a body in which the passions of the country are best reflected in the debates we have. I hope that will always be the tradition as well.

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, no longer 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 job. I hope that during 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 in the family of the Abrahams, 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 leave the Senate, I will 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.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from Nebraska.

Mr. HAGEL. Mr. President, I rise to respond very briefly on behalf of this Senator, and I think I speak for the entire body when I say thank you to Senator SPENCE ABRAHAM from Michigan for his contributions, his leadership, his effectiveness.

My grandfather Hagel used to occasionally pay the highest compliment to an individual when he would say: He is a good man.

Well, SPENCE ABRAHAM is a good man. He will go on to do other very significant things with his life, with his talent, with his leadership. We will all be well served. It will impact the future of his children and our children, just as his service in the Senate has made this a better institution and a stronger Nation.

I have been privileged to serve with SPENCE ABRAHAM, be his seatmate here on the Senate floor, and become a good friend. Of that friendship and that service, I am proud. I thank Senator ABRAHAM.

I yield the floor.

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. 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.

MORNING BUSINESS

Mr. HAGEL. Mr. President, I ask unanimous consent that the Senate now be in a period of morning business with Senators speaking for up to 10 minutes each.

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 of 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, American authorities 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 alined 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 in our Nation. We were able to 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.

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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. At the young age of 73, Dr. Clark sees an average of 60 patients a day, cares for about 20 who are hospitalized and 110 who reside in the local nursing home. He is a graduate of Mississippi State University and attended medical school at both the University of Mississippi and Tulane University. Clark was among the first doctors hired when the University of Mississippi Medical Center opened its doors in 1955. He has been in practice in Morton since 1956. I want to commend Dr. Clark not only for his service to the people of Morton and the surrounding areas but also for the service he gave this great Nation. When Howard Clark joined the Armed Forces following graduation from high school, he was stationed in the South Pacific. At the time, there was a dire need for medics and he volunteered. This altruistic act sparked the start of a career that has made life better for those around him. Dr. Clark's selflessness spills over into his personal life as well. He is an active member of the Morton community, serving as the local school doctor at sporting events, missing only one game in 43 years. Dr. Clark, you are to be admired for your service to the community, the Nation, and for being chosen Country Doctor of the Year. I join your family, friends, and colleagues in congratulating you on this honor.

—

RETIREMENT OF JOYCE NEWTON

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 freshman 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 wee hours of the morning in order to telephone an embassy halfway around the globe.

She has been known to telephone the same Federal caseworker three times in one day just to make sure a constituent's application was not buried under another pile of work resulting in a needless delay or missed deadline.

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 ensnare our citizens.

These constituent service staffers 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, students—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 he has tried to leave at least twice 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 major issues.

Bob has also turned into a real Utahan 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 his wife may not be fully prepared. I know Bob to be successful at any project he takes on. I know he will drive his wife nuts if he stays home very much. But he won't. He is one of these guys who really works hard and makes every second of his life count. He is one of my dearest friends, and I love him.

—

DONNA DAY

Mr. HATCH. I also want to say a word about Donna Day.

Donna has been on my staff for 15 years. She has been a loyal and efficient staffer, working diligently on data entry. I don't quite know how we will fill the hole left in our correspondence management unit when she retires at the end of the month.

If the personnel office at any organization were to write down the attributes of the perfect employee, the list would describe Donna Day. She has worked tirelessly over these 15 years on my behalf. She is never late, rarely absent, and always pleasant. It seems that Donna never has a bad day. We have always been able to count on her day after day, year after year, to do an important job consistently well. And, I don't believe I have ever heard her complain about anything—not even the deluge of letters, cards, faxes, and e-mails we received during some very high profile debates.

Frankly, it is hard to imagine walking into our mailroom in January and not seeing her there sorting mail or working at the computer.

I have been blessed during my Senate tenure to have had excellent staff, not just in my policy and senior staff positions, but in the support roles as well. Donna has been such a staffer, 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 Lockwood. 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 ''with them.'' 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.

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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 we act, Democrats in 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; George Dean, 17, Philadelphia, PA; Kowandius Hammett, 22, Miami-Dade County, FL; John Jeter, 24, Philadelphia, PA; Andre Derrell Jones, 23, Baltimore, MD; Tommy Martin, 38, Oakland, CA; Casey B. Morgan, 42, Seattle, WA; Karen K. Morgan, 43, Seattle, WA; Thomas B. Morgan, 45, Seattle, WA; Adon L. Shelby, 32, Chicago, IL; Emeric Tahane, 22, Washington, DC; Heiu Minh Trihn, 22, New Orleans, LA; and Unidentified Male, 23, 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 executes nearly 100 people every year. In 1998, 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 reenter 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.

In light 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 spokesman 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 Lowrey, 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 reinstituting 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.

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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 highly publicized 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 provide prostheses to victims of civil conflict, such 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 Detroit 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 the people who worked for 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.''

Ambassador Hermelin 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.●

RECOGNITION OF DR. DWIGHT CRIST NORTHINGTON

● Mr. TORRICELLI. 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.●

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TRIBUTE TO JOSH HEUPEL

● Mr. JOHNSON. Mr. President, I rise today to congratulate Josh Heupel, a native of Aberdeen, South Dakota. All of South Dakota, and especially Aberdeen, is extremely proud of Josh, one of four finalists for the Heisman Trophy. The Heisman Trophy is presented annually to the nation's top collegiate football player.

Josh is the starting quarterback of the number one ranked and undefeated Oklahoma Sooners, 12–0. Josh has passed for 3,392 yards and 20 touchdowns this year which makes him one of the Heisman favorites. Josh has led the Oklahoma Sooners through a very difficult schedule, which included two wins against top ten ranked Kansas State and overcame an early 14 point deficit against the then number one ranked Nebraska Cornhuskers. Josh is preparing for the National Championship game on January 3, 2001 against the Florida State Seminoles. No matter what the outcome is, I know the entire state is very proud of Josh and grateful he has conducted himself in a way that shines greatly on South Dakota.

I would also like to take this opportunity to congratulate Ken and Cindy Heupel, Josh's parents, on Josh's success. As the father of three children who have participated in extracurricular activities, I can imagine how proud Ken and Cindy must feel today. Ken is currently the Head Football Coach at Northern State University in Aberdeen and Cindy is the principal at Aberdeen Central High School.

Again, my congratulations to Josh Heupel and his family on behalf of the entire state of South Dakota.●

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TRIBUTE TO VINCENT CANBY

● Mr. MOYNIHAN. Mr. President, in late October, as many Senators will know, Vincent Canby, ''whose lively wit and sophisticated tastes 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 United States Congress might honor 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 condemned, sentenced to watch ''Adam Bede'' on ''Masterpiece Theatrer'' 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. However, 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 ''taking 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 tarried 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 that is what the year 2001 will be, and our trio are naught if not scrupulous as to 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.

I regret the inconvenience this may cause viewers of ''Adam Bede,'' and I surely would not wish to denigrate ''Masterpiece Theatre,'' but Vincent Canvy was a just and moderate man. And, as is proclaimed on the wall above the bench of the Chenango County Courthouse in James Ivory's ancestral home of Norwich, New York ''Fiat Justica Ruat Coelum''.—Let justice be done though the heavens fall.●

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 are 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 initiative. 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. Charles Adams, Heaster Wheeler and Wendy Wagenheim as they are honored for their leadership of Michigan's All Kids First initiative, and in encouraging them to keep fighting on behalf of Michigan's children and to improve Michigan's public schools.●

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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 Speaker has signed the following enrolled joint resolution:

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).

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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 relative to Johnson Creek in the City of Arlington, Texas; 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 ''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–11759. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Aerospace Manufacturing and Rework Facilities'' (FRL #6913–9) received on December 5, 2000; to the Committee on Environment and Public Works.

EC–11760. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Ohio'' (FRL #694–71) 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–AB20) received on November 9, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC–11762. A communication from the Secretary of the Department 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 (PRWORA) of 1996'' (RIN0584–AC40) 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 ''Fludioxonil; Extension of Tolerance for Emergency Exemptions'' (FRL #6756–6) received on December 5, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC–11764. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Avermectin; Extension of Tolerance for Emergency Exemptions'' (FRL #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, 3084–0100) 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 Group King Mackerel in the Northern 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 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 House Rock, OR to Humboldt South Jetty, CA'' received on December 5, 2000; to the Committee on Commerce, Science, and Transportation.

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 ''Amendments to Summary Plan Description Regulations'' (RIN1210–AA69 and 1210–AA–55) received on November 27, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–11770. 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–11771. 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–11772. A communication from the Acting Assistant General Counsel for Regulations, Office of Special Education and Rehabilitative 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–11773. 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 ''Listing of Color Additives Exempt From Certification; Luminescent Zinc Sulfide; Correction'' (Docket No. 97C–0415) 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, transmitting, 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 of a rule 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 institutional quality 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; to the Committee on Health, Education, Labor, and Pensions.

EC–11779. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts 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 State, transmitting, pursuant to law, the report of a rule entitled ''Visas: Immigrant Religious Workers'' (RIN4710–06) 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'' (RIN3245–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' Limitations'' (RIN3245–AE49) 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 fiscal year 2000; 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; 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'' (RIN3206–AJ07) received on December 5, 2000; to the Committee on Governmental 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'' (RIN1510–AA57 and 1105–AA31) received on November 9, 2000; to the Committee on Finance.

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NOMINATION DISCHARGED

Pursuant to a unanimous consent agreement of December 7, 2000, the Committee on Foreign Relations was discharged of the following nomination:

DEPARTMENT OF STATE

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.

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INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By 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.

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SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DURBIN (for himself and Mr. FITZGERALD):

S. Res. 385. A resolution congratulating the Reverend Clay Evans of Chicago, Illinois, on the occasion of his retirement; considered and agreed to.

By Mr. SMITH of New Hampshire (for himself, Mr. INOUYE, Mr. HELMS, and Mr. INHOFE):

S. Res. 386. A resolution expressing the sense of the Senate regarding National Pearl Harbor Remembrance Day; considered and agreed to.

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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 also am 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-ready 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 forevermore.

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 earlier agreements. If we can 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 interests 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.

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ADDITIONAL COSPONSORS

S. 1915

At the request of Mr. JEFFORDS, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1915, a bill to enhance the services provided by the Environmental Protection Agency to small communities that are attempting to comply with national, State, and local environmental regulations.

S. 3175

At the request of Mr. CRAIG, the name of the Senator from Oregon (Mr. WYDEN) 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 expel the Holy See from the United Nations by removing the Holy See's Permanent Observer status in the United Nations, and for other purposes.

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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 Brewster Theological Clinic and School of Religion;

Whereas Reverend Evans has been an active participant in the Civil Rights Movement since 1965;

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 Covention, 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.

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SENATE RESOLUTION 386—EXPRESING THE SENSE OF THE SENATE REGARDING NATIONAL PEARL HARBOR REMEMBRANCE DAY

Mr. SMITH of New Hampshire (for himself, Mr. INOUYE, Mr. HELMS, and Mr. INHOFE) submitted the following resolution; which was considered and agreed to:

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 currently 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; and

Whereas many Federal offices do not lower their flags to half-staff each December 7: Now, therefore, be it

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.

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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 9:30 a.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.

For further information, please call Trici Heninger or Bryan Hannegan at (202) 224–7932.

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NATIONAL FOREST AND PUBLIC LANDS OF NEVADA ENHANCEMENT ACT OF 1988 AMENDMENTS AND BOUNDARY ADJUSTMENT OF THE TOIYABE NATIONAL FOREST

Mr. HAGEL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on the bill (S. 439).

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 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:

Strike out all after the enacting clause and insert:

SECTION 1. ADJUSTMENT OF BOUNDARY OF THE TOIYABE NATIONAL FOREST, NEVADA.

Section 4(a) of the National Forest and Public Lands of Nevada Enhancement Act of 1988 (102 Stat. 2750) is amended—

(1) by striking ''Effective'' and inserting ''(1) Effective''; and

(2) by adding at the end the following:

''(2) Effective on the date of enactment of this paragraph, the portion of the land transferred to the Secretary of Agriculture under paragraph (1) situated between the lines marked 'Old Forest Boundary' and 'Revised National Forest Boundary' on the map entitled 'Nevada Interchange ''A'', Change 1', and dated September 16, 1998, is transferred to the Secretary of the Interior.''.

SEC. 2. OVERTIME PAY FOR CERTAIN FIREFIGHTERS.

(a) IN GENERAL.—Section 5542(a) of title 5, United States Code, is amended by adding at the end the following:

''(5) Notwithstanding paragraphs (1) and (2), for an employee of the Department of the Interior or the United States Forest Service in the Department of Agriculture engaged in emergency wildland fire suppression activities, the overtime hourly rate of pay is an amount equal to one and one-half times the hourly rate of basic pay of the employee, and all that amount is premium pay.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first applicable pay period beginning on or after the end of the 30-day period beginning on the date of the enactment of this Act, and shall apply only to funds appropriated after the date of the enactment of this Act.

Amend the title so as to read ''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, 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.''.

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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 (S. 1694).

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1694) entitled ''An Act 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'', do pass with the following amendments:

Strike out all after the enacting clause and insert:

TITLE I—HAWAII WATER RESOURCES STUDY

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 838), authorizing the Secretary to investigate the use of irrigation and reclamation resource needs for areas of the islands of Oahu, Hawaii, and Molokai in the State of Hawaii; section 31 of the Hawaii Omnibus Act (43 U.S.C. 422l) authorizing the Secretary to develop reclamation projects in the State under the Act of August 6, 1956 (70 Stat. 1044, chapter 972; 42 U.S.C. 422a et seq.) (commonly known as the ''Small Reclamation Projects Act''); and the amendment made by section 207 of the Hawaiian Home Lands Recovery Act (109 Stat. 364; 25 U.S.C. 386a) authorizing the Secretary to assess charges against Native Hawaiians for reclamation cost recovery in the same manner as charges are assessed against Indians or Indian tribes; is authorized and directed to conduct a study that includes—

(1) a survey of the irrigation and other agricultural water delivery systems in the State;

(2) an estimation of the cost of repair and rehabilitation of the irrigation and other agricultural water delivery systems;

(3) an evaluation of options and alternatives for future use of the irrigation and other agricultural water delivery systems (including alternatives that would improve the use and conservation of water resources and would contribute to agricultural diversification, economic development, and improvements to environmental quality); and

(4) the identification and investigation of opportunities for recycling, reclamation, and reuse of water and wastewater for agricultural and nonagricultural purposes.

(b) REPORTS.—

(1) IN GENERAL.—Not later than 2 years after appropriation of funds authorized by this title, the Secretary shall submit a report that describes the findings and recommendations of the study described in subsection (a) to—

(A) the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Resources of the House of Representatives.

(2) ADDITIONAL REPORTS.—The Secretary shall submit to the committees described in paragraph (1) any additional reports concerning the study described in subsection (a) that the Secretary considers to be necessary.

(c) COST SHARING.—Costs of conducting the study and preparing the reports described in subsections (a) and (b) of this section shall be shared between the Secretary and the State. The Federal share of the costs of the study and reports shall not exceed 50 percent of the total cost, and shall be nonreimbursable. The Secretary shall enter into a written agreement with the State, describing the arrangements for payment of the non-Federal share.

(d) USE OF OUTSIDE CONTRACTORS.—The Secretary is authorized to employ the services and expertise of the State and/or the services and expertise of a private consultant employed under contract with the State to conduct the study and prepare the reports described in this section if the State requests such an arrangement and if it can be demonstrated to the satisfaction of the Secretary that such an arrangement will result in the satisfactory completion of the work authorized by this section in a timely manner and at a reduced cost.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $300,000 for the Federal share of the activities authorized under this title.

SEC. 104. WATER RECLAMATION AND REUSE.

(a) Section 1602(b) of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h(b)) is amended by inserting before the period at the end the following: '', and the State of Hawaii''.

(b) The Secretary is authorized to use the authorities available pursuant to section 1602(b) of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h(b)) 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, and provided that the total Federal share of costs for the study and reports does not exceed the amount authorized in section 103.

TITLE II—DROUGHT RELIEF

SEC. 201. DROUGHT RELIEF.

(a) RELIEF FOR HAWAII.—Section 104 of the Reclamation States Emergency Drought Relief Act of 1991 (43 U.S.C. 2214) is amended—

(1) in subsection (a), by inserting after ''Reclamation State'' the following: ''and in the State of Hawaii''; and

(2) in subsection (c), by striking ''ten years after the date of enactment of this Act'' and inserting ''on September 30, 2005''.

(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 drought assistance under this title to promote the development of drought contingency plans under title II.

''(b) REPORT.—Not later than one year after the date of the enactment of the Hawaii Water Resources Act of 2000, the Secretary shall submit to the Congress a report and recommendations on the advisability of providing financial assistance for the development of drought contingency plans in all entities that are eligible to receive assistance under title II.''.

TITLE III—CITY OF ROSEVILLE PUMPING PLANT FACILITIES

SEC. 301. CITY OF ROSEVILLE PUMPING PLANT FACILITIES: CREDIT FOR INSTALLATION OF ADDITIONAL PUMPING PLANT FACILITIES IN ACCORDANCE WITH AGREEMENT.

(a) IN GENERAL.—The Secretary shall credit an amount up to $1,164,600, the precise amount to be determined by the Secretary through a cost allocation, to the unpaid capital obligation of the City of Roseville, California (in this section referred to as the ''City''), as such obligation is calculated in accordance with applicable Federal reclamation law and Central Valley Project rate setting policy, in recognition of future benefits to be accrued by the United States as a result of the City's purchase and funding of the installation of additional pumping plant facilities in accordance with a letter of agreement with the United States numbered 5–07–20–X0331 and dated January 26, 1995. The Secretary shall simultaneously add an equivalent amount of costs to the capital costs of the Central Valley

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 installation 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 a 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–L6975 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–IR3), as it may be amended or supplemented; and

(2) shall not deprive the District of any existing contractual or statutory entitlement to subsequent interim 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 Divide 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.

(5) WATER SERVICES CONTRACT.—The term ''Water Services Contract'' means Water Services Contract #14–06–200–3684A, dated February 13, 1978, between the District and the United States.

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 District 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 stated in an 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 the time of the change.

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 included as a reimbursable cost of the Central Valley Project, the Secretary is directed to exclude all costs in excess of the amount of costs repaid 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 of the Central Valley Project. Such excess costs may not be included into the pooled reimbursable costs of the Central Valley Project in the future unless a court of competent jurisdiction determines that operation integration 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 (in this title 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 Act (California Stats. 1987, ch. 1399) as in effect on the date of the enactment of this Act (in 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)(A) reduce the risk of damage to urban and agricultural areas from flooding or the discharge of drainage water or tailwater;

(B) assist in groundwater recharge efforts to alleviate overdraft and land subsidence; or

(C) construct, restore, or preserve wetland and riparian habitat; and

(2) capture, as an incidental purpose of any of the purposes referred to in paragraph (1), surface or stormwater for conservation, 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 it is—

(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 under the authority of the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4706 et seq.) or the CALFED Bay-Delta Program.

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 carried out with assistance provided under this title;

(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.

(b) PLANNING, DESIGN, AND COMPLIANCE ASSISTANCE.—Funds appropriated pursuant to this title may be made available to fund 65 percent of

costs incurred for planning, design, and environmental compliance activities by the District or by local agencies acting pursuant to the State statute, in accordance with agreements with the Secretary.

(c) TREATMENT OF CONTRIBUTIONS.—For purposes of this section, the Secretary shall treat the value of lands, interests in lands (including rights-of-way and other easements), and necessary relocations contributed by the District to a project as a payment by the District of the costs of the project.

SEC. 605. COSTS NONREIMBURSABLE.

Amounts expended pursuant to this title shall be considered nonreimbursable for purposes of the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 371 et seq.), and Acts amendatory thereof and supplemental thereto.

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) governing 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 the 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 subcontracts.

SEC. 609. RELATIONSHIP TO RECLAMATION REFORM ACT OF 1982.

Activities carried out, and financial assistance provided, under this title shall not be considered a supplemental or additional benefit for purposes of the Reclamation Reform Act of 1982 (96 Stat. 1263; 43 U.S.C. 390aa 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 of the types involved in the District's projects as shown by engineering and other relevant indexes to carry out this title. Sums appropriated 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:

(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, NE¼, N½ NW¼, 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 22, 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, West 300 feet, excluding lands in the 60-foot border strip, in Yuma County, Arizona.

(D) All right, title, and interest of the United States in and to the lands comprising the East 300 feet of the Southeast Quarter of Section 15, Township 11 South, Range 24 West, G&SRBM, in Yuma County, Arizona.

(E) The right to use lands in the 60-foot border strip excluded under subparagraphs (A), (B), and (C), for ingress to and egress from the international boundary between the United States and Mexico.

(b) DEED COVENANTS AND CONDITIONS.—Any conveyance under subsection (a) shall be subject to the following covenants and conditions:

(1) A reservation of rights-of-way for ditches and canals constructed or to be constructed by the authority of the United States, this reservation being of the same character and scope as that created with respect to certain public lands by the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945), as it has been, or may hereafter be amended.

(2) A leasehold interest in Lot 1, and the west 100 feet of Lot 2 in Section 23 for the operation of a Cattle Crossing Facility, currently being operated by the Yuma-Sonora Commercial Company, Incorporated. The lease as currently held contains 24.68 acres, more or less. Any renewal or termination of the lease shall be by the Greater Yuma Port Authority.

(3) Reservation by the United States of a 245-foot perpetual easement for operation and maintenance of the 242 Lateral Canal and Well Field along the northern boundary of the East 300 feet of Section 22, Section 23, and the West 300 feet of Section 24 as shown on Reclamation Drawing Nos. 1292–303–3624, 1292–303–3625, and 1292–303–3626.

(4) A reservation by the United States of all rights to the ground water in the East 300 feet of Section 15, the East 300 feet of Section 22, Section 23, and the West 300 feet of Section 24, and the right to remove, sell, transfer, or exchange the water to meet the obligations of the Treaty of 1944 with the Republic of Mexico, and Minute Order No. 242 for the delivery of salinity controlled water to Mexico.

(5) A reservation of all rights-of-way and easements existing or of record in favor of the public or third parties.

(6) A right-of-way reservation in favor of the United States and its contractors, and the State of Arizona, and its contractors, to utilize a 33-foot easement along all section lines to freely give ingress to, passage over, and egress from areas in the exercise of official duties of the United States and the State of Arizona.

(7) Reservation of a right-of-way to the United States for a 100-foot by 100-foot parcel for each of the Reclamation monitoring wells, together with unrestricted ingress and egress to both sites. One monitoring well is located in Lot 1 of Section 23 just north of the Boundary Reserve and just west of the Cattle Crossing Facility, and the other is located in the southeast corner of Lot 3 just north of the Boundary Reserve.

(8) An easement comprising a 50-foot strip lying North of the 60-foot International Boundary Reserve for drilling and operation of, and access to, wells.

(9) A reservation by the United States of 15/16 of all gas, oil, metals, and mineral rights.

(10) A reservation of 1/16 of all gas, oil, metals, and mineral rights retained by the State of Arizona.

(11) Such additional terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

(c) CONSIDERATION.—

(1) IN GENERAL.—As consideration for the conveyance under subsection (a), the Greater Yuma Port Authority shall pay the United States consideration equal to the fair market value on the date of the enactment of this Act of the interest conveyed.

(2) DETERMINATION.—For purposes of paragraph (1), the fair market value of any interest in land shall be determined taking into account that the land is undeveloped, that 80 acres is intended to be dedicated to use by the United States for Federal governmental purposes, and that an additional substantial portion of the land is dedicated to public right-of-way, highway, and transportation purposes.

(d) USE.—The Greater Yuma Port Authority and its successors shall use the interests conveyed solely for the purpose of the construction and operation of an international port of entry and related activities.

(e) COMPLIANCE WITH LAWS.—Before the date of the conveyance, actions required with respect to the conveyance under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the National Historic Preservation Act (16 U.S.C. 470 et seq.), and other applicable Federal laws must be completed at no cost to the United States.

(f) USE OF 60-FOOT BORDER STRIP.—Any use of the 60-foot border strip shall be made in coordination with Federal agencies having authority with respect to the 60-foot border strip.

(g) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of property conveyed under this section, and of any right-of-way that is subject to a right of use conveyed pursuant to subsection (a)(2)(E), shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Greater Yuma Port Authority.

(h) DEFINITIONS.—

(1) 60-FOOT BORDER STRIP.—The term ''60-foot border strip'' means lands in any of the Sections of land referred to in this Act located within 60 feet of the international boundary between the United States and Mexico.

(2) GREATER YUMA PORT AUTHORITY.—The term ''Greater Yuma Port Authority'' means Trust No. 84–184, Yuma Title & Trust Company, an Arizona Corporation, a trust for the benefit of the Cocopah Tribe, a Sovereign Nation, the County of Yuma, Arizona, the City of Somerton, and the City of San Luis, Arizona, or such other successor joint powers agency or public purpose entity as unanimously designated by those governmental units.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Bureau of Reclamation.

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 the system to fail;

(3) since 1991, the City has received its water supply from the Southwest Water Authority,

which provides much higher quality water from the Southwest Pipeline Project;

(4) the City now receives almost no benefit from the bascule gates because the City does not require the additional 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 for the construction of the bascule gates, and has been working for several years to reach an agreement with the Bureau of Reclamation to alter its repayment contract;

(6) the City has a longstanding commitment to improving the water quality and recreation value of the reservoir and has been working with the United States Geological Survey, 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. 803. 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 Dickinson 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 if the City or any other person or entity seeks to use water from the Lake for municipal water supply or other purposes.

Amend the title so as to read ''An Act 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, 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 PRESIDING OFFICER. Without objection, it is so ordered.

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AMENDMENT TO THE MAGNUSON-STEVENS FISHERIES CONSERVATION AND MANAGEMENT ACT

Mr. HAGEL. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 5461, which is at the desk.

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

The assistant legislative clerk read as follows:

A bill (H.R. 5461) to amend the Magnuson-Stevens Fisheries Conservation and Management Act to eliminate the wasteful and unsportsmanlike practice of shark finning.

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

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 chairman 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 bycatch, 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 pales by comparison to the amount of finning done by foreign fleets outside of U.S. 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. 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 include only figures for shark fins that 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 finning, 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—or even increase—shark finning, 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, with no net benefit to 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 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 trade in shark fins and directing the Secretary to report the findings to Congress; and (3) establishing a research program to help improve shark stock assessments, reduce 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 leave 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 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, bycatch 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 of 2000. This proposal would have (1) mandated that the Secretary of Commerce report to Congress on progress being made domestically and internationally to reduce shark finning; (2) established a procedure to certify whether governments have adopted shark conservation measures; (3) banned the import of sharks or shark parts from countries that do not meet these certification procedures; and (4) provided technical assistance to foreign nations in an attempt to promote compliance.

Unfortunately, this comprehensive proposal was rejected by the House. We therefore sought the middle ground of the proposal in H.R. 5461. The legislation we will pass today (1) 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 survivorship 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 shark-finning. 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 bill (H.R. 5461) was read the third time and passed.

—

CONGRATULATING REVEREND CLAY EVANS

Mr. HAGEL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 385 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. 385) 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. 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 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 Brewster Theological Clinic and School of Religion;

Whereas Reverend Evans has been an active participant in the Civil Rights Movement since 1965;

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.

—

NATIONAL PEARL HARBOR REMEMBRANCE DAY

Mr. HAGEL. I ask unanimous consent that the Senate now proceed to the immediate consideration of S. Res. 386, submitted earlier by Senator BOB SMITH.

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

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 currently 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; and

Whereas many Federal offices do not lower their flags to half-staff each December 7: Now, therefore, be it

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.

PROGRAM

Mr. HAGEL. Mr. President, for the information of all Senators, the Senate will be in a period of morning business until 10:30 a.m. tomorrow. The House is expected to consider a continuing resolution that would continue funding through Tuesday, December 12 early tomorrow morning. It is the intention of the Senate to pass the continuing resolution by voice vote as soon as it is received from the House. Therefore no votes are expected prior to Tuesday, December 12, at a time to be determined.

EXECUTIVE SESSION

Mr. HAGEL. Mr. President, in executive session I ask unanimous consent the Foreign Relations Committee be discharged from further consideration of the nomination of Richard N. Gardner, the Senate immediately proceed to his consideration, the nomination be confirmed, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nomination considered and confirmed is as follows:

DEPARTMENT OF STATE

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.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

RECESS UNTIL 10 A.M. TOMORROW

Mr. HAGEL. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 5:24 p.m., recessed until Friday, December 8, 2000, at 10 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate December 7, 2000:

DEPARTMENT OF STATE

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.

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. FORTNEY 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—whose fragile health requires them to live in nursing homes.

Policymakers and the public have heard stories for years about the high cost of poor care. And most of us intuitively know that understaffing 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 local 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 scrutiny from 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 if 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 levels of 3.45 hours of nursing care for each resident each day, with 2 hours of this care providing 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 lower ''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 shape 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 many homes 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.

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 untimely death is the 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. Corporal Yarbrough 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 hit-and-run 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 long years after Corporal Yarbrough's heroic action, his remains have been recovered. The Yarbrough family, together with the citizens of Sikeston, Missouri will bid him farewell with a service and burial on December 15, 2000. At 2:19 p.m. on that date, a moment of silence will be observed to honor all nineteen Marine Raiders whose remains were recovered from the Makin mission. This honor will also be extended to the nine Marine Raiders of the Makin raid whose remains are yet to be repatriated, as well as all the MIAs and KIAs from our great nation's wars.

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 a beloved 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 two sons and a proud grandfather of four grandchildren. At the end of his life, his grandchildren brought him endless joy.

Mr. Speaker, with Dick's passing, western Colorado has lost a great man and friend. However, Mr. Speaker, I am confident that, in spite of this profound loss, the family and friends of Dick Jolley can take solace in the knowledge that each is a better person for having known him. I know that I am.

It is with this that I pay tribute to the life of a man who exemplified the extraordinary characteristics of strength, dignity and sincerity. We will all miss him greatly.

IN RECOGNITION OF HENRY SANCHEZ

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 7, 2000

Mr. MENENDEZ. Mr. Speaker, today I recognize Henry Sanchez for his years of dedicated service to the community of Bayonne, New Jersey. Today, Mr. Sanchez will be presented with the Lifetime Achievement Award at the Bayonne Historical Society's annual Holiday Dinner Dance.

Henry Sanchez was born in San Juan, Puerto Rico and moved to New York as a child. In 1944, he joined the United States Navy and served in World War II. For his courageous service to our nation and the world, he was awarded medals from the governments of the United States, France, and Taiwan.

In 1950, Mr. Sanchez began work for the Bayonne Naval Supply Depot, later named the Military Ocean Terminal (MOT). Between 1950 and 1997, he served in leadership positions at MOT, and with the United States Air Force. These positions included Supervisory Transportation Assistant, Deputy Commander of the USAF's Water Port Logistics Office, and Deputy Director of the Personal Property Directorate at the Eastern Area Military Traffic Management Command.

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, chairman (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 has run 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 pushed for buildings and for increased funding. Politically courageous at a time when schools had been separate and unequal, he insisted that spending had to be fair and equitable.''

One observer of the period said: ''Don't ever negotiate with a man who smokes a pipe. Between the packing and re-packing and the lighting and re-lighting, he's eventually going to get his way.''

The Fayetteville newspaper went on to give Ross credit for shaping the response of other school superintendents across the state and the South.

''In fact, to look back a the best educational decisions made in the history of this community's schools is to look closely at Ross' career. If's his managed style that helped shape the standard of how school superintendents should lead. it's his personality and insight that influenced educators throughout the state. It's the people he hired and the people 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 representing most of the 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 works 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 of Carolina basketball team 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. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 7, 2000

Ms. DELAURO. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to a community leader, a philanthropist, a humanitarian, and a great friend, Murray Lender, on the occasion of his 70th birthday.

Murray's father, Harry Lender, introduced bagels to the people of this country. Murray continued that tradition as chairman of Lender's Bagel Bakery, the world's largest bagel bakery. He revolutionized the bagel industry when he began the process of freezing bagels in the late 1950s, bringing to life his father's dream of ''a bagel on every table.'' His astute business sense was recognized by the National Frozen Food Association, which inducted him into the Frozen Food Hall of Fame, only the sixth person to be so honored. He also received the International Deli-Bakery Association's Hall of Fame Award and has been selected Man of the Year by numerous industry associations. But these achievements are dwarfed by what Murray has done for the people of Greater New Haven, of Connecticut, and of this country through his myriad of philanthropic and humanitarian works.

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 Humane 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 its 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 able 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 when he knew his cause was 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 life as a part of our 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 mind and soul 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 WORLD WAR II MEMORIAL GROUNDBREAKING 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, the Memorial is a reality. 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 unfailing 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 ''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 consecrated 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 Mall that commemorates democracy's march.

Apollinaire's words resonated again as E.B. Sledge reflected on the moment the Second World War ended: ''. . . sitting 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 extraordinary time—one exhausting skirmish, one determined attack, one valiant act of heroism, one digged determination to give your all, one heroic act after another—by the thousands—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 seen a spirit of brotherhood . . . that goes with one foot here amid the friends we see, and 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 in one moment.

Here freedom will shine. She will shine.

This Memorial honors those still living who served abroad and on the home front and also 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 inspired constituent Roger Durbin of Berkey, Ohio, a letter carrier who fought bravely with the Army's 101st Armored 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. ''Through that lens,'' he demanded, ''see if I seem/substance or nothing: of the world/deserving mention, or charitable oblivion . . .'' And then he ended with the request, ''Remember me when I am dead/and 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. 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 march—a husband, 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.

NEW JERSEY URBANIZED PEAK FLOW MANAGEMENT RESEARCH

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 7, 2000

Mr. MENENDEZ. Mr. Speaker, today, I speak regarding a matter of great importance to my district and the entire State of New Jersey. New Jersey is confronted with an array of complex challenges related to the environment and economic development. However, one issue in particular, the overdevelopment of land, had become especially concerning because of the impact it is having on our watersheds and floodplains, as well as its resulting impact on economic activity.

As many of my colleagues already know, this past August vast parts of northern New Jersey were devastated by flooding caused by severe rainfall. The resulting natural disaster threatened countless homes, bridges and roads, not to mention the health, safety and welfare of area residents. This flooding resulted in millions of dollars of damage, and area residents are still fighting to restore some degree of normalcy to their lives.

While the threat of future floods continues to plague the region, one new Jersey institution is taking concrete steps to prevent another catastrophe. The New Jersey Institute of Technology (NJIT) has been studying the challenges posed by flooding and stormwater flows for some time, and is interested in forming a multi-agency federal partnership to continue this important research.

NJIT is one of our state's premier research institutions and is uniquely equipped to carry out this critical stormwater research. The university has a long and distinguished tradition of responding to difficult public policy challenges such as environmental emissions standards, aircraft noise, traffic congestion, and alternative energy. More broadly, NJIT has demonstrated an institutional ability to direct its intellectual resources to the examination of problems beyond academia, and its commitment to research allows it to serve as a resource for unbiased technological information and analysis.

An excellent opportunity for NJIT to partner with the federal government and solve the difficult problem of flood control has presented itself in the 2000 Water Resources Development Act (WRDA). The final version of this important legislation includes a provision directing the U.S. Army Corps of Engineers to develop and implement a stormwater flood control project in new Jersey and report back to Congress within three years on its progress. While the Corps of Engineers is familiar with this problem at the national level, it does not have the firsthand knowledge and experience in New Jersey that NJIT has accrued in its 119 years of service to the people of my district and state. Including NJIT's expertise and experience in this research effort is a logical step and would greatly benefit the Army Corps, as well as significantly improve the project's chances of success.

Therefore, I urge the New York District of the Corps of Engineers to work closely with my office and NJIT to ensure the university's full participation in this study. By working together, we can create a nexus between the considerable flood control expertise of the

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' Bicentennial 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 decedents 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 Clayton. She left 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 final 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,
''Or how 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 I 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.

RECOGNIZING SECOND LIEUTENANT KEVIN R. WHITE

HON. JO ANN EMERSON

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.

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, 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, 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, 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. 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, Lieutenant White takes time out of his busy schedule to coach bowling for participants in the Special Olympics.

Lieutenant White has served his community and his country with great distinction. I am honored to pay tribute to his 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 bringing 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, offsite 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 Tom's 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 knowledge of agriculture 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 Cooperation 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 Elks Lodge, Lions Club, VFW, Chamber of Commerce and St. Benedict's 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 a variety of diverse sources to ensure 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 federally funded programs. For the other 20,000 children who don't qualify 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. Under Santa Clara County's program 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 expand coverage to 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 CHAPTER 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 the first chapter in the organization 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.''

''I'm like a child, whenever 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 appreciated John's 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). At NJCU, Dr. Karnoutsos has served as the Chair of the History Department, as Chair of the Intercollegiate Athletic Council, and as a member of numerous committees, including the General Studies Coordinating Committee.

Dr. Karnoutsos is a charter member of Bayonne Historical Society, Inc., and has been a trustee since its founding in 1990. She has spoken at many of the society's programs and events, edited and contributed articles regarding the city of Bayonne, and recently developed the society's web sight. In addition, she 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 great 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 history of women and New Jersey, and for her selfless service to 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 Lauderhill, Florida community, Mr. Jerome ''Jerry'' M. 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 Lauderhill, and in particular the Inverarry 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, Lauderhill and Inverrary 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 experience and expertise 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 served 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 Juskowiak 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 Jeff Foxworthy fans here? Let me do a take off on Jeff 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 their 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 Veterans Day. To some Americans, it will be viewed simply as a day off from work; a day to kick back and relax.

We all would be wise to instead recognize it as a significant national holiday . . . a day where we pause and honor all veterans who have served to fight for and protect the freedoms we enjoy—to enjoy our prosperity and our freedom to be able to kick back and relax.

As George Orwell wrote. ''We sleep safely in our beds because rough men stand ready in the night to visit violence on those who would do us harm.''

If you like your freedoms—thank a veteran.

I would ask the Veterans with us here today to please stand up. Ladies and gentlemen, let's recognize these distinguished individuals.

Let's pause for a moment and seriously reflect on just what is a veteran.

Some veterans bear visible signs of their service; a missing limb, a jagged scar, a certain look in the eye.

Others may carry the evidence inside of them, a pin holding a bone together, a piece of shrapnel in the leg—or perhaps another sort of inner steel. The soul's ally forged in the refinery of adversity.

Except in parades, however, the men and women who have served their country and kept it safe, wear no badge or emblem. You can't tell a vet just by looking.

Most veterans live quietly and anonymously among us. They are our grandparents to some, parents to other's, brothers and sisters to many.

Just who is a veteran? A veteran might be the elderly gentleman at the supermarket—palsied now and aggravatingly slow—who helped liberate a Nazi death camp in WWII and who wishes all day long that his wife were still alive to hold him when the nightmares come.

He is the retiring businessman whose coworkers never guessed that behind his quiet demeanor is the hero of four hours of exquisite bravery against near impossible odds—50 years ago, in the bitter cold, near the 38th parallel of Korea.

She—or he—is the nurse who fought against futility and went to sleep sobbing every night for a solid year in the heat of Vietnam.

He is the cop on the beat who spent six months in Saudi Arabia sweating two gallons a day making sure armored personnel carriers didn't run out of fuel.

He is the POW who went away one person and came back another—or didn't come back at all.

He—or she—is the person who served in the garrisons and training fields of our country. Who did not deploy, but served in ways that don't grab headlines. Who kept on doing what we are paid to do—training soldiers. And who played a critical role in caring for the families left behind.

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 an ordinary and yet extraordinary human being. A person who offered some of his life's most vital years in the service of our country, and who sacrificed his ambitions, and all too often his life, so others would not have to sacrifice theirs.

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 America's sword against the darkness, the embodiment of the finest, greatest testimony on behalf of the finest, greatest nation ever known.

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 affair 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 this 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, not the campus organizer, who has given us the freedom to demonstrate—
It's the soldier, who salutes the flag, and serves under the flag—
It's the soldier whose coffin is draped with the flag,
Who allows the protester to burn the flag—
And, it's the soldier who is called upon to defend our way of life!

Millions of Americans have served this country since the days of the American Revolution, Many have made the ultimate sacrifice. And many are buried at Arlington or a host of other national and private cemeteries at home and abroad.

The road we have traveled to get to where the world is today was made possible by the sacrifices of our veterans, and their families.

So remember, each time you see someone who has served our country, just lean over and say ''Thank you.'' That is all most people need, and in most cases, it will mean more than any medal they could have been awarded.

I keep a poem with me when I am deployed. At home, it also sits on my desk. Its author is a Vietnam veteran, George L. Skypeck.

George's poem reminds me of how proud I am of my profession. I'd like to share it with you. It has special meaning to me—I'm sure it will to our veterans and their families as we pause to honor them on this special occasion:

I was that which others did not want to be.
I went where others feared to go, and did what others failed to do.
I asked nothing from those who gave nothing and reluctantly accepted the thought of eternal loneliness . . . should I fail.
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 sacrifices 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 this 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-

born Americans may have of the immigrant community. It seeks to document the positive achievements which immigrants have made in the field of entrepreneurial activity, culture, and politics.

Mr. Speaker, I recall that thirty years ago, many parts of Brooklyn were in a state of urban decay and economic stagnation. People were moving out of the area, businesses were closing and many homes were either abandoned or placed in the market. After the massive influx of immigrants in the 1970's, there has been an economic transformation in Central Brooklyn. New businesses have been erected, buildings have been rehabilitated, and thousands of homes been purchased. The pulsating rhythms of reggae and soca have become part of a new musical genre and the Labor Day Carnival in Eastern Parkway has become the largest block party in North America.

Caribbean immigrants have not only contributed to entrepreneurial activity and culture, they have made a significant contribution to the political culture of our city. The first Black Assemblyman in our borough, the Honorable Bertram Baker, was from the Caribbean. So were our first Black female Congressperson, the Honorable Shirley Chisolm, and the dean of political strategists, the Honorable Dr. Wesley McHolder. The first Black Borough President of Manhattan, the Hon. Hulan Jack was from the Caribbean and the Chief Judge of the Federal Court in the southern district, the Hon. Constance Baker Mottley.

Mr. Speaker, immigrants have made a glorious contribution to the rich tapestry and multi-cultural quilt that we call the American heritage. It is a story that needs to be told, and this newspaper, the Immigrant's Journal, is one of the publications that seek to recount this American saga in a clear and eloquent language.

WORLD FLIGHT 2000: AN EXTRAORDINARY JOURNEY

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 7, 2000

Ms. SLAUGHTER. Mr. Speaker, I would like to bring to this chamber's attention a remarkable odyssey that will come to its successful conclusion on December 15: World Flight 2000.

In 1996, high school students Daniel Dominquez and Christopher Wall dreamt of becoming the youngest individuals ever to circumnavigate the globe. Just four years later, that dream is on the verge of reality. Supported by a spectacular team of coordinators, these two young pilots are about to finish a two-month flight around the world in their plane, the Dreamcatcher.

There is a great deal more than just the youth of the pilots, however, that makes this accomplishment extraordinary. The World Flight 2000 team has gone to great lengths to make their trip a learning experience for children all over the world. Their website, www.worldflight2000.com, includes daily logs from the crew, dozens of photographs from their trip, and an-up-to-the-minute live tracking screen to follow the plane. At every stop, 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 and 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 to 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 Dominquez 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/Coordinator Jenni Powers is a 21-year of recent graduate of the Univerisity 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 inspired to get 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 us 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 the cherished American tradition of motherhood. That tradition is exemplified in an extraordinary mother by the name of Mrs. Lena Roberta Murrell White. Daughter, Sister, Wife, Mother and Friend. Mrs. Lena White has been and is all of these and more. She was daughter Lena growing up in the farming country of North Carolina. Younger sister in a large brood she was a shining light in that big family. She was wife to James E. Murrell and bore him nine children, raising them all in love and happiness while working harder than any three people. After his passing she was wife to James White and took his children as her own, loving and protecting them. And everywhere she has gone there are a host of friends eager for her return. From the streets, hedges and rows of Greenville, North Carolina through the well kept manicured lawns of Wilmington, Delaware to the hustle and bustle of Camden, New Jersey, her friends are legion. Now in her eightieth year she can reach out to a large family of adoring children, grandchildren and great grandchildren. She continues as an example to us all of living a life in harmony with God. We love her and always shall, and today we honor her in this place through this body for length of days.

HONORING REPRESENTATIVE CHARLES CANADY

HON. JOE SCARBOROUGH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 7, 2000

Mr. SCARBOROUGH. Mr. Speaker, today I pay tribute to my colleague from the 12th Congressional District of our great State of Florida, Representative CHARLES CANADY.

CHARLES has a long and illustrious record for serving the district that he calls home. Born and raised in Lakeland, he went on to obtain his education from Yale. After graduating in 1979, he returned home to become a practicing attorney in Polk County, where he worked before running for Congress.

From 1984 to 1990, he served in the Florida House of Representatives, where he was honored as the Most Effective First Term Legislator. During that time he worked to reduce the role of government in the lives of Florida's citizens by helping pass major reform legislation. CHARLES also worked to strengthen Florida's laws on criminal justice, serving as Chairman of the House Appropriations Subcommittee for Criminal Justice and as a member of the Crime Prevention and Law Enforcement Study Commission. He was elected House Majority Whip from 1986 to 1988.

I have had the pleasure to serve with CHARLES on the Judiciary Committee where we have worked to make our judicial system stronger. He knows the law, thinks pragmatically, and is one of the hardest workers I have ever come across.

CHARLES has not only been one of the most productive and effective legislators in this House, he has also been extremely dedicated to each and every one of his constituents back home. His constituent outreach program is proof of his commitment, and I am sure there are many people in Florida's twelfth district that will miss his tireless service, diligence, enthusiasm, and dedication.

To the detriment of this House, CHARLES, a staunch supporter of term limits, promised during his campaign in 1992 to serve no more than four consecutive terms. The twelfth district, the State of Florida, and indeed the entire United States can be proud of CHARLES CANADY. His tenure here in the House is highlighted with many accomplishments and is eternal evidence that CHARLES is the consummate statesman. I thank CHARLES for his service and his friendship, and I wish him and Jennifer many years of happiness in the future.

IN RECOGNITION OF GERMAINE ORVILLE ''JERRY'' KOOIMAN

HON. PETER HOEKSTRA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 7, 2000

Mr. HOEKSTRA. Mr. Speaker, I would like to take this opportunity to recognize the work of one of my staffers in Michigan, Germaine Orville ''Jerry'' Kooiman, who is leaving my office after eight solid years of service.

Jerry has been a member of my staff since I first joined Congress in 1993, working as my Director of Constituent Services for nearly all of that time. Jerry is the person in my district offices who made sure the trains ran on time and made sure that the constituents of Michigan's Second Congressional District were being served.

Since 1995, Jerry has juggled this job with the task of being a Kent County Commissioner, ably representing the county's 16th District in his hometown of Grand Rapids. During his tenure on the county Board, Jerry has served as Chairman of the Kent County Board of Public Works and Vice Chairman of the county's Legislative and Human Resources Committee.

A native of Waupun, Wisconsin, Jerry's adult life has been dedicated to public service. After graduating from Calvin College with a Bachelor's degree in Political Science in 1984, Jerry initially worked as a campaign worker then as a district staff assistant to Congressman Paul Henry through 1992 before joining my office. In all, Jerry has been a conscientious Congressional staffer for 16 years.

However, our loss is Michigan's gain. In January, Jerry will embark on the next phase of his life as an elected state legislator, representing the 75th District in Michigan's House of Representatives. I have no doubt that he will take the many skills that he has developed over the past two decades and use them to serve his constituents and the entire state of Michigan with the highest standards.

Thank you, Jerry, for all your hard work and good advice. I wish you the best success as you move on to the state Capitol in Lansing.

TRIBUTE TO THE 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.

[From the Blade, Toledo, OH, July 12, 2000]

EX-TOLEDOAN SET U.S. RECORD AS CITY MANAGER

James B. Daken of Peoria, Ill., a former Toledo city manager who was America's youngest manager 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 named him 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, 1976, 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] Frank Pizza did the most. I was questioned seriously about hiring a 29-year-old as city manager, but Jim was a 29-year-old going on 39 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 90 per cent 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 number 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 those sales.

''The only thing the city makes money on is the sale of water,'' Justice Douglas said. ''I think the city's water-pumping 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 to each council member 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

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 1979 to 1987 and was vice president of the Foster and Gallagher, Inc., mail order and telemarketing firm in Peoria from 1987 to 1996. He was executive director of the Peoria Historical Society 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 he 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 Goodfellow 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. tomorrow in St. Vincent de Paul Church, Peoria. Visitation will be after 4 p.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 and the Workforce, Silvia Riley. She 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 orients 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 occurred 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, whether 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 very 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 the committee to devote time to her family, particularly her mother. They are fortunate to get her back, and the committee was lucky to have her on board for 31 years.

IN RECOGNITION OF JACOB HEILVEIL, TONY VOLPONTEST AND JENNIFER BUTCHER, U.S. PARALYMPIC TEAM ATHLETES

HON. JAY INSLEE

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 7, 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, one of the most elite multi-disability sports competitions. They have contended with a record setting 3,824 athletes from over 120 countries.

Jacob Heilveil, from Bothell, has competed in several sports including basketball and notably as a marathoner. Born in Korea, Jacob contracted polio and was left with residual paralysis and the determination to succeed. In Sydney, he raced as part of the men's wheelchair relay and in the marathon. racing in the paraplegic classification, he finished the marathon course in 1 hour, 36 minutes and 6 seconds.

Tony Volpentest, from Mountlake Terrace, is the current world record holder in the 200-meter sprint with a time of 23.07 seconds. He competed in his first Paralympics in 1992 and has been returning successfully since then. In 1996, he won two gold medals and broke both world and Paralympic records. His time for the 100-meters, 11.36 seconds, is barely behind the time for able-bodied athletes, 9.86 seconds. Tony was born without hands or feet, but that has not stopped him from setting new records and frequently beating able-bodied athletes at numerous other races. Tony's grandfather, Sam Volpentest, a Tri-Cities leader, justifiably expresses his pride in Tony's accomplishments.

Jennifer Butcher came to these games as her first international competition. She participated in several swimming events: the 200-meter individual medley, 100-meter breaststroke and 50-meter freestyle. Jennifer, an Issaquah native, left Sydney with a bronze medal in the women's visually impaired class of the 100-meter freestyle. At home in Portland, she works at a school for the blind.

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. 6540, 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 provision 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 disincentives 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 recent 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 this provision 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 costs of long-term 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 contracted 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 taxpayers were left holding the bill. 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 estimates show 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, I rise today 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 in the 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. SCHAFFER. 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 at 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 to improve Joe Rowell Park. This investment created the only lit 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 OSHA-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 any person 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 college days at Columbia University 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. 1983 marked 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 in 1997. He also helped establish the annual I-Lan International Collegiate Invitational Regatta for crews from nine countries, helped bring the sport to two of Taiwan's major universities and was also instrumental in helping get significant funding for equipment.

Thirteen years ago few in Taiwan knew of rowing as a sport. Today most of the nation can say they know the sport thanks to John Garnjost. 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 grants. 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 in this capacity 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 host 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 either 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 Coalition, the Downtown 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 Rebbes fled war-torn Poland to establish the Lubavitcher movement in the United States. Not only were they the spiritual leaders of the Lubavicher 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 all their profound commitment to the importance of Jewish thought, belief and ethics, the Rebbes 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 all Jews, 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 was presented the prominent Baldridge 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 investing not only in 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 Malcom 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 a statement from the U.S. Commerce Department. The department and the White House officially released information about the award Tuesday.

''I heard there was a loud cheer throughout the building'' when news of the award reached employees, said Steve Wells, president of LANB. ''We were extremely happy for our people and for our community and for New Mexico. We know we have high standards to live up to now. We have to make sure we're worthy of our crown.''

''The Malcom Baldrige National Quality Award recognizes organizations that play a major role in energizing our nation's economy, competitiveness and quality of life,'' President Bill Clinton said in a statement from the White House. ''If we are going to keep our economy growing and our country moving forward, we need as a nation to follow the example of Baldrige winners.''

Congress established the Malcom Baldrige National Quality Award, named after a former secretary of commerce, in 1987 to enhance the competitiveness of U.S. businesses by promoting quality awareness, according to the statement.

Since 1988, only 41 organizations have received the award. The National Institute of Standards manages the program.

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 focus, process-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 1998 filed 80 percent of all 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 was 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 supraregional and supranational 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-ownership 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. Inc., Garland, Texas (manufacturing); and Operations Management International Greenwood Village, Colo. (service).

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 honored to have 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, San Francisco Division. 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 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 Santa Clara Valley Water District's Board of Directors. 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 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: MTBE contamination, 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 served as the District's representative to the City of San Jose on nonpoint wetland mitigation issues.

During his tenure, Bob provided valuable service by reviewing and analyzing state water laws and regulations. As the District representative to the WaterReuse Association of California, Bob served as the Board's liaison and represented the interests of the District. Bob also represented the WaterReuse Association in a number of capacities, including most notably as the State Chairperson for the Potable Committee and a member of the Education Subcommittee. As a member of the Potable Subcommittee, he participated in the preparation of a news media presentation on the safe use of potable water and helped write a public information recycling brochure as a member of the Education Subcommittee. In addition, through his work with the Education Subcommittee, Bob worked closely with the California Department of Fish and Game to create an aquatic and environmental education program for disadvantaged youth. 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 and health standards. 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, National Groundwater Protection Council, National Water Resources Association, American Water Works Association, the California Water Education Foundation, ALERT—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 hardwork, 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 Fareslston 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, serving as a member of the Board of Directors and District Chairperson. In recognition of his tremendous accomplishments and service to the Boy Scouts of America, Bob was awarded the Silver Beaver Award, one of Scouting's highest honors.

Bob Gross has posted an exceptional record of achievement and success. He has served his country and his community tirelessly for many years. It is, Mr. Speaker, truly a privilege to recognize Robert Gross for the outstanding contributions that he has made to the Santa Clara Valley Water District and the people of Santa Clara County. I am grateful for his service and wish him all the best in his well-deserved retirement.

TRIBUTE IN MEMORY OF FORMER CONGRESSMAN HENRY B. GONZALEZ

SPEECH OF

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 2000

Mr. KUCINICH. Mr. Speaker, I rise to honor a remarkable man and true American patriot, former Congressman Henry B. Gonzalez. He passed away on November 28, 2000 at the age of 84, after 37 years of dedicated service in the House of Representatives.

''Henry B,'' as his friends affectionately called him, was first elected to Congress in 1961, becoming the first person of Mexican-American heritage to represent Texas in the House. A well-known champion of the poor and the downtrodden, Henry B. fiercely defended his principles and was unafraid to stand up against the powerful from the moment he was sworn into office. To this day, his constituents in San Antonio and thousands of people across the country continue to reap the benefits of this courageous fight for safe and affordable housing.

An unabashed pioneer for populism, Henry B. was perhaps best known for his prominent position on the Banking Committee, and its Chairman for three terms. He used his leadership role on the committee to help repair the Federal Deposit Insurance Corp., monitor the activities of the Federal Reserve System and pass numerous pieces of legislation aimed at cleaning up the savings and loan scandal.

Henry B. began his legendary political career shortly after his admirable service in World War II, when he was elected to the San Antonio City Council. In 1957, he reached the Texas Senate where he made a name for himself with a 22-hour filibuster to block legislation that would have reinforced school segregation policies. Henry B.'s reputation as a staunch defender of civil rights stayed with him throughout his career in the House, spanning nearly four decades.

Mr. Speaker, I ask my fellow colleagues to join me today in remembering the Honorable Henry B. Gonzalez. Henry B. truly set a standard by which all Members of Congress can be measured, and he will be sorely missed by everyone in this body who had the pleasure of working with him. His honor, his vision, and his passion for equality will live forever in the hearts of all those whom he touched. I would also like to take this opportunity to extend my heartfelt condolences to Representative CHARLIE GONZALEZ and his family during this extremely difficult time.

TRIBUTE TO MS. YVONNE A. GRIFFIN

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 7, 2000

Ms. LEE. Mr. Speaker, today I pay tribute to an outstanding federal government employee, Ms. Yvonne A. Griffin. On January 4, 2001, Ms. Griffin will retire from the United States General Services Administration after a distinguished 28 year career marked by dedication, commitment to service and a superb work ethic.

A native of San Francisco, Yvonne began her government service in April 1971, as an ''intermittent:'' GS–4 clerk-Steno for the General Services Administration's Space Management Division. In 1975 she began working in GSA's Federal Supply Service where she served as a Secretary, Administrative Assistant and Administrative Officer to the Regional Commissioner.

Yvonne joined the Public Buildings Service in 1980 as a Program Analyst. In 1984, she made an important career move to the field of Property Management. She served as the Property Manager in Reno, Nevada where she worked until 1987. In April 1987, Yvonne came to Oakland, California as the East Bay Property Manager. Housed in leased space at 1333 Broadway in Downtown Oakland, Yvonne and her staff were responsible for numerous federal properties, including the Alameda Federal Center, the U.S. Geological Survey complex in Menlo Park, the United States Court of Appeals in San Francisco, the San Jose Federal Building and the John F. Shea Federal Building in Santa Rosa. More importantly, she was actively involved in the construction of what was to become the Ronald V. Dellums Federal Building and has served as Senior Property Manager to the present day.

In architectural terms, buildings are said to have ''footprints''—the physical outline of the ground they cover. Since its opening in 1993, the Ronald V. Dellums Federal Building has had a ''footprint'': covering far more than physical space. Thanks to Yvonne, the building's footprint has extended to the East Bay community at large. ''1301 Clay Street'' is an address that has come to represent a spectacular gathering place always open to people of diverse philosophies. Following Yvonne's lead, the GSA staff have focused on making the people who, in fact, own this exquisite structure feel welcome and respected.

Under Yvonne's management, the Ronald V. Dellums Federal Building, has won numerous awards, the most prestigious being the 1997–98 Building Owners and Managers Association International Government Building of the Year, and the 2000 Energy Star Designation.

The daughter of French immigrants, Yvonne inherited both an affinity for hard work and a devotion to family. Her daughters, Michelle and Suzanne Griffin, and her grandsons McKinley and Cameron Parker, are the stars in her life's constellation. As she ends her federal career, she takes with her our appreciation, respect and warmest best wishes for a happy retirement with those she loves.

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 sacrifices it takes to earn 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, five hydrants, pump stations and water lines, the police koban, the village gymnasium, 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 dignity 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. And 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 benifisium todo i toatao Guam. Ma sen agredesi i setbisiu-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 time 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.

Daily Digest

HIGHLIGHTS

Senate agreed to the Bankruptcy Reform Act Conference Report.

The House and Senate passed H.J. Res. 127, making further continuing appropriations.

Senate

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. **Page S11739**

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. **Pages S11680–81**

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. **Pages S11730–31**

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. **Pages S11744–45**

Congratulating Rev. Clay Evans: Senate agreed to S. Res. 385, congratulating the Reverend Clay Evans of Chicago, Illinois, on the occasion of his retirement. **Page S11745**

National Pearl Harbor Remembrance Day: Senate agreed to S. Res. 386, expressing sense of the Senate regarding National Pearl Harbor Remembrance Day. **Pages S11745–46**

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. **Pages S11683–S11730**

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. **Page S11741**

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. **Pages S11741–44**

Nominations Confirmed: Senate discharged Committee on Foreign Relations and confirmed the following nomination:

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. **Pages S11739, S11746**

Messages From the House: **Page S11738**

Communications: **Pages S11738–39**

Statements on Introduced Bills: **Pages S11739–40**

Additional Cosponsors: **Page S11740**

Notices of Hearings: **Pages S11740–41**

Additional Statements: **Pages S11736–38**

Record Votes: Two record votes were taken today. (Total—298) **Pages S11730, S11731**

Recess: Senate convened at 9:59 a.m. and recessed at 5:24 p.m., until 10 a.m., on Friday, December 8, 2000. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S11746.)

Committee Meetings

No committee meetings were held.

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. **Page H12045**

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); and

H. Res. 670, providing for consideration of H.J. Res. 129, making further continuing appropriations for the fiscal year 2001 (H. Rept. 106–1026).

Page H12045

Speaker Pro Tempore: Read a letter from the Speaker wherein he designated Representative Thornberry to act as Speaker pro tempore for today. **Page H12023**

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.

Pages H12023–28

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.

Pages H12028–31

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.

Pages H12031–32

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.

Pages H12032–33

Recess: The House recessed at 5:02 p.m. and reconvened at 7:20 p.m. **Page H12043**

Senate Messages: Messages received from the Senate today appear on pages H12023 and H12043.

Referral: S. 1066 was referred to the Committees on Agriculture and Science. **Page H12044**

Quorum Calls—Votes: One yea-and-nay vote developed during the proceedings of the House today and appears on page H12028. There were no quorum calls.

Adjournment: The House met at 2 p.m. and adjourned at 7:21 p.m.

Committee Meetings

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

Committee on Rules: Granted, by voice vote, a closed rule on H.J. Res. 129, 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.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST, *p. D1186)*

H.J. Res. 126, making further continuing appropriations for the fiscal year 2001. Signed December 5, 2000. (P.L. 106–537)

H.R. 2941, to establish the Las Cienegas National Conservation Area in the State of Arizona. Signed December 6, 2000. (P.L. 106–538)

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).

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